

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

CIN:-U40100DL2017GOI310478

सी/आर सी/ PVTSL/

दिनांक : 20.06.2024

सचिव,

सेंट्रल इलेक्ट्रिसिटी रेगुलेट्री कमीशन (सी.ई.आर.सी.),

7 टॉवर बी, वर्ल्ड ट्रेड सेंटर, नौरोजी नगर,

नई दिल्ली-110029

विषय:- Petition under Sections 63 and 79 (1) (c), (d) and (f) of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for relief under Force Majeure (Article 11) and Change in Law (Article 12) of Transmission Service Agreement dated 27.04.2017, related to NEW WR-NR 765kV Inter-Regional Corridor.

महोदय,

उपरोक्त याचिका की 3 प्रतियां (1 मूल व 2 प्रतियां) संलग्न है। माननीय के.वि.वि.आयोग के आम नोटिस दिनांक 15.03.2012, के अनुसार Miscellaneous Petition हेतु कुल रू. 3,00,000/- (रुपये तीन लाख मात्र) आर.टी.जी.एस (RTGS) के द्वारा यू.टी.आर. (UTR) No. SBIN324163064623 दिनांक 11.06.2024 से आयोग के खाते में डाल दिये गये हैं। इस याचिका की विषय - वस्तु के महत्व को ध्यान में रखते हुए यह निवेदन है कि इस याचिका की शीघ्र सुनवाई की जाए।

निवेदन है कि याचिका को स्वीकृत किया जाए। कृपया पावती भेजें।

धन्यवाद।

भवदीय,

(S.K.Rai)

Project-in-Charge

POWERGRID Varanasi Transmission System Limited

संलग्नक: उपरोक्तानुसार

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION

**3RD AND 4TH FLOOR, CHANDRALOK BUILDING,
36, JANPATH, NEW DELHI – 110 001
PETITION NO OF 2024**

IN THE MATTER OF:

Petition under Sections 63 and 79 of the Electricity Act, 2003 for relief under Force Majeure, (Article 11) and Change in Law, (Article 12) of Transmission Service Agreement dated 27.04.2017, related to NEW WR-NR 765 kV Inter-Regional Corridor.

AND

IN THE MATTER OF:

POWERGRID Varanasi Transmission System Limited
(Formerly known as WR-NR Power Transmission Limited)
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi – 110016

Address for correspondence:

C/o ED (TBCB),
Power Grid Corporation of India Limited,
Saudamini, Plot no.2, Sector -29
Gurgaon 122001

- Petitioner

Versus

1. Uttar Pradesh Power Corporation Limited,
and Others

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(SHUBHAM ARYA)
COUNSEL FOR THE PETITIONER
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NEW DELHI - 110014
PH: 011-40743543
Email: office@rassociates.in

DATE:
PLACE: NEWDELHI

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
7TH TOWER B, WORLD TRADE CENTRE,
NAUROJI NAGAR, NEW DELHI – 110 029
PETITION NO OF 2024

IN THE MATTER OF:

Petition under Sections 63 and 79 of the Electricity Act, 2003 for relief under Force Majeure, (Article 11) and Change in Law, (Article 12) of Transmission Service Agreement dated 27.04.2017, related to NEW WR-NR 765 kV Inter-Regional Corridor.

AND

IN THE MATTER OF:

POWERGRID Varanasi Transmission System Limited
(Formerly known as WR-NR Power Transmission Limited)
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi - 110016

Address for correspondence:

C/o ED (TBCB),
Power Grid Corporation of India Limited,
Saudamini, Plot no.2, Sector -29
Gurgaon 122001

Petitioner

Versus

1. Uttar Pradesh Power Corporation Limited,
Through its Chief Engineer,
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg, Lucknow - 226001.
Email id: spatcircle2010@gmail.com
Ph: 9415005911
2. Chhattisgarh State Power Distribution Company Limited)
Through its Chief Engineer,
P.O. Sunder Nagar, Dangania, Raipur,
Chhatisgaarh-492013
Email id: cecomcseb@rediffmail.com
Ph: 0982618253

[Handwritten Signature]
C.E.O./Project In-Charge
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Also at:

Office of Executive Director (Commercial) CSPDCL, 4th Floor,
Vidyut Sewa Bhawan, Daganiya, Raipur,
CHHATTISGARH - 492013

3. Electricity Department, Government of Goa,
Through its Chief Engineer,
3rd Floor, Vidyut Bhawan, Panaji
Near Mandvi Hotel, Goa - 403 001.
Email id: cee-elec.goa@nic.in
Ph: 7350644000
4. Maharashtra State Electricity Distribution Co. Limited
Through its Chief Engineer,
Plot No. G-9, A K Marg, Prakashgad, 4th Floor,
Andheri (East),
Mumbai-400051
Email id: ceppmsedcl@gmail.com
Ph: 9833387967
5. Electricity Department,
Administration of Daman & Diu,
Through its Secretary,
Daman-396 210

Also at:

Electricity Dept, Administration Plot No-35,
OIDC Complex, Near Fire Station, Somanth, Nani Daman
DAMAN & DIU - 396210
Email id: eddaman@rediffmail.com
Ph: 09420687290

6. Electricity Department, Administration of Dadra Nagar Haveli,
Through its Secretary,
(Now known as **DNH POWER DISTRIBUTION CORPORATION LTD**)
U.T., Silvassa - 396 230.
Email id: collector-dnh@nic.in
Ph: 02875 252157

Also at:

Vidyut Bhavan, 66 KV Road, Near Secretariat,
Amla,
Silvassa
DADRA & NAGAR HAVELI - 39623


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7. Gujarat Urja Vikas Nigam Limited,
Through its Chief Engineer,
Sardar Patel Vidyut Bhawan, Race Course Road,
Vadodara - 390 007.
Email id: decsp.guvnl@gebmail.com
Ph: 7567271331
8. Madhya Pradesh Power Management Company Limited
Through its Chief Engineer,
Block No. 11, 1st Floor, Shakti Bhawan,
Rampur Jabalpur-482008.
Email id: anurag.naik@mppmcl.com
Ph: 9425805876
9. BSES Yamuna Power Limited,
Through its Chief Engineer,
BSES Bhawan, Nehru Place,
New Delhi- 110024
Email id: Abhishek.Ku.Srivastava@relianceada.com
Ph: 8745034244
- Earlier at:**
B-Block, Shakti Kiran, Bldg. (Near Karkadooma Courte),
Karkadooma 2nd Floor,
New Delhi-110092
10. BSES Rajdhani Power Limited,
Through its Chief Engineer,
BSES Bhawan, Nehru Place,
New Delhi - 110019
Email id: megha.bajpeyi@gmail.com
Ph: 9313819851
11. Tata Power Delhi Distribution Limited,
Through its Chief Engineer,
Power Trading & Load Dispatch Group,
Cennet Building, Adjacent To 66/11 kV Pitampura-3
Grid Building, Near PP Jewellers Pitampura, New Delhi - 110034.
Also at:
NDPL House, Hudson Lines Kingsway Camp
New Delhi - 110009
Email id: anurag.bansal@tatapower-ddl.com
Ph: 9971393919

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- 12.** New Delhi Municipal Council
Through its Secretary,
Palika Kendra,
Sansad Marg, New Delhi-110002.
Email id: director.accounts@ndmc.gov.in
Ph: 011 2334 8476
- 13.** Power Development Department,
(Now know as Jammu Kashmir Power Corporation Limited)
Through its Chairman
Government of Jammu & Kashmir,
Mini Secretariat, Jammu.
Email id: adm.officerjkspdcl@gmail.com
Ph: 091-2546206
Also at:
220/66/33 KV GLADNI SS SLDC Building Narwa, Jammu
Jammu - 180001
- 14.** Ajmer Vidyut Vitran Nigam Limited,
400 Kv GSS Building (Ground Floor) Ajmer Road
Heerapura , Jaipur
Through its Chief Engineer,
Vidyut Bhawan, Janpath, Jaipur
Rajasthan - 302005
Email id: ce.nppr@rvpn.co.in
Ph: 9414061096
- 15.** Jaipur Vidyut Vitran Nigam Limited,
Through its Chief Engineer,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
Also at:
Room No. 223, Vidyut Bhawan, Janpath, Jaipur
Rajasthan - 302005
Email id: ce.nppr@rvpn.co.in
Ph: 9414061096
- 16.** Jodhpur Vidyut Vitran Nigam Limited,
Through its Chief Engineer,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
Also at:
Room No. 223, Vidyut Bhawan, Janpath, Jaipur


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Rajasthan - 302005
Email id: ce.nppr@rvpn.co.in
Ph: 9414061096

- 17.** Uttarakhand Power Corporation Limited
Through its Chief Engineer
Victoria Cross Vijeyta Gabar Singh Urja Bhawan,
Kanwali Road,
Balliwala Chowk,
Dehradun-248001.
- 18.** Chandigarh Administration
Through its Chief Engineer,
Sector -9, Chandigarh.
Punjab - 160009
Email id: ce-chd@nic.in
Ph: 2740029
- 19.** Himachal Pradesh State Electricity Board,
Through its Chief Engineer,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171 004.
Email id: xen.commercial.aldc@gmail.com
Ph: 9592947386
- 20.** Punjab State Power Corporation Limited)
Through its Chief Engineer,
Thermal Shed Tia, Near 22 Phatak
Patiala-147001.
Also at:
Through its Chief Engineer (PP&R),
PP&R, Shed T-1, Thermal Design,
Patiala - 147 001
Email id: seisbpspcl@gmail.com
Ph: 9646121804
- 21.** Haryana Power Purchase Centre,
Through its Chief Engineer,
Shakti Bhawan, Sector-6 Panchkula
(Haryana) - 134 109.
Email id: cehppc@uhbvn.org.in
Ph: 9316274614


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22. Rajasthan Urja Vikas Nigam Limited
Through its Managing Director,
Shed no.5/4, Vidyut Bhawan,
Janpath, Jyoti Nagar, Jaipur-302 005 (Raj)
23. REC Power Distribution Company Limited
(Bid Process Coordinator)
Through its Chief Executive Officer
ECE House, 3rd floor, Annexe-11
28 A, KG Marg, New Delhi 110 001
Email id: co@recpdcl.in
Ph: 011-24369690
24. Central Electricity Authority
Through its Chief Engineer (PSPM)
PSPM Division, Sewa Bhawan,
Rama Krishna Puram
New Delhi - 110 066

PETITION UNDER SECTIONS 63 AND 79 OF THE ELECTRICITY ACT, 2003 FOR PROVIDING RELIEF UNDER FORCE MAJEURE, ARTICLE 11 AND CHANGE IN LAW, ARTICLE 12 OF TRANSMISSION SERVICE AGREEMENT DATED 27.04.2017, RELATED TO NEW WR-NR 765 KV INTER-REGIONAL CORRIDOR.

MOST RESPECTFULLY SHOWETH:

1. The Petitioner, POWERGRID Varanasi Transmission System Limited ('**PVTSL**') is a Company under the provisions of the Companies Act, 2013 and has its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016. The Petitioner is a wholly owned subsidiary of Power Grid Corporation of India Limited ('**POWERGRID**').

The Petitioner, earlier known as WR-NR Power Transmission Limited, was incorporated on 12.01.2017 as the Special Purpose Vehicle ('**SPV**') by M/s REC Transmission Projects Company Limited for the purpose of developing and


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implementing the transmission project, namely "NEW WR-NR 765 KV Inter-Regional Corridor" under Tariff Based Competitive Bidding route.

2. The aforementioned Transmission project was the subject matter of the selection of the developer on a tariff based competitive bid process under Section 63 of the Electricity Act, 2003. M/s REC Transmission Projects Company Limited (now known as RECPDCL) was appointed by Government of India as the Bid Process Coordinator ('**BPC**') for the purpose of undertaking the Tariff Based Competitive Bidding Process for the Project and was initially the 100% shareholder of WR-NR Power Transmission Limited.
3. Bids for the subject project were invited by BPC for submission on 27.02.2017. The last day of submission of the bid was specified as 25.09.2017. POWERGRID was declared as the successful bidder under the Tariff Based Competitive Bidding Process and the Letter of Intent was issued on 01.03.2018 by BPC to POWERGRID. Subsequently, the Contract Performance Guarantee in favour of Long-Term Transmission Customers ('**LTTCS**') was submitted by POWERGRID on 27.03.2018. and POWERGRID acquired 100% shareholding of SPV from BPC on 27.03.2018. Thus, the effective date of the project is 27.03.2018.

Subsequent to such acquisition, the name of the Project SPV - WR-NR Power Transmission Limited was changed to POWERGRID Varanasi Transmission System Limited ('**PVTSL**').

4. On 05.04.2018, a Petition bearing No. 119/TL/2018 was filed by PVTSL before this Hon'ble Commission for grant of Transmission License. Vide Order dated 27.08.2018, this Hon'ble Commission was pleased to grant such transmission license to PVTSL. On 05.04.2018, PVTSL also filed another Petition being No. 120/AT/2018 seeking adoption of Transmission Charges. Vide order dated 05.09.2018, this Hon'ble Commission was pleased to adopt the transmission charges payable to PVTSL. A copy of the order dated 27.08.2018 passed in Petition No. 119/TL/2018 is attached hereto and marked as **Annexure-1** and a

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copy of order dated 05.09.2018 passed in Petition No. 120/AT/2018 is attached hereto and marked as **Annexure-2**.

5. That the BPC as part of the bidding process furnished Bidding Documents, inter-alia, included a pre-signed Transmission Service Agreement dated 27.04.2017 ('TSA') entered into between the Project SPV and the Long Term Transmission Customers- Respondent Nos. 1 to 22 ('LTTCs') of the Project. The bids were invited based on the terms and conditions contained in the Bidding Documents which included the said TSA and other documents. A copy of the TSA dated 27.04.2017 entered into between PVTSL and LTTCs is attached hereto and marked as **Annexure-3**.
6. The TSA, inter-alia, provides as under:

Definitions

"Scheduled COD" in relation to an Element(s) shall mean the date(s) as mentioned in Schedule 3 as against such Element(s) and in relation to the Project, shall mean the date as mentioned in Schedule 3 as against such Project, subject to the provisions of Article 4.4 of this Agreement, or such date as may be mutually agreed among the Parties;

.....

2.1 Effective Date:

This Agreement shall be effective from later of the dates of the following events:

- a. The Agreement is executed and delivered by the Parties; and*
- b. The Selected Bidder has acquired for the Acquisition Price, one hundred percent (100%) of the equity shareholding of REC Transmission Projects Company Limited in WR-NR Power Transmission Limited along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement, and*
- c. The Selected Bidder, on behalf of the TSP, has provided the Contract Performance Guarantee, as per terms of Article 3.1 of this Agreement.*

.....

4.3 Time for Commencement and Completion:


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a. The TSP shall take all necessary steps to commence work on the Project from the Effective Date of the Agreement and shall achieve Scheduled COD of the Project in accordance with the time schedule specified in Schedule 3 of this Agreement.

b. The COD of each Element of the Project shall occur no later than the Scheduled COD or within such extended time to which the TSP shall be entitled under Article 4.4 hereto.

4.4 Extension of time:

4.4.1 In the event that the TSP is prevented from performing its obligations under Article 4.1 (a), (b) and (e) by the stipulated date, due to any Long Term Transmission Customers Event of Default, the Scheduled COD shall be extended, by a "day for day" basis, subject to the provisions of Article 13.

4.4.2 In the event that an Element or the Project cannot be commissioned by its Scheduled COD on account of any Force Majeure Event as per Article 11, the Scheduled COD shall be extended, by a "day for day" basis, for a maximum period of one hundred and eighty (180) days. In case the Force Majeure Event continues even after the maximum period of one hundred and eighty (180) days, the TSP or the Majority Long Term Transmission Customers may choose to terminate the Agreement as per the provisions of Article 13.5.

4.4.3 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on how long the Scheduled COD should be deferred by, any Party may raise the Dispute to be resolved in accordance with Article 16.

.....

ARTICLE: 11

11 FORCE MAJEURE

11.1 Definitions

11.1.1 The following terms shall have the meanings given hereunder.

11.2 Affected Party

11.2.1 An Affected Party means any of the Long Term Transmission Customers or the TSP whose performance has been affected by an event of Force Majeure.

11.2.2 An event of Force Majeure affecting the CTU/STU or any agent of the Long Term Transmission Customers, which has affected the Interconnection Facilities, shall be deemed to be an event of Force Majeure affecting the Long Term Transmission Customers.

11.2.3 Any event of Force Majeure shall be deemed to be an event of Force Majeure affecting the TSP only if the Force Majeure event affects and results in, late delivery of machinery and equipment for the Project or construction,

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completion, commissioning of the Project by Scheduled COD and/or operation thereafter;

11.3 Force Majeure

A "Force Majeure" means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) Natural Force Majeure Events:

act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years,

(b) Non-Natural Force Majeure Events:

i. Direct Non-Natural Force Majeure Events

- Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the TSP; or
- the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consents, Clearances and Permits required by the TSP to perform their obligations under the RFP Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other Consents, Clearances and Permits required for the development/ operation of the Project, provided that a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or
- any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality which is directed against the Project, provided that a Competent Court of Law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down.

ii. Indirect Non - Natural Force Majeure Events

- act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or

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- *radio-active contamination or ionising radiation originating from a source in India or resulting from any other Indirect Non Natural Force Majeure Event mentioned above, excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Site by the Affected Party or those employed or engaged by the Affected Party; or*
- *industry wide strikes and labour disturbances, having a nationwide impact in India.*

11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

(a) Unavailability, late delivery, or changes in cost of the machinery, equipment, materials, spare parts etc. for the Project;

(b) Delay in the performance of any Contractors or their agents;

(c) Non-performance resulting from normal wear and tear typically experienced in transmission materials and equipment;

(d) Strikes or labour disturbance at the facilities of the Affected Party;

(e) Insufficiency of finances or funds or the Agreement becoming onerous to perform; and

(f) Non-performance caused by, or connected with, the Affected Party's:

i. negligent or intentional acts, errors or omissions;

ii. failure to comply with an Indian Law; or

iii. breach of, or default under this Agreement or any Project Documents.

11.5 Notification of Force Majeure Event

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

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Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

11.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.6 Duty to perform and duty to mitigate

To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

11.7 Available Relief for a Force Majeure Event

Subject to this Article 11

(a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

(b) every Party shall be entitled to claim relief for a Force Majeure Event affecting its performance in relation to its obligations under this Agreement.

(c) For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of such event(s).

(d) For so long as the TSP is claiming relief due to any Force Majeure Event under this Agreement, the Lead Long Term Transmission Customer may, from time to time on one (1) day notice, inspect the Project and the TSP shall provide the Lead Long Term Transmission Customer's personnel with access to the Project to carry out such inspections, subject to the Lead

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Long Term Transmission Customer's personnel complying with all reasonable safety precautions and standards.

ARTICLE: 12

12 CHANGE IN LAW

12.1 Change in Law

12.1.1 Change in Law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring / non-recurring expenditure by the TSP or any income to the TSP:

- the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;*
- a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;*
- the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;*
- a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits;*
- any change in the licensing regulations of the Appropriate Commission, under which the Transmission License for the Project was granted if made applicable by such Appropriate Commission to the TSP;*
- any change in the Acquisition Price; or*
- any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.*

12.1.2 Notwithstanding anything contained in this Agreement, Change in Law shall not cover any change:

- a. on account of regulatory measures by the Appropriate Commission including calculation of Availability; and*
- b. in any tax applied on the income or profits of the TSP.*

12.2 Relief for Change in Law

12.2.1 During Construction Period:

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During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- For every cumulative increase/decrease of each Rupees Two Crore Eighty Seven Lakh Only (Rs. 2.87 Crore) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to Zero Point Three percent (0.313 %) of the Non-Escalable Transmission Charges.

12.2.2 During the Operation Period:

During the Operation Period, the compensation for any increase/decrease in revenues shall be determined and effective from such date, as decided by the Appropriate Commission whose decision shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

Provided that the above-mentioned compensation shall be payable only if the increase/decrease in revenues or cost to the TSP is in excess of an amount equivalent to one percent (1%) of Transmission Charges in aggregate for a Contract Year.

12.2.3 For any claims made under Articles 12.2.1 and 12.2.2 above, the TSP shall provide to the Long Term Transmission Customers and the Appropriate Commission documentary proof of such increase/decrease in cost of the Project/revenue for establishing the impact of such Change in Law.

12.2.4 The decision of the Appropriate Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective, shall be final and binding on both the Parties subject to rights of appeal provided under applicable Law.

12.3 Notification of Change in Law:

12.3.1 If the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Lead Long Term Transmission Customer of such Change in Law as soon as reasonably practicable after becoming aware of the same.

12.3.2 The TSP shall also be obliged to serve a notice to Lead Long Term Transmission Customer even when it is beneficially affected by a Change in Law.

12.3.3 Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its effect on the TSP.

12.4 Payment on account of Change in Law

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12.4.1 The payment for Change in Law shall be through Supplementary Bill as mentioned in Article 10.10. However, in case of any change in Monthly Transmission Charges by reason of Change in Law, as determined in accordance with this Agreement, the Monthly Invoice to be raised by the TSP after such change in Transmission Charges shall appropriately reflect the changed Monthly Transmission Charges.

.....

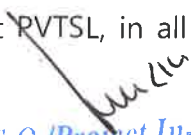
13.5 Termination due to Force Majeure

13.5.1 In case the Parties could not reach an agreement pursuant to Article 4.4.2 of this Agreement and the Force Majeure Event or its effects continue to be present, either Party shall have the right to cause termination of the Agreement. The Long Term Transmission Customers shall also have the right to cause termination of the Agreement and to approach the Appropriate Commission to seek further directions in this regard. In such an event, subject to the terms and conditions of the Financing Agreements, this Agreement shall terminate on the date of such Termination Notice. In case of such termination, the Contract Performance Guarantee shall be returned to the TSP as per the provisions of Article 6.5.2."

7. That the Transmission project has since been completed and the details of the same as follows:

Sl. No	Project Elements	Scheduled COD from Effective Date of 27.03.2018	Actual COD	Delay in number of days
Scheme: - New WR-NR 765 kV Inter- Regional Corridor				
1.	765 kV Vindhyachal Pooling Station - Varanasi D/C line	40 months from effective date (SCOD: 26.07.2021)	01.08.2021	There is a delay of 5 days owing to force majeure conditions.

The energization certificates, trial run certificates and Date of Commercial Operation Certificates in respect of transmission elements are attached hereto and marked as **Annexure-4 (Colly)**. It is submitted that PVTSL, in all earnest,


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made all efforts to complete the transmission elements expeditiously and as per the Scheduled Commercial Operation Date. However, the progress of the Transmission Project was severely affected on account of COVID-19 outbreak which is a force majeure event within the provisions of Article 11 of the TSA. The force majeure events were beyond the control of PVTSL and could not have been anticipated at the time of bidding. There were certain change in law events encountered during execution of the project and the change in law events were after the cut-off date. However, PVTSL took all steps as per prudent utility practices in right earnest to mitigate and minimize the impact of the force majeure/change in law events and commissioned the Transmission Project only with a delay of 5 days.

8. The Force majeure and Change of law events that had occurred during the construction stage / implementation of the transmission project prevented PVTSL to discharge its obligations as per TSA with respect to commissioning of transmission elements in line with project SCOD are detailed hereunder.

FORCE MAJEURE

9. The delay caused in implementation of the transmission project on account of widespread COVID-19 pandemic, is as under:

FIRST WAVE OF COVID-19

10. On 30.01.2020, the World Health Organization ('WHO') declared the outbreak of COVID-19 as a public health emergency of international concern.
11. It is submitted that COVID-19 outbreak has been declared as an epidemic in majority of the Indian States and as per the provisions of the Epidemic Disease Act, 1897. Curfews and lockdown had been imposed throughout the country. In view of such an unprecedented situation, the construction work of the project was severely impacted and day by day output had been substantially reduced.


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12. In view of the growing effect of the COVID-19 pandemic, on 19.02.2020, the Ministry of Finance, Government of India issued an Office Memorandum clarifying that the disruption of supply chains due to spread of the COVID-19 pandemic will be included within the scope of the force majeure clause which may be invoked, wherever considered appropriate.
13. On 11.03.2020, WHO issued a notification recognizing the outbreak of COVID-19 as a global pandemic. In pursuance of the above, the Union and State governments have invoked the Epidemic Diseases Act, 1897.
14. On 31.03.2020, PVTSL wrote a letter to the LTTCs invoking force majeure conditions caused due to the first wave of the COVID-19 outbreak which started affecting the construction work with effect from 31.03.2020.
15. On 24.03.2020, the Government of India, in exercise of its power under section 10(2)(l) of the Disaster Management Act, 2005 imposed a nationwide lockdown from 25.03.2020 till 14.04.2020 to curb the spread of the COVID -19 pandemic.
16. Thereafter, in terms of the Order dated 14.04.2020 and 01.05.2020 of the Ministry of Home Affairs, Government of India the lockdown remained in force till 17.05.2020.
17. On 13.05.2020, in view of the further disruptions that affected transportation, manufacturing and distribution of goods and services in the country which then severely impaired fulfilment of contractual obligations for supply of goods, services and consultancy services, the Ministry of Finance issued another Office Memorandum extending the date for completion of contractual obligations to be completed on or after 20.02.2020 by a period of not less than three months and not more than six months without imposition of any cost or penalty on the contractor.
18. On 27.07.2020, the Ministry of Power, Government of India vide its Circular granted a 5-month time extension in respect of Scheduled Commercial Operation

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date ('SCOD') for all Inter-State Transmission projects which were under construction as on the date of the proclamation of the lockdown, i.e., 25.03.2020.

SECOND WAVE

19. It is submitted that during the period from 01.04.2021 to 31.08.2021, the progress of the Transmission Project was affected on account of the second wave of the COVID-19 pandemic due to which total construction, erection and stringing work required for the Project was stopped.
20. On 28.04.2021, PVTSL wrote letters to the LTTCs invoking force majeure conditions caused due to the second wave of the COVID-19 outbreak which started affecting the construction work from 19.04.2021.
21. PVSTL vide a letter dated 28.04.2021 gave advance notice to the LTTCs of the anticipated Commercial Operation Date of the project as per the terms of TSA.
22. On 12.06.2021, the Ministry of Power, Government of India vide its Circular granted a 3-month time extension in respected of Scheduled Commercial Operation date ('SCOD') for all Inter-State Transmission projects which are under construction with SCOD coming after 01 April,2021, accordingly present project qualifies for 3-month time extension.
23. On 29.09.2021, PVTSL wrote a letter to the LTTCs communicating the commission of the project w.e.f 01.08.2021 and extension of SCOD from 26.07.2021 to 01.08.2021(Actual COD) submitting various force majeure events.
24. In view of the above resurgence of COVID-19 during the above period, PVTSL prays that this Hon'ble Commission may be pleased to grant an extension of 5 days in completion of the project.
25. The following documents in regard to the force majeure event on account of the COVID-19 outbreak are being attached herewith and marked as **Annexure- 5 (Colly)**:


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- (a) Annexure-5A - Copy of Orders passed by the Government of India dated 20.03.2020, 24.03.2020, 29.03.2020, 15.04.2020, 01.05.2020, 13.05.2020.
- (b) Annexure-5B - Copy of Ministry of Power letters dated 27.07.2020 and 12.06.2021
- (c) Annexure-5C - Copy of letters from PVTSL to the LTTCs dated 31.03.2020, 28.04.2021 and 29.09.2021.


26. It is submitted that pursuant to the communications exchanged between PVTSL and the LTTCs including the Lead LTTC, the Contract Performance Guarantee ('CPG') issued by PVTSL in favour of the LTTCs have been returned by Respondent Nos. 1,8,9,11,20,21&22. The Respondent No.8 (MPPMCL) has returned the CPG vide letter 09.09.2021 and mentioned that "*...the SCOD of the project was on 26.07.2021, resulting a delay of 5days and accordingly Clause 6.4 of TSA relating to Liquidated damages (LD) gets attracted. In this regard, UPPCL being lead LTTC is requested to kindly convey further course of action as per provision of TSA*". The CPG's submitted to other LTTC's expired on 26.11.2021 and no claim has been made by any of the LTTC's till date. In terms of Article 18.1.1 read with schedule 8 of the PPA, the decision of the Lead LTTC is binding on the other LTTCs. As the Lead LTTC (UPPCL) has returned the CPG, no further claims is pending towards Bank Guarantee and all obligations as per the terms and conditions have been fulfilled by PVTSL. The copies of the said communications issued by Respondent No. 1 and 8 are attached hereto and marked as **Annexure -6**.

CHANGE IN LAW EVENTS

27. That, the following are the Change in Law events that occurred during the implementation of the Project:

During Construction Period

- a) Increase in Acquisition price of BPC;


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- b) Notification of payment of Land compensation for tower base as well as corridor of transmission line by Government of Uttar Pradesh; and
- c) Requirement of installation of Bird Diverters/ Deflectors on the Transmission Lines and Aerospace Safety Aspects.

CONSTRUCTION PERIOD

A) INCREASE IN ACQUISITION PRICE OF BPC

- 28. That prior to bid submission, BPC vide its email dated 15.06.2017 had intimated to the bidders that the Acquisition Price payable by the Selected Bidder for Acquisition of 100% of equity shareholding of WR-NR Power Transmission Limited (now PVTSL) along with all its related assets and liabilities as Rs.14,02,43,000/-.
- 29. That subsequent to bidding and after the cut-off date 18.09.2017 (7 days prior to bid deadline of 25.09.2017), BPC vide letter dated 19.03.2018 intimated the successful bidder of the final Acquisition Price as Rs. 15,12,49,571/-.
- 30. On 21.03.2018, PVTSL issued a letter to BPC seeking clarification in regard to the increase in the acquisition price of the Transmission Project.

Thereafter, BPC vide its letter dated 23.03.2018 informed that the Tentative Acquisition Price in June 2017 was under the Service Tax regime however, the same now falls under the Good and Sales Tax regime. Tentative Acquisition Price includes Service Tax @ 15% whereas on Final Acquisition Price GST @ 18% is Charged by BPC. The variation between the Tentative Acquisition Price and Final Acquisition Price is as follows -


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Amount in Rupees

Tentative Acquisition Price	Final Price	Acquisition	Difference
15,12,49,571	14,02,43,000		1,10,06,571

31. The aforesaid amount has been paid to the BPC and the SPV was acquired by POWERGRID. This claim under Change in Law has been duly notified by bringing it to the notice of the LTTCs and to the Hon'ble Commission along with documentary proof in the Petition no. 120/AT/2018 filed for adoption of transmission charges.
32. This Hon'ble Commission vide its Order dated 05.09.2018 passed in Petition No. 120/AT/2018 has held that PVTSL is entitled to increase in Acquisition price under Change in Law. This Hon'ble Commission had granted liberty to claim the above change in law along with other change in law events, when the threshold criteria is met. The relevant extracts from the Order dated 05.09.2018, inter-alia, reads as under -

"35. The Petitioner has clarified that the increase in acquisition price (Rs. 110 lakh) is covered under Change in Law. MPPMCL has submitted that increase in acquisition price should not be allowed in tariff and the same should be borne by the Petitioner. The Petitioner has submitted that increase in acquisition price from Rs. 14.0243 crore to Rs. 15.1249 crore qualifies as change in law events in terms of the TSA. BPC has contended that the tentative acquisition price was intimated to the bidders one month prior to the bid deadline which was based on the prevailing Service Tax regime. The prevailing service tax at that time was 15% i.e. basic @14% plus Swachh Bharat Cess @0.5% plus Krishi Kalyan Cess @ 0.5%. However, the final acquisition price was given under the new tax regime i.e. Goods and Services Tax (GST) @ 18% which became applicable from 1st July, 2017. Therefore, there was an increase of 3% of tax liability which come to Rs. 32,28,630/- on professional fees and Rs. 13,78,147/- on the administrative and establishment cost. Accordingly, the total implication

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due to change in tax regime was to a tune of Rs. 46,06,777/-. Further, delay of about two months took place on account of request of bidders for submission of RFP due to GST Regime and delay of four months took place on account of resolution of the issue of portal faced during e-RA bidding which resulted in increase in administrative and establishment charges for an amount of Rs. 54,30,018/- and rise in interest cost for an amount of Rs. 9,69,776/- amount to Rs. 64 lakh. Thus, a total of Rs. 110 lakh was paid by the Petitioner on account of increase in acquisition price to BPC..... Any change in the acquisition price which took place after 7 days prior to the bid deadline is covered under Change in Law. Therefore, the Petitioner is entitled for relief for the increased amount of acquisition price under Change in Law.

....

36. ...As per the above provision, the relief is admissible @ 0.313% for every cumulative increase of Rs. 2.87 crore in the cost of the project. Though, the Petitioner is eligible to recover the additional acquisition price of Rs. 110 lakh from the LTTCs under Change in Law, the same falls short of Rs. 2.87 crore and cannot be allowed at this stage. As and when the impact of change in law including increase in the acquisition price reaches or exceeds Rs. 2.87 crore, the Petitioner shall be entitled to claim the relief in terms of Article 12.2.1 of the TSA. Accordingly, the Petitioner is at liberty to claim the relief at appropriate point of time in accordance with law."

- 33.** That the following is stated under Article 12.1.1 of the TSA as being within the scope of Change in law event:

[quoted above]

"any change in the Acquisition Price; or"

In terms of the above, the increase in Acquisition price by BPC is of Rs. 1,10,06,571. It is to be noted that acquisition price is indicated by the BPC and PVTSL has no control over the same. It is submitted that increase in acquisition price was intimated by BPC (who has acted on behalf of beneficiaries in initiating the competitive bid process) which has been paid to the BPC and further included as an increase in overall project cost.

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Copy of the letters/emails issued by BPC informing the acquisition price prior to (email dated 15.06.2017) bidding, letter of 21.03.2018 of PVTSL to BPC and the letters dated 19.03.2018 and 23.03.2018 of BPC informing increase in acquisition price which was after the cutoff date are attached hereto and marked as **Annexure- 7(Colly)**.

34. The increase in acquisition has also been allowed as a Change in Law Event by this Hon'ble Commission in the following cases -

- i. POWERGRID Southern Interconnector Transmission System Limited (PSITSL) Vs. Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL) & Ors. [Order dated 07.05.2022 in Petition No. 13/MP/2021]. The relevant extracts from the Order dated 07.05.2022, inter-alia, reads as under -

"72. Perusal of above details reveals that the increase of Rs.12,23,718/- is due to increase in expenses and payment of service tax to the Government of India. As per sixth bullet under Article 12.1.1 of the TSA, 'any change in the acquisition price constitutes a Change in Law event. In view of the above, the Petitioner is entitled to relief for Change in Law on account of increase in acquisition price."

- ii. POWERGRID Jabalpur Transmission Limited Vs. Maharashtra State Electricity Distribution Company Limited & Ors. [Order dated 28.10.2021 in Petition No. 610/MP/2021]. The relevant extracts from the Order dated 28.10.2021, inter-alia, reads as under -

"25. The Petitioner gave notices to the LTTCs dated 15.06.2017 under Change in Law events regarding payment of compensation for transmission lines due to introduction of land compensation for transmission lines in the State of Madhya Pradesh and dated 07.07.2017 regarding introduction of GST with effect from 01.07.2017. It is noticed that the Petitioner gave consolidated notice dated 30.10.2019 enumerating the Force Majeure events, including extension of time to implement the Project, to LTTCs. However, no response was received from the lead LTTC/ LTTCs. As regards increase in the acquisition price of SPV, while the Petitioner has not placed any notice intimating the LTTCs about the aforesaid Change in Law, it has been pointed out that all the LTTCs were duly informed

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by the Petitioner regarding increase in the acquisition price of SPV by BPC in Petition No. 88/ADP/2015 filed by the Petitioner under Section 63 of the Act for adoption of tariff and it also served copies of the Petition inter-alia stating reimbursement of increased acquisition price of SPV, on the LTTCs including the BPC. Perusal of the records reveals that the Petitioner had in fact indicated/intimated the LTTCs about the increase in the acquisition price of SPV in the aforesaid Petition filed by the Petitioner after the selected bidder (PGCIL) acquired the SPV as per the bid process, which in our view suffices the requirement of notice to LTTCs. It is worthy of mentioning here that notice is a legal concept describing a requirement that a party be aware of legal process affecting their rights, obligations or duties. We have considered that through Petition No. 88/ADP/2015, LTTCs were made aware about increase in acquisition price by BPC. Accordingly, in our view, the Petitioner has complied with the requirement of TSA regarding prior notice to the lead LTTC regarding occurrence of Force Majeure events and Change in Law before approaching the Commission. We further observe that the Respondents have not raised any issue as regards non-compliance with provision of notifying them of force majeure/change in law."

35. It is submitted that as per the auditor certified calculation, net increase in cost of the project due to increase in acquisition price after cut-off date is **Rs110.07Lakhs**

B) NOTIFICATION OF PAYMENT OF LAND COMPENSATION FOR TOWER BASE AS WELL AS CORRIDOR OF TRANSMISSION LINE BY GOVERNMENT OF UTTAR PRADESH

36. It is submitted that Government of Uttar Pradesh vide Government Order Nos. 2023/24-P-3-2018 dated 06.09.2018 and 2643/24-P-3-2019 dated 19.11.2019 has separately notified payment of Land Compensation for Tower base as well as for corridor of transmission line, to the land owners. Copies are attached and marked as annexure-8. The above is a change in law falling within Article 12.1.1 of the TSA (as quoted above).


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37. In regard to the above, the following is submitted:

i) The bids deadline for the subject Project was 25.09.2017 and the cutoff date for the purposes of Change in Law as per Article 12.1 of TSA is 7 (seven) days prior to bid submission date which works out to 18.09.2017

The date of the notifications issued by Government of Uttar Pradesh - Governmental Instrumentality being 06.09.2018 and 19.11.2019, the said notification qualifies as a Change in Law event.

ii) As per provisions under Article 12.1.1, the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law is Change in Law.

The notification issued by the Government of Uttar Pradesh dated 06.09.2018 and 19.11.2019 are enactments coming into effect after bidding date and as such fulfills the requirement of TSA to be dealt under Change in Law.

iii) As per provisions under Article 12.1.1, the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier is considered under Change in Law.

The notification issued by the Government of Uttar Pradesh requires compensation to be made to the land owners so as to obtain consent and clearances for execution of the Project and as such fulfills the requirement of the provisions of TSA to be dealt under Change in Law.

iv) As per Article 12.3, notice of Change in law has been issued to the LTTCs vide letter dated 04.12.2021. A copy of the letter dated 04.12.2021 from PVTSL to the LTTCs is attached hereto and marked as **Annexure -9**.

38. That in view of foregoing, the Notification of payment of Land compensation for tower base as well as corridor of transmission line by Government of Uttar


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Pradesh is a Change in Law event and the expenditure incurred and anticipated to be incurred by PVTSL on this account is Rs. 597.01 Lakhs.

39. The details of land compensation certified by the Auditor is attached hereto and marked as Annexure - 10.
40. The compensation for land payment as a Change in Law Event has been allowed by this Hon'ble Commission in the case of POWERGRID Jabalpur Transmission Limited Vs. Maharashtra State Electricity Distribution Company Limited & Ors. [Order dated 28.10.2021 in Petition No. 610/MP/2021]. The relevant extracts from the Order dated 28.10.2021, inter-alia, reads as under -

"59. Thus, 'Law' under TSA includes any statute, ordinance, rule, regulation, notification, order or code or any interpretation of any of them by an Indian Governmental Instrumentality having force of law. Therefore, the GO dated 11.05.2017 issued by the Revenue Department, Government of Madhya Pradesh qualifies as 'Law' under the TSA and its introduction/ implementation being after the cut-off date in the present case, is a Change in Law event in terms of Article 12.1.1 of the TSA.

60. Nothing is placed before the Commission by the parties as to whether any compensation was payable by the Petitioner for tower base and transmission line corridor before the aforementioned GO dated 11.05.2017 issued by the Revenue Department, Government of Madhya Pradesh vide Circular No. R/3283/2016/7/2A came into force. However, subsequent to the issue of the said GO dated 11.05.2017, the compensation for tower base @85% of market value of land and the compensation for the transmission line corridor @15% of the market value of land became payable. Therefore, if any compensation was payable for tower base and transmission line corridor prior to the GO dated 11.05.2017, the additional liabilities of compensation payable for the Petitioner shall be only the differential amount. In light of the above, the Petitioner is entitled to relief only on account of differential additional expenditure incurred towards payment of land compensation for tower base and transmission line corridor in terms of the GO dated 11.05.2017 of the Government of Madhya Pradesh."


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41. It is submitted that as per the auditor certified calculation, net increase in cost of the project due to compensation for Land Payment after cut-off date is **Rs.597.01 Lakhs** (including IDC of Rs. 56.21 Lakhs and IEDC of Rs.20.80 Lakhs).

C) REQUIREMENT OF INSTALLATION OF BIRD DIVERTERS/ DEFLECTORS ON THE TRANSMISSION LINES

42. On 14.09.2020, MoEFCC Regional Office (Central Region) issued a letter to the Principal Secretary, Government of Uttar Pradesh approving the diversion of 210.152 hectares of forest land in favour of PVTSL subject to certain conditions including installation of bird deflectors on the upper conductor of the transmission line at suitable intervals to avoid bird hits. The relevant extracts from the letter dated 14.09.2020, inter-alia, reads as under -

"...11. The user agency at its cost shall provide bird deflectors, which are to be fixed on the upper conductor of transmission line at suitable intervals to avoid bird hits..."

A copy of the letter dated 14.09.2020 in regard to installation of bird deflectors by MoEFCC Regional Office is attached hereto and marked as **Annexure-11''**.

43. The above condition of installation of bird divertors/deflectors was imposed as a new condition after the cut-off date. The above condition of bird divertors/deflectors has been introduced as general guidelines in Part C of Handbook of Forest Conservation Act, 1980 and Forest Conservation Rules 2003 (Guidelines and Clarifications) published by MoEFCC on 28.03.2019, which was after the cut-off date of 18.09.2017. Copy attached and marked as Annexure-12.

44.

Further, the installation of bird divertors/deflectors condition was not there in MOEFCC Regional Office (Central Region) letter dated 03.04.2019 issued for diversion of forest land for construction of 400kV Lucknow-Kanpur D/c line


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implemented by POWERGRID in the state of Uttar Pradesh. A Copy of letter dated 03.04.2018 is attached hereto and marked as Annexure-13. Thus, it is submitted that the above condition could not have been envisaged by PVTSL at the time of the bidding.

45. On 06.01.2021, PVTSL wrote a letter to the LTTCs, invoking a change in law/ force majeure event with respect to the introduction of the new requirement by the MoEFCC to provide for Bird diverters/deflectors to be fixed on upper conductor of Transmission Line at suitable intervals to avoid bird hits.

The notice dated 06.01.2021, *inter-alia*, reads as under:

"In line with TSA, notice is hereby given under Article 12.3 of TSA consequent upon "Change in Law" caused due to introduction of Bird diverters / deflectors which are to be fixed on Earthwire & OPGW of Transmission Line at suitable intervals to avoid bird hits. This new requirement is as per circular no 238/2/2019 dtd.22.02.2019 of Ministry of Environment, Forest & Climate Change (Government of India) and condition imposed by Forest Authorities in Stage-I approval. (copy of U.P.& M.P. portion enclosed).

Imposition of above new requirement by the approving authority in our 765kV D/C (Hexa) Vindhyachal Pooling Station to Varanasi transmission line involves re-engineering, procurement & implementation activities. The process of re-engineering, procurement, execution for such a large no. of Bird deflectors/diverters (in the range of 7302 nos. appx.) shall lead to extra time requirement.

Further, the total cost of additional 7302 nos. (appx.) bird deflectors/diverters shall also be very high. The excess expenditure amount and excess time requirement shall be known only after work is completed/ executed and payments are made.

The above mentioned excess time & expenses to be incurred against 765kV D/C (Hexa) Vindhyachal Pooling Station to Varanasi transmission line for installation of bird diverters/ deflectors in line with above approval letters shall be furnished in due course of time."

[Emphasis Supplied]

46. In terms of Article 12.3 of the TSA, notices were served on the LTTCs consequent upon the installation of bird deflectors. The Notice dated 06.01.2021 issued by

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PVTSL in regard to installation of bird deflectors as change in law is attached hereto and marked as **Annexure -14**.

47. It is submitted that as per the auditor certified calculation, net increase in cost of the project due to installation of bird divertors after cut-off date is **Rs.470.25 Lakhs** (including IDC of Rs. 44.28 lakhs and IEDC of Rs. 16.38 Lakhs).

INCREASE IN COST TO BE ALLOWED ON ACCOUNT OF ABOVE CHANGE IN LAW EVENTS

48. That the TSA provides for relief for Change in Law as per the following provisions which are reproduced once again:

"12.2 Relief for Change in Law

12.2.1 During Construction Period:

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- For every cumulative increase/decrease of each Rupees Two Crore Eighty Seven Lakh Only (Rs. 2.87 Crore) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to Zero Point Three percent (0.313 %) of the Non-Escalable Transmission Charges."

(emphasis supplied)

49. In terms of the above, the impact of Change in Law for the construction period is to be allowed by way of an increase in the cost of the project in the present case. The cost of the project or the project cost refers to and encompasses within its scope, all costs in regard to the establishment of the project incurred by the entity. These include not only the hard cost of the capital assets (plant, machinery, equipment, etc.) installed in the project but also the interest cost and finance charges during the construction and other soft costs related to the establishment of the project.


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50. In the case of tariff applicable to competitively bid transmission projects, an increase in project cost on account of change in law events is required to be fully serviced. The increase in project cost as such comprises of -
- (a) Additional cost on account of change in law events.
- The incidental expenditure associated with such change in law. All the above cost components arising out of the change in law events have to be considered as increase in project cost since PVTSL would not have been exposed to any of the above cost components had there been no Change in Law.
51. It is submitted that it will not be appropriate to deny the servicing of the increase in the project cost in entirety. The entire increase in the project cost (100%) on account of the capital expenditure incurred by PVTSL by way of Change in Law as well as the funding and financing cost of such capital expenditure, in full, during the construction period and the incidental expenditure incurred owing to change in law events need to be serviced by increase in the transmission charges payable over and above the quoted transmission tariff during the entire period of the Transmission Service Agreement in order to enable PVTSL be compensated fully for the effect of the change in law events. It should not be restricted to only the hard costs of capital expenditure incurred and should also include funding and financing cost as well as the overheads. Considering the fact that transmission assets are critical element of power system and financial soundness of a transmission licensee is must for smooth operation and maintenance of the transmission system which is in the overall interest of grid security and safety.
52. It is respectfully submitted that the issue of entitlement of IDC and IEDC incurred on account of Change in Law and Force Majeure events is no longer res-integra in view of the judgment of the Hon'ble Appellate Tribunal dated 20.10.2020 in Appeal No. 208 of 2019 in Bhopal Dhule Transmission Company Limited. v. Central Electricity Regulatory Commission and Ors. (**'Bhopal Dhule Judgment'**) and the judgment dated 03.12.2021 in Appeal No. 129 of 2020 in the case of NRSS XXXI (B) Transmission Limited v. CERC and Ors. and Appeal No. 276 of 2021

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in Darbhanga-Motihari Transmission Co. Ltd. v. Central Electricity Regulatory Commission and Ors. (**'NRSS Judgment'**).

- 53.** In addition to the above, it is submitted that PVTSL shall be eligible for carrying cost from COD till the date of order to be issued by this Hon'ble Commission at the actual rate of interest paid by PVTSL for arranging funds or the rate of interest on working capital as per applicable Tariff Regulations or the late payment surcharge rate as per the TSA, whichever is the lowest.
- 54.** In view of above, the increase in the Cost of the Project on account of the aforementioned Change in Law events owing to Funding cost and Overhead cost is worked out as under:

(All amount in Rs. Lakhs.)

S. No.	Change in Law event	Basic Amount	IDC	IEDC	Increase in project cost on account of Change in Law
1.	Change in Acquisition Price	110.07	0	0	110.07
2.	Land Compensation (85% of Tower base)	520.00	56.21	20.80	597.01
3.	Procurement and Installation of bird divertors.	409.59	44.28	16.38	470.25
4.	IDC from SCOD to Project COD	0	79.24	0	79.24
5.	IEDC from SCOD to Project COD	0	0	0	0
Total impact of Project Cost					1256.57


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A copy of the Auditor's certificate certifying the above computation is attached hereto and marked as **Annexure-10**.

That in accordance with the provisions of Article 12.2.1 of TSA, the commensurate increase in tariff owing to the above, treating the entire increase in project cost on account of Change in Law events as described above, in annual non-escalable transmission charges of PVTSL is **1.37%**. The details of the calculations are worked out and are attached as **Annexure-15**.

55. PVTSL submits that it is entitled to the increase in tariff for the increase in the Cost of the Project on account of Change in Law and the Hon'ble Commission has the jurisdiction under Section 63 read with Section 79 (1) (c), (d) and (f) provisions of 12.2 of the TSA to decide such matters.
56. In the above background, PVTSL is approaching this Hon'ble Commission praying for appropriate orders for allowing the entire time extension of 5 days on account of force majeure event and increase of the transmission charges on account of change of law events.
57. PVTSL undertakes to provide any information or details as sought by this Hon'ble Commission during the course of the proceedings.
58. PVTSL has paid the requisite court fees in the petition.
59. PVTSL submits that it is entitled to the increase in tariff for the increase in the Cost of the Project on account of Change in Law falling under Article 12 and the Hon'ble Commission has the jurisdiction under Section 63 read with Section 79 of the Electricity Act, 2003.
60. It is, therefore, respectfully prayed that this Hon'ble Commission may be pleased to:
 - i) Admit and entertain the present petition under Section 63 read with Section 79 of the Electricity Act, 2003 for claim of the Project being affected


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by Force Majeure events and Change in Law events and for providing relief under Article 11 and Article 12 respectively of Transmission Service Agreement dated 27.04.2017 as set out hereinabove.

- ii) Hold that the Petitioner is entitled for time extension of **5 days** on account of Force Majeure conditions and SCOD of the project would be extended to **01.08.2021**.
- iii) Hold that the Petitioner shall be entitled to get the increase in cost of Project amounting to **Rs.1256.57Lakhs** during execution and completion of the transmission project;
- iv) Hold that the Petitioner shall be entitled to increase in adopted annual non-escalable charges by **1.37%** on account of increase in aforementioned cost of project due to Change in Law;
- v) Hold that the Petitioner shall be entitled to carrying cost from COD till the date of order to be issued by this Hon'ble Commission;
- vi) Allow recovery of filing fees and legal expenses in regard to the present Petition; and
- vii) Pass such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

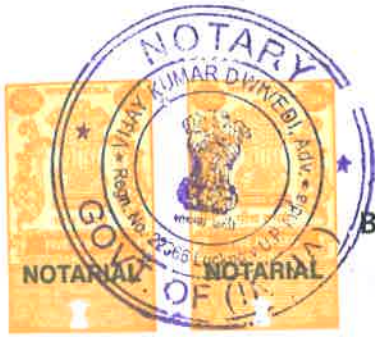
POWERGRID Varanasi Transmission System Limited

REPRESENTED BY

**Project-in-Charge,
POWERGRID Varanasi Transmission System Limited**

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

PLACE: Lucknow
DATE: 27/06/2024



**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
7TH TOWER B, WORLD TRADE CENTRE,
NAUROJI NAGAR, NEW DELHI – 110 029**

PETITION NO OF 2024

IN THE MATTER OF:

POWERGRID Varanasi Transmission System Limited Petitioner

VERSUS

Uttar Pradesh Power Corporation Limited and Ors. ... Respondents

AFFIDAVIT IN SUPPORT

I, S.K.Rai S/o Rajendra Rai, aged around 59 years, working as Project-In-Charge, resident of 3/207, Vijayant Khand Gomti Nagar, Lucknow, Uttar Pradesh-226010, presently at RHQ, Lucknow, do hereby solemnly affirm and state as under:

1. I say that I am working as Project-In-Charge in the Petitioner Company and am competent to swear the present affidavit.
2. I say that the contents of the accompanying Petition filed by the Petitioner are based on the records of the Petitioner maintained in the normal course of business and believed by me to be true.
3. I say that the Annexures to the Petition are the true and correct copies of their original.

VERIFICATION

I, the deponent above-named, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Lucknow on this 20th day of June 2024.

[Signature]
DEPONENT
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

[Signature]
DEPONENT
C.E.O./Project In-Charge
P.V.T.S.L.
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Sign.....
VIJAY KUMAR DWIVEDI
Advocate & Notary
Regn. 22366 Govt. of India

I identify the deponent/Executant/Surveyor who has signed before me.

**SWORN & VERIFIED
BEFORE ME**

ANNEXURE-1

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 119/TL/2018

**Coram:
Shri P. K. Pujari, Chairperson
Shri A. K. Singhal, Member
Dr. M. K. Iyer, Member**

Date of Order: 27th of August, 2018

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 License and other related matters) Regulations, 2009 with respect to Transmission License to WR-NR Power Transmission Limited.

**And
In the matter of**

WR-NR Power Transmission Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi 110016

.....Petitioner

Vs.

1. Uttar Pradesh Power Corporation Limited
14th Floor, Shakti Bhawan Extension,
14- Ashok Marg, Lucknow
2. Chhattisgarh State Power Distribution Company Limited
4th Floor, Sewa Bhawan,
Dangania, Raipur- 492013
3. Goa Electricity Department
Electricity Department, Government of Goa
3rd Floor, Vidyut Bhavan, Tiswadi, Goa- 403001
4. Maharashtra State Electricity Distribution Company Limited
5th Floor, Prakashgad, Bandra (E),
Mumbai- 400051



5. Electricity Department, Daman & Diu
Kesariya - Diu Road, Gandhipara, Diu,
Daman and Diu- 362520
6. DNH Power Distribution Corporation Limited
Vidyut Bhavan, Near Secretariat, Amla, Silvassa,
Dadra and Nagar Haveli- 396230
7. Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan, Race Course, Vadodara
Gujarat- 390 007
8. M.P. Power Management Company Limited
Shakti Bhavan, MPSEB Colony, Rampur, Jabalpur,
Madhya Pradesh- 482008
9. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019
10. BSES Yamuna Power Limited
2nd Floor, Shakti Kiran Bldg., Karkardooma,
New Delhi- 110092
11. New Delhi Municipal Council
NDMC, New Delhi- 110001
12. TATA Power Delhi Distribuion Limited
NDPL House, Hudson Lines, Kingsway Camp,
Delhi - 110009
13. Power Development Department, Jammu & Kashmir
Govt. of Jammu & Kashmir, SLDC Building,
1st Floor, Gladani Power House,
Narwal, Jammu
14. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road,
Ajmer- 305004
15. Jodhpur Vidyut Vitran Nigam Limited
New Power House, Industrial Area,
Jodhpur - 342 003
16. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath, Jaipur


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Rajasthan- 302005

17. Uttarakhand Power Corporation Limited
Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road,
Balliwala Chowk, Dehradun- 248001

18. Electricity Wing of Engineering Department, Union Territory of Chandigarh
OP Circle, 5th Floor,
New Deluxe Building,
Sector- 9, Chandigarh

19. Himachal Pradesh State Electricity Board Limited
Vidyut Bhawan,
Shimla- 171004

20. Haryana Power Purchase Centre
Shakti Bhavan Sector - 6,
Panchkula - 134 109

21. Punjab State Power Corporation Limited
Thermal Sheds, T 1-A, Patiala

22. Rajasthan Discoms Power Procurement Centre
Shed No. 5/4, Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur- 302005

23. Rajasthan Urja Vikas Nigam Limited
Vidyut Bhawan, Jyoti Nagar, Janpath,
Jaipur – 302005

.....Respondents

1. REC Transmission Projects Company Limited,
ECE House, 3rd Floor, Annexe-II,
28A, K.G. Marg, New Delhi- 110001

2. Power Grid Corporation of India Limited
Saudamini, Plot No.2, Sector-29
Gurgaon, Haryana- 122001

.....Proforma Respondents

The following were present:

Shri B. Vamsi, WR-NR PTL
Shri Mani Kunal, WR-NR PTL
Ms. Jyoti Prasad, WR-NR PTL



ORDER

The Petitioner, WR-NR Power Transmission Limited has filed the present petition under Section 14 of the Electricity Act, 2003 (hereinafter referred to as "the Act") read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 to establish Transmission System for "NEW WR-NR 765 kV Inter-Regional corridor" (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

Scheme/ Transmission Works	Completion Target
New WR-NR 765 kV Inter-Regional Corridor	
765 kV Vindhyanchal Pooling Station- Varanasi D/C line	40 months
Note:	
i. POWERGRID will provide 2 nos. 765 kV line bays at Vindhyanchal 765/400 kV PS for termination of Vindhyanchal Pooling Station – Varanasi 765 kV D/c line.	
ii. POWERGRID will provide 2 nos. 765 kV GIS line bays at Varanasi 765/400 kV GIS Substation along with 2 nos. 1x330 MVAR line reactor for termination of Vindhyanchal PS – Varanasi 765 kV D/c line.	

2. The Petitioner, vide its affidavit dated 11.6.2018, has informed that the name of the company has been changed from WR-NR Power Transmission Limited to Powergrid Varanasi Transmission System Limited with effect from 5.6.2018. The certificate of change of name from WR-NR Power Transmission Limited to Powergrid Varanasi Transmission System Limited dated 5.6.2018 issued by Registrar of Companies, Delhi has been placed on record. Accordingly, the name of the Petitioner has been changed to Powergrid Varanasi Transmission System Limited on the record of the Commission.

File

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3. Based on the competitive bidding carried out by REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) in accordance with the Guidelines issued by Ministry of Power, Govt. of India under Section 63 of the Act, M/s Power Grid Corporation of India Limited emerged as the successful bidder with the lowest levelized transmission charges of ₹ 927.33 million/annum.

4. The Commission after considering the application of the Petitioner in the light of the provisions of the Act and 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") *prima facie* proposed to grant licence to the Petitioner. Relevant para of our order dated 16.7.2018 is extracted as under:

"18. We have considered the submissions of the Petitioner and UPPCL and perused documents on record. UPPCL in its reply has raised the procedural issues which have been dealt with in this order. The proviso to para 2.4 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". Though LoI was issued on 1.3.2018, BPC, vide its letters dated 12.3.2018 and 23.3.2018, in terms of clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 6.4.2018 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customers of the project for an amount of Rs. 30.38 crore and has acquired hundred percent equity-holding in the applicant company on 27.3.2018 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 6.4.2018. 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 3.8.2018."



5. A public notice under Section 15 (5) of the Act was published on 21.7.2018 in all editions of Hindustan Times and Dainik Jagran (Hindi). No suggestions/objections have been received from the members of the public in response to the public notice.

6. The Petitioner, vide order dated 16.7.2018, was directed to file an affidavit to the effect that the execution of the transmission project shall not be delayed due to time taken in obtaining statutory clearances required under RfP and the TSA or adjudication of any claim of the Petitioner arising under the TSA. In response, the Petitioner vide its affidavit dated 26.7.2018 has submitted that the transmission project is governed by the pre-signed TSA dated 27.3.2018 and all the terms of the TSA including Article 16 of the TSA are integral part of the TSA and are binding on the signatories of the agreement. The Petitioner has submitted that in terms of the TSA, it would implement the project as per the provisions of the 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."

7. The Petitioner has submitted that the time over-run and cost over-run shall be claimed by the Petitioner in accordance with the applicable provisions of the TSA read with the provisions of the Electricity Act, 2003, bidding documents and the Regulations of the Commission.

8. In our order dated 16.7.2018, the following provisions of the TSA with regard to quality control and workmanship were taken note of:

(a) As per Article 5.1.1 of the TSA, the TSP at its own cost and expense, shall

be responsible for designing, constructing, erecting, completing and commissioning each element of the project by Scheduled COD in accordance with the various regulations of the Central Electricity

(b) Article 5.4 of the TSA provides that the TSP shall ensure that the project is designed, built and completed in a good workmanlike manner using sound engineering and construction practices and using only materials and equipment that are new and of international utility grade quality such that the useful life of the project will be till the expiry date.

(c) The design, construction and testing of all equipment, facilities, components and systems of the project shall be in accordance with Indian Standards and Codes issued by Bureau of India Standards.

Accordingly, the Petitioner was directed to submit the information with regard to quality control mechanism available or to be put in place to ensure the compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA.

9. The Petitioner, vide its affidavit dated 26.7.2018, has submitted that in terms of the TSA, the applicant would implement the project as per the provisions of the Article 5 dealing with construction of the project. The Petitioner has submitted that the provisions of the TSA including those related to quality control during construction of the project are binding on the parties. The Petitioner has submitted that it is a wholly owned subsidiary of Powergrid and follows the same quality standards and practices as are being followed by Powergrid.



10. We have considered the submission of the Petitioner. In the TSA, there is provision for the lead procurer to designate at least three employees for inspection of the progress of the project. Further, the Petitioner is required to give a monthly progress report to the lead procurer and the CEA about the project and its execution. The TSA also vests a responsibility in the CEA to carry out random inspection of the project as and when deemed necessary. We consider it necessary to request CEA to devise a mechanism for random inspection of the project every three months to ensure that the project is not only being executed as per the schedule, but the quality of equipment and workmanship of the project conforms to the Technical Standards and Grid Standards notified by CEA and IS Specifications. In case of slippage in execution of the project within the timeline specified in the TSA or any non-conformance to the Grid Standards/Technical Standards/IS Specifications. CEA is requested to promptly bring the same to the notice of the Commission so that appropriate direction can be issued to the licensee for compliance.

11. As regard the grant of transmission licence, Clauses (15) and (16) of Regulation 7 of Transmission Licence Regulations provide as under:

"(15) The Commission may after consideration of the further suggestions and objections, if any, received in response to the public notice aforesaid, grant licence as nearly as practicable in Form-III attached to these regulations or for reasons to be recorded in writing, reject the application if such application is not in accordance with the provisions of the Act, the rules or regulations made thereunder or any other law for the time being in force or for any other valid reasons.

(16) The Commission may, before granting licence or rejecting the application, provide an opportunity to the applicant, the Central Transmission Utility, the Long-term customers, or the person who has filed suggestions and objections, or any other person:

Provided further that the applicant shall always be given a reasonable opportunity of being heard before rejecting the application.”

12. In our order dated 16.7.2018, we had proposed to grant transmission licence to the Petitioner company and directed for issue of public notice. In response to the public notice, no suggestions/objections have been received. We are satisfied that the Petitioner company meets the requirements of the Act and the Transmission Licence Regulations for grant of transmission licence for the subject transmission system mentioned at para 1 of this order. Accordingly, we direct that transmission licence be granted to the Petitioner, Powergrid Varanasi Transmission Limited, to establish the transmission system for “NEW WR-NR 765 kV Inter-Regional Corridor” on Build, Own, Operate and Maintain basis as per the details given in para 1 above.

13. The grant of transmission licence to the Petitioner (hereinafter referred to as the ‘licensee’) is subject to the fulfillment of the following conditions throughout the period of licence:

(a) The transmission licence shall, unless revoked earlier, remain in force for a period of 25 years;

(b) The transmission licensee shall comply with the provisions of the Transmission Licence Regulations or any subsequent enactment thereof and the terms and condition of the TSA during the period of subsistence of the licence.

(c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the project, the licensee may make an application, two years before the expiry of initial licence period, for grant of licence for another term in accordance with



Regulation 13 (2) of the Transmission Licence Regulations which shall be considered by the Commission in accordance with law;

(d) The licensee shall not enter into any contract for or otherwise engage in the business of trading in electricity during the period of subsistence of the transmission licence;

(e) The licensee shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, as amended from time to time or any subsequent enactment thereof. Delay in payment or non-payment of licence fee or a part thereof for a period exceeding sixty days shall be construed as breach of the terms and conditions of the licence;

(f) The licensee shall comply with the directions of the National Load Despatch Centre under Section 26 of the Act, or the Regional Load Despatch Centre under sub-section (3) of Section 28 or sub-section (1) of Section 29 of the Act, as may be issued from time to time for maintaining the availability of the transmission system;

(g) The licensee shall remain bound by the Central Electricity Regulatory Commission (Standard of Performance of inter-State Transmission Licensees) Regulations, 2012 or subsequent enactment thereof.


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(h) The licensee shall provide non-discriminatory open access to its transmission system for use by any other licensee, including a distribution licensee or an electricity trader, or generating company or any other person in accordance with the Act, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 as amended from time to time and Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time or any subsequent re-enactment thereof;

(i) The licensee shall not undertake any other business for optimum utilization of the transmission system without prior intimation to the Commission and shall comply with the provisions of the Central Electricity Regulatory Commission (Sharing of revenue derived from utilization of transmission assets for other business) Regulations, 2007, as amended from time to time;

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

(k) The licensee shall remain bound by the provisions of the Act, the rules and regulations framed thereunder, in particular the Transmission Licence Regulations, the Grid Code, the Standards specified by the Central Electricity Authority, orders and directions of the Commission issued from time to time; and



- (l) The licensee shall ensure execution of the project within timeline specified in the Schedule 3 of the TSA and as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA.
- (m) The licensee shall as far as practicable coordinate with the licensee (including deemed licensee) executing the upstream or downstream transmission projects and the Central Electricity Authority for ensuring execution of the project in a matching timeline.
- (n) The licensee shall submit all such report or information as may be required under Transmission Licence Regulations, Standard of Performance Regulations, Transmission Service Agreement or any other regulation of the Commission or as per the directions of the Commission as may be issued from time to time.
14. Central Electricity Authority shall monitor the execution of the project and bring to the notice of the Commission any lapse on the part of the licensee to meet the schedule for further appropriate action in accordance with the provisions of the Act and Transmission Licence Regulations.
15. A copy of this order shall be sent to CEA for information and necessary action.
16. Petition No. 119/TL/2018 is disposed of in terms of the above.


C.E.O./Project In-Charge
P.V.T.S.L.
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Sd/-
(Dr. M. K. Iyer)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(P. K. Pujari)
Chairperson

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 120/AT/2018

Coram:

Shri R. K. Pujari, Chairperson

Shri A. K. Singhal, Member

Dr. M.K. Iyer, Member

Date of Order: 5th of September, 2018

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 the WR-NR Power Transmission Limited (a 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

And

In the matter of:

WR-NR Power Transmission Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi 110016

.....Petitioner

Vs.

1. Uttar Pradesh Power Corporation Limited
14th Floor, Shakti Bhawan Extension,
14- Ashok Marg, Lucknow
2. Chhattisgarh State Power Distribution Company Limited
4th Floor, Sewa Bhawan,
Dangania, Raipur- 492013
3. Goa Electricity Department
Electricity Department, Government of Goa
3rd Floor, Vidyut Bhavan, Tiswadi, Goa- 403001
4. Maharashtra State Electricity Distribution Company Limited
5th Floor, Prakashgad, Bandra (E),
Mumbai- 400051
5. Electricity Department, Daman & Diu
Kesariya - Diu Road, Gandhipara, Diu,
Daman and Diu- 362520

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6. DNH Power Distribution Corporation Limited
Vidyut Bhavan, Near Secretariat, Amla, Silvassa,
Dadra and Nagar Haveli- 396230
7. Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan, Race Course, Vadodara
Gujarat- 390 007
8. M.P. Power Management Company Limited
Shakti Bhavan, MPSEB Colony, Rampur, Jabalpur,
Madhya Pradesh- 482008
9. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019
10. BSES Yamuna Power Limited
2nd Floor, Shakti Kiran Bldg., Karkardooma,
New Delhi- 110092
11. New Delhi Municipal Council
NDMC, New Delhi- 110001
12. TATA Power Delhi Distribution Limited
NDPL House, Hudson Lines, Kingsway Camp,
Delhi - 110009
13. Power Development Department, Jammu & Kashmir
Govt. of Jammu & Kashmir, SLDC Building,
1st Floor, Gladani Power House,
Narwal, Jammu
14. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road,
Ajmer- 305004
15. Jodhpur Vidyut Vitran Nigam Limited
New Power House, Industrial Area,
Jodhpur - 342 003
16. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath, Jaipur
Rajasthan- 302005
17. Uttarakhand Power Corporation Limited
Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road,
Balliwala Chowk, Dehradun- 248001


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18. Electricity Wing of Engineering Department, Union Territory of Chandigarh
OP Circle, 5th Floor,
New Deluxe Building,
Sector- 9, Chandigarh

19. Himachal Pradesh State Electricity Board Limited
Vidyut Bhawan,
Shimla- 171004

20. Haryana Power Purchase Centre
Shakti Bhavan Sector - 6,
Panchkula - 134 109

21. Punjab State Power Corporation Limited
Thermal Sheds, T 1-A, Patiala

22. Rajasthan Discoms Power Procurement Centre
Shed No. 5/4, Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur- 302005

23. Rajasthan Urja Vikas Nigam Limited
Vidyut Bhawan, Jyoti Nagar, Janpath,
Jaipur – 302005

.....Respondents

1. REC Transmission Projects Company Limited,
ECE House, 3rd Floor, Annexe-II,
28A, K.G. Marg, New Delhi- 110001

2. Power Grid Corporation of India Limited
Saudamini, Plot No.2, Sector-29
Gurgaon, Haryana- 122001

.....Proforma Respondents

The following were present:

Shri B. Vamsi, WR-NR PTL
Shri Mani Kunal, WR-NR PTL
Ms. Jyoti Prasad, WR-NR PTL

ORDER

The Petitioner, WR-NR Power Transmission Limited, has filed the present petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as the 'Act') for

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adoption of transmission charges in respect of transmission system for "NEW WR-NR 765 kV Inter-Regional corridor" on Build, Own, and Operate and Maintain (BOOM) basis (hereinafter referred to as "Transmission System").

2. Section 63 of the Electricity Act, 2003 provides as under:

"Section 63: Determination of tariff by bidding process: Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government."

3. Government of India, Ministry of Power has notified the Guidelines under Section 63 of the Act vide Resolution No. 11/5/2005-PG(i) dated 17.4.2006. The salient features of the Guidelines are discussed in brief as under:

a) The Guidelines are applicable for procurement of transmission services for transmission of electricity through tariff based competitive bidding and for selection of transmission service provider for new transmission lines and to build, own, maintain and operate the specified transmission system elements.

b) For procurement of transmission services, required for inter-State transmission, the Central Government shall notify any Central Government Organization or any Central Public Sector Undertakings, the Bid Process Coordinator (BPC) who would be responsible for coordinating the bid process.

c) The BPC shall prepare the bid documentations in accordance with the Guidelines and obtain approval of the Appropriate Commission or alternatively, the BPC can use the standard bid documents notified by the Ministry of Power. Approval of the Appropriate Commission would be necessary, if any material

deviation is proposed to be made in the Standard Bid Documents. Intimation about the initiation of the bid process shall be sent by the BPC to the Appropriate Commission.

d) For procurement of transmission charges under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualifications (RfQ) and Request for Proposal(RFP) or adopt a single stage two envelope tender process combining both RFQ and RFP processes.

e) RfQ or combined RfQ and RfP notice shall be issued in at least two national newspapers, on websites of the BPC and the Appropriate Government and preferably in the trade magazines also to provide wide publicity. For the purpose of issue of RfQ, minimum conditions to be met by the bidder shall be specified in RfQ notice. The bidding shall be by way of International Competitive Bidding.

f) Standard documentations to be provided in the RFQ stage shall include definitions of requirements including the details of location and technical qualifications for each component of the transmission lines, construction milestones and financial requirements to be met by the bidders; proposed Transmission Service Agreement; period of validity of offer of bidder; conditions as specified by the Appropriate Commission for being eligible to obtain transmission licence and other technical and safety criteria to be met by the bidder/TSP including the provisions of Indian Electricity Grid Code (hereinafter referred to as 'Grid Code').

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g) Standard documentations to be provided by BPC in the RFP shall include specified target dates/months for commissioning and commercial operations and start of providing transmission services. TSA proposed to be entered with the selected bidder; bid evaluation methodology to be adopted by the BPC; Discount Factor to be used for evaluation of the bids; specification regarding the bid bond and project completion guarantee to be furnished by the bidders, proposed indemnification agreement between the TSP and the utilities, amount of contract performance guarantee as percentage of the project cost; and the liquidated damages that would apply in the case of delay in start of providing the transmission services.

h) To ensure competitiveness, the minimum number of qualified bidders shall be two. The BPC shall constitute a committee for evaluation of the bids with at least one member from Central Electricity Authority (CEA) and the concerned Regional Power Committees. The member from CEA shall have expertise in the cost engineering of transmission projects. The bids shall be opened in public and the representative of the bidders shall be allowed to remain present. The technical bids shall be scored to ensure that only the bids that meet the minimum technical criteria set out in the RFQ shall be considered for further evaluation on the transmission charge bids. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same. The bidder who has quoted the lowest transmission charge as per the evaluation procedure shall be considered for the award.



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i) The Guidelines provide for suggested time tables for the bid process. The timeline suggested for a two stage bid process is 240 days and single stage two envelope bid process is 180 days. The BPC is empowered to give extended time-frame based on the prevailing circumstances and such alterations shall not be construed as the deviation from the Guidelines.

j) The selected bidder shall make an application for grant of transmission licence to the Appropriate Commission within ten days from the date of issue of Lol subject to further extension of time as provided under para 2.4 of the RFP. The TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid document before the RFP stage.

k) The BPC shall make evaluation of the bid public by indicating the terms of the winning bid and anonymous comparison of all other bids. All contracts signed with the successful bidder shall also be made public. The final TSA along with the certification of BPC shall be forwarded to the Appropriate Commission for adoption of tariff in terms of Section 63 of the Act.

4. Therefore, we have to examine whether the process as per provisions of the Guidelines has been followed in the present case for arriving at the lowest levelised transmission charges and for selection of the successful bidder.

5. Ministry of Power, Government of India, vide its Notification No. 2599 dated 31.10.2016 notified the REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish Transmission System for "

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NEW WR-NR 765 kV Inter-Regional corridor” through tariff based competitive bidding process.

6. WR-NR Power Transmission Limited was incorporated on 12.1.2017 under the Companies Act, 2013 as a wholly owned subsidiary of RECTPCL with the objective to establish the “NEW WR-NR 765 kV Inter-Regional corridor” and to act as the Transmission Service Provider after being acquired by the successful bidder. The main objectives of the petitioner company in its Memorandum of Associations are 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, substations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of 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”.

7. BPC prepared the bidding documents such as RfQ and RfP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India. The BPC started the process of selection of TSP with the publication of Global Invitation for Qualification for selection of developer on BOOM basis for the project. The notice for RfQ was published on 21.11.2016 in all the editions of Hindustan Times, Hindustan (Hindi), Mint (English) with the last date of submission of response to RfQ as 28.12.2016. Intimation regarding the initiation of the bid process was given to the Central Commission in accordance with para 4.2 of the Guidelines vide letter No. RECPTCL/P-29/WR-NR/RFQ 2016-17/394 dated 22.11.2016.

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8. The key milestones in the bidding process were as under:

S.No.	Events	Date
1.	Publication of RFQ	21.11.2016
2.	Submission of response to Request for Qualification	28.12.2016
3.	Issuance of Request for Proposal	27.2.2017
4.	Technical and Price bid (on line) submission	25.9.2017
5.	Technical bid opening	25.9.2017
6.	Initial offer-opening	12.2.2018
7.	e-Reverse Auction and final offer	13.2.2018
8.	Issuance of Letter of Intent to successful bidder	1.3.2018
9.	Signing of Share Purchase Agreement and transfer of Special Purpose Vehicle	27.3.2018

9. The scope of the Project as per the Request for Proposal (RfP) and the Transmission Service Agreement is as under:

Scheme/ Transmission Works	Completion Target
New WR-NR 765 kV Inter-Regional Corridor	
765 kV Vindhyanchal Pooling Station- Varanasi D/C line	40 months
Note:	
i. POWERGRID will provide 2 nos. 765 kV line bays at Vindhyanchal 765/400 kV PS for termination of Vindhyanchal Pooling Station – Varanasi 765 kV D/c line.	
ii. POWERGRID will provide 2 nos. 765 kV GIS line bays at Varanasi 765/400 kV GIS Substation along with 2 nos. 1x330 MVAR line reactor for termination of Vindhyanchal PS – Varanasi 765 kV D/c line.	

10. The identified Long Term Transmission Customers (LTTCs) of the project are as under

S.No	Name of the Long Term Transmission Customer
1.	Chhattisgarh State Power Distribution Company Limited
2.	Goa Electricity Department
3.	Maharashtra State Electricity Distribution Company Limited
4.	Electricity Department, Daman and Diu
5.	DNH Power Distribution Corporation Limited
6.	Gujarat Urja Vikas Nigam Limited

7.	M.P.Power Management Company Limited
8.	BSES Rajdhani Power Limited
9.	BSES Yamuna Power Limited
10.	New Delhi Municipal Council
11.	Tata Power Delhi Distribution Limited
12.	Power Development Department, Jammu and Kashmir
13.	Rajasthan Urja Vikas Nigam Limited
	(i) Ajmer Vidyut Vitran Nigam Limited
	(ii) Jodhpur Vidyut Vitran Nigam Limited
	(iii) Jaipur Vidyut Vitran Nigam Limited
14.	Uttarakhand Power Corporation Limited
15.	Uttar Pradesh Power Corporation Limited
16.	Electricity Wing, Engineering Department, Union Territory of Chandigarh
17.	Himachal Pradesh State Electricity Board Limited
18.	Haryana Power Purchase Centre
19.	Punjab State Power Corporation Limited

11. As per the decision of the Empowered Committee on Transmission, the Bid Evaluation Committee (BEC) comprising of the following was constituted:

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- | | | |
|----|---|------------|
| a) | Region Head, SBI Capital Markets, New Delhi | - Chairman |
| b) | Chief Engineer, (PSETD), CEA | Member |
| c) | Director (PSPA-I), CEA. | Member |
| d) | Shri S.P.Gupta, Additional Chief Engineer (IT) MPPTCL | Member |
| e) | Shri Suman Guchchh, Chief Engineer (Transmission project) UPPTCL, | Member |
| f) | Ms. Valli Natarajan Chairman (WR-NR Power Transmission Limited),
Convener – Member | |

12. Responses to RfQ were received from the ten bidders as per details given below

S.NO	Name of Bidders
1.	Power Grid Corporation of India Limited
2.	Adani Transmission Limited

3.	Essel Infraprojects Limited
4.	Sterlite Grid 5 Limited
5.	Kalpataru Power Transmission Limited
6.	L&T Infrastructure Development Projects Limited
7.	GMR Energy Limited
8.	The Tata Power Company Limited
9.	Mytrah Energy (India) Pvt. Ltd
10.	CLP India Pvt. Ltd. (LM) Consortium with China Southern Power Grid International (HK) Co., Ltd (CM)

13. The responses to the RfQ were opened 28.12.2016 in the presence of Bid Evaluation Committee and the representatives of the bidders. Evaluation was undertaken by Bid Process Consultant, namely M/s Pary & CO. Chartered Accountants LLP in consortium with M/s Link Legal India Law Services, New Delhi (Bid Process Consultant) appointed by BPC and after clarifications presented to the Bid Evaluation Committee which recommended all ten bidders as qualified at RfP stage.

14. Out of ten qualified bidders, nine bidders purchased the RfP documents. The following six bidders submitted RfP:

S.No.	Name of Bidders
1.	Power Grid Corporation of India Limited
2.	Adani Transmission Limited
3.	Essel Infraprojects Limited
4.	Sterlite Grid 5 Limited
5.	CLP India Pvt. Ltd. (LM) Consortium with China Southern Power Grid International (HK) Co., Ltd (CM)
6.	L&T Infrastructure Development Projects Limited

15. The Non-Financial Bids of all the six bidders were opened on 25.9.2017 in the presence of the representatives of the bidders. The BEC met on 4.10.2017, 16.10.2017 and 3.11.2017 to discuss the Bid Process Consultant's report on the evaluation of the Non-Financial Bids submitted by the Bidders. Based on the recommendations of the Bid Evaluation Committee, the initial offer of all the six bidders were opened on 12.2.2018 in

the presence of Bid Evaluation Committee. In BEC meeting held on 12.2.2018, it was noted that the lowest Levelised Transmission Charges from the Initial Offer submitted by the bidders was Rs. 999.41 Million per annum for participating in the e-Reverse bidding process. As per the provisions of RfP documents, BEC recommended the following four bidders to participate in the electronic reverse auction stage and to submit their final offers:

S.No.	Name of Bidders	Levelised transmission charges from the initial offer	Rank
1.	Power Grid Corporation of India Limited	999.41	L-1
2.	L&T Infrastructure Development Projects Limited	1183.92	L-2
3.	Essel Infraprojects Limited	1503.06	L-3
4.	Adani Transmission Limited	1539.34	L-4

16. The e-Reverse Auction was carried out on 13.2.2018 in the presence of members of BEC. After 28 rounds of bidding, the following levelised transmission tariff for each bidder (in ascending order) emerged:

S.No.	Name of Bidders	Levelised transmission charges from the initial offer	Rank
1.	Power Grid Corporation of India Limited	927.33	L-1
2.	Essel Infraprojects Limited	932.05	L-2
3.	L&T Infrastructure Development Projects Limited	1183.92	L-3
4.	Adani Transmission Limited	1539.34	L-4

17. Based on e-Reverse bidding, Bid Evaluation Committee in its meeting held on 13.2.2018 recommended Power Grid Corporation of India Limited with the lowest

Levelised Transmission Charges of Rs. 927.33 million per annum as the successful bidder.

18. Letter of Intent was issued by the BPC on 1.3.2018 to the successful bidder i.e. Power Grid Corporation of India Limited. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of RECTPCL, the final result of the evaluation of the bids for selection of developer for the project.

19. In accordance with the provisions of the bid documents and Lol issued in its favour, the petitioner has prayed for adoption of the transmission charges for the project which has been discovered through the process of competitive bidding.

20. In accordance with para 2.4 of RfP, the selected bidder shall within 10 days of issue of the Letter of Intent, accomplish the following tasks:

- a) Provide Contract Performance Guarantee in favour of the LTTCs;
- b) Execute the Share Purchase Agreement;
- c) Acquire, for the acquisition price, one hundred percent equity shareholdings of WR-NR Power Transmission Limited along with all its related assets and liabilities;
- d) Make an Application to the Central Electricity Regulatory Commission for adoption of charges under Section 63 of the Electricity Act, 2003; and
- e) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

21. The proviso to para 2.4 of the RfP further provides that "if for any reason attributable to the BPC, the above 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". Though Lol was issued on 1.3.2018, BPC, vide its letters dated 12.3.2018 and 23.3.2018, in terms of proviso to clause 2.4 of RfP extended the date upto 6.4.2018 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customers of the project for an amount of Rs. 30 crore and has acquired hundred percent equity-holding in the applicant company on 27.3.2018 after execution of the Share Purchase Agreement. The TSP on behalf of selected bidder filed the application through e-filing portal for adoption of tariff on 6.4.2018.

22. The Petitioner has submitted that BPC vide its email dated 15.6.2017 informed the bidders that the acquisition price payable by the selected bidder for acquisition of one hundred percent of equity shareholding of WR-NR Power Transmission Limited along with all its related assets and liabilities is Rs. 14.0243 crore. However, subsequent to the bidding and during acquisition, BPC vide its letter dated 19.3.2018 informed the successful bidder i.e. the Petitioner that the acquisition price has been revised from Rs. 14.0243 crore to Rs. 15,12,49,571/-. The Petitioner has requested to consider the increase in acquisition price as part of transmission charges in terms of Article 12.2.1 of the TSA.

23. On receipt of the present petition, BPC, vide letter dated 1.5.2018, was directed to submit the relevant documents regarding complete process of competitive bidding. The necessary details have been filed by the BPC under affidavit dated 14.5.2018.

24. Notices were issued to all the respondents who are the Long Term Transmission Customers of the project. Reply to the Petition has been filed by Uttar Pradesh Power Corporation Limited and M.P. Power Management Company Limited.

25. Uttar Pradesh Power Corporation Limited (UPPCL), vide its reply dated 8.5.2018 has submitted that PGCIL is the successful bidder and therefore, PGCIL should move an application for adoption of tariff, and not the NR-WR Power Transmission Limited. Therefore, the prayers of the Petitioner for adoption of tariff for considering the transmission system under PoC and to allow the increase in acquisition price should be rejected as it has no *locus-standi* to file the petition for adoption of tariff.

26. M.P. Power Management Company Ltd. vide its reply dated 28.5.2018 has submitted that the Petitioner has not submitted any reason regarding increase in acquisition price by Rs. 110 lakh. MPPMCL has further submitted that the Petitioner in its petition has indicated that the excess amount claimed by the BPC has been paid on 27.3.2018. However, neither this issue was discussed with the LTTCs nor the Petitioner has taken approval from the Commission in this regard. Therefore, the increase in acquisition cost should be borne by the bidder and the same should not be passed upon the beneficiaries.

27. The Petitioner, vide its rejoinder dated 21.5.2018 to the reply of UPPCL has submitted that as per Clause 2.4 of the RfP, the TSP is required to acquire the SPV and apply to the Commission for adoption of transmission tariff and for grant of transmission licence. Therefore, it is clear that the Petitioner is not a transmission licensee yet and after

the acquisition, it has to apply for adoption of transmission tariff and transmission licence. The Petitioner has submitted that after acquisition of WR-NR Power Transmission Limited by the selected bidder, it is no longer a subsidiary of the BPC. The Petitioner has submitted that TSA was signed prior to acquisition and all the LTTCs including the Respondents have signed the TSA. Therefore, all the activities have been undertaken by the Petitioner in accordance with the provisions of the bidding documents.

28. The Petitioner vide its rejoinder dated 30.7.2018 to the reply of MPPMCL has submitted that it has no control on the acquisition price as demanded by the BPC. The initial acquisition price as notified by the bidder before the bid deadline was subsequently revised by the BPC during the acquisition of WR-NR Power Transmission Limited. The Petitioner has submitted that the increased amount of acquisition price qualifies under Change in Law provisions of the TSA and is required to be considered as Change in Law event or alternatively, the BPC should be directed to refund the additional acquisition price to the Petitioner along with carrying cost.

29. BPC vide Record of Proceeding for the hearing dated 5.7.2018, was directed to give its comments with regard to increase in acquisition price. BPC vide its affidavit dated 6.8.2018 has submitted as under:

"4. Further, as per provisions of RFP Documents, BPC has to intimate the bidders, 30 days prior to the Bid deadline, the Acquisition Price payable by Selected Bidder to the RECTPCL for the acquisition of 100% of the equity shareholding of the project specific SPV i.e. WR-NR Power Transmission Limited. Accordingly, the tentative Acquisition Price was intimated to the bidders on 14.6.2017, based on scheduled date of bid submission is 12.7.2017 and estimating August, 2017 as the SPV transfer date to the selected bidder based on previous experience of bidding.

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5. Subsequent to the intimation of tentative Acquisition Price, Goods & Services Tax (GST) was introduced by Government of India. Accordingly, on account of introduction of new tax regime, most of the bidders requested RECTPCL to extend the bid deadline to understand the implication of new tax regime on transmission sector. Based on the request of the bidders, RECTPCL extended bid submission date upto 25.9.2017. Accordingly, the Non-Financial bids were opened on 25.9.2017.

6. Subsequently, some issue was reported by one of the bidder during e-reverse auction process conducted by PFC Consulting Limited (other BPC for transmission projects) for Additional 400 kV feed to Goa and Additional System for Power Evacuation from Generation projects pooled at Raigarh (Tamnar) Pool" transmission project. Accordingly, to find out the problem, PFCCL initiated the audit of MSTC portal. During this period, it was decided by the Bid Evaluation Committee, which has some common members for both the BPC's projects, that the bid shall be opened only after the audit of the portal and necessary changes if required to avoid any problem during e-reverse auction.

7. Subsequent to audit report & necessary comment of CEA, MSTC made the necessary changes in the e-RA portal and this complete activity took almost 5 months.

8. After making necessary changes on the e-RA portal, all the bidders were invited to check the portal and after their satisfaction & confirmation, BEC advised to open the Initial Offer & conduct the e-RA.

9. Immediately thereafter, RECTPCL opened the Initial Offer of the bidders on 12.2.2018 and e-RA was conducted on 13.2.2018. It is to mention here that after 28 rounds of bidding, M/s Power Grid Corporation of India Limited emerged as the selected bidder for the subject project.

10. After completion of all the formalities, subsequent to conclusion of e-RA, final acquisition price of the SPV was intimated to PGCIL. The SPV was handed over to M/s Power Grid Corporation of India Limited on 27.3.2018 after payment of acquisition price by PGCIL.

11. From above, it can be concluded that the reasons for the increase in Acquisition Price are as follows:-

- (a) The tentative Acquisition Price was given under Service Tax regime which at that time attracts the rate of 15% i.e. basic @14% plus Swachh Bharat Cess @0.5% plus Krishi Kalyan Cess @ 0.5% whereas the final Acquisition Price was given the new tax regime i.e. Goods and Services Tax (GST) which is applicable from 1st July, 2017 at the rate 18%. Hence there was an increase of 3% of tax liability which come to Rs. 32,28,630/- on professional fees and Rs. 13,78,147/- on the administrative and establishment cost. Accordingly, the total implication due to change in tax regime is to a tune of Rs. 46.07 Lakh.

(b) The completion of bidding process delayed from scheduled date of completion due to following reasons:-

- i. Request of bidder for submission of RFP due to GST regime (Delay of about 2 months).
- ii. To resolve issue of portal faced during e-RA in bidding conducted by PFCCL (Delay of about 4 months).

Both the above factors are beyond the control of RECTPCL and this results increase in Acquisition Price on account of administrative & establishment charges to the tune of Rs. 54,30,018/- & rise in interest cost of Rs. 9,69,776/- amounting to total Rs. 64 Lakh.

12. Hence, the final Acquisition Price had been increased by Rs. 110 lakhs in total."

30. The petition was heard on 21.8.2018. During the course of hearing, the representative of the Petitioner reiterated the submissions made in the petition and requested to adopt the transmission tariff of the transmission system. None was present on behalf of the LTTCs.

31. Before we proceed to deal with the adoption of tariff, we intend to deal with the objection of UPPCL that the Petitioner has no locus standi to file the petition for adoption of tariff. It is noticed that as per the Bidding Guidelines, PGCIL was declared as the successful bidder and therefore, PGCIL, it acquired the SPV namely, WR-NR Power Transmission Limited which become the 100% subsidiary of PGCIL. TSP has been defined in the TSA as under:

"Transmission Service Provider" or "TSP" shall mean the WR-NR Power Transmission Limited, which has executed this Transmission Service Agreement and has been/shall be acquired by the Selected Bidder."

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Under Article 3.1.3 of the TSA, the TSP is required to obtain the transmission licence for the project from the Appropriate Commission and obtain the order for adoption of transmission charges by the Appropriate Commission, as required under Section 63 of the Act. Therefore, in terms of the definition of TSP read with Article 3.1.3 (b), the TSP i.e. NR-WR Power Transmission Limited has correctly approached the Commission for adoption of tariff. Accordingly, the objection of UPPCL is over ruled.

32. Section 63 of the Act provides as under:

“63. Determination of tariff by bidding process: Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

In accordance with the Competitive Bidding Guidelines, BPC has to certify that the tariff has been discovered through a transparent process of bidding and the tariff discovered is in line with prevailing market prices. In the minutes of Bid Evaluation Committee held on 13.2.2018, the following has been recorded:

“2. The Bid Evaluation Committee had met earlier on 12th February, 2018 after opening of Initial Offer and recommended the following:

As per provisions of RFP documents, following 4 bidders out of 6 are qualified to participate in the electronic reverse auction stage and submit their final offer:

S.No.	Name of Bidders	Levelised transmission charges from the initial offer	Rank
1.	Power Grid Corporation of India Limited	999.41	L-1
2.	L&T Infrastructure Development Projects Limited	1183.92	L-2
3.	Essel Infraprojects Limited	1503.06	L-3
4.	Adani Transmission Limited	1539.34	L-4

* The lowest levelised Transmission Charges from the Initial Offer submitted by the bidders is Rs. 999.41 Million which shall be the initial ceiling for quoting the Final Offers during e-Reverse Auction.

* To start the e-reverse auction on 13th February, 2018 at 1200 Hrs (IST) after intimation to all the 4 qualified bidders regarding lowest initial price offer.

3. Pursuant to the above, RECTPCL confirmed to BEC that letters had been issued to above four (4) bidders on 12th February, 2018 intimating the e-reverse Auction start time and lowest initial offer for start of e-Reverse Auction.

4. The e- Reverse auction was started on 13th February, 2018 at 1200 (Ist) hrs and Bid Evaluation Committee members were also present. After 28 rounds of bidding, following levelised Transmission Tariff for each bidder (in ascending order) emerged:

S.No.	Name of Bidders	Levelised transmission charges from the initial offer	Rank
1.	Power Grid Corporation of India Limited	927.33	L-1
2.	Essel Infraprojects Limited	932.05	L-2
3.	L&T Infrastructure Development Projects Limited	1183.92	L-3
4.	Adani Transmission Limited	1539.34	L-4

5. As per the above table, M/s Power Grid Corporation of India Limited emerges as the successful bidder after the conclusion of e-Reverse Auction with the lowest Levelised Transmission Charges of Rs. 927.33 Million which is also the Final Offer.

7. After detailed discussions on the evaluation report and verification of the bids, wherever required, the Bid Evaluation Committee decided the following:

a) M/s Power grid Corporation of India Limited is the successful Bidder after the conclusion of the e-reverse Auction with the lowest Levelised Transmission Charges of Rs. 927.33 Million.

b) The levelised tariff for this project based on CERC norms for the same period works out to Rs. 1409.59 million, which has been computed based on the estimated cost as communicated by CEA and methodology for calculation of tariff as per CERC norms.

c) Thus, in light of the above, the levelised tariff computed on the basis of rates quoted by the successful Bidder is in line with prevailing prices.

d) The entire bid process has been carried out in accordance with the "Tariff based Competitive-bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission

projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.

e) In view of (a) to (d), above, M/s Power Grid Corporation of India Limited may be issued Letter of Intent (LOI)."

33. Bid Evaluation Committee vide its certificate dated 13.2.2018 has certified as under:

"(a) The entire bid process has been carried out in accordance with the "Tariff based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission Projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.

(b) M/s Power Grid Corporation of India Limited has emerged as successful bidder after the conclusion of e- reverse Auction with the Lowest Levelised Transmission charges of Rs. 927.33 Million.

(c) The rates quoted by the successful bidder are in line with the prevailing prices."

34. In the light of the discussions in Paras 31, 32 and 33, it emerges that selection of the successful bidder and the levelised tariff of the project has been carried out by the Bid Process Coordinator through a transparent process of competitive bidding in accordance with the Guidelines issued by the MoP, GoI under Section 63 of the Act. The Bid Evaluation Committee has certified that the process is in conformity with the MOP Guidelines. The BEC in its certificate dated 13.2.2018 has certified that PGCIL has emerged as the successful bidder after conclusion of e-auction with lowest levelised transmission charges of Rs. 927.33 million. BEC has further certified that the levelised tariff for the project based on CERC norms for the period works out to Rs. 1409.59 million based on the estimated cost communicated by CEA and methodology for calculation of tariff as per the CERC norms. The BEC has certified that the rates quoted by successful



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bidder are in line with the prevailing prices. The Commission is not required to go into the cost details of the bids as per the bidding guidelines and has to adopt the tariff if the same has been discovered in accordance with the Guidelines. Based on the certification of the BEC, we approve and adopt the levelised transmission charges for the project as per the Appendix to this order which shall remain valid throughout the period covered in the TSA. The sharing of the transmission charges by the LTTCs shall be governed by the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

35. The Petitioner has clarified that the increase in acquisition price (Rs. 110 lakh) is covered under Change in Law. MPPMCL has submitted that increase in acquisition price should not be allowed in tariff and the same should be borne by the Petitioner. The Petitioner has submitted that increase in acquisition price from Rs. 14.0243 crore to Rs. 15.1249 crore qualifies as change in law events in terms of the TSA. BPC has contended that the tentative acquisition price was intimated to the bidders one month prior to the bid deadline which was based on the prevailing Service Tax regime. The prevailing service tax at that time was 15% i.e. basic @14% plus Swachh Bharat Cess @0.5% plus Krishi Kalyan Cess @ 0.5%. However, the final acquisition price was given under the new tax regime i.e. Goods and Services Tax (GST) @ 18% which became applicable from 1st July, 2017. Therefore, there was an increase of 3% of tax liability which come to Rs. 32,28,630/- on professional fees and Rs. 13,78,147/- on the administrative and establishment cost. Accordingly, the total implication due to change in tax regime was to a tune of Rs. 46,06,777/-. Further, delay of about two months took place on account of request of bidders for submission of RfP due to GST Regime and delay of four months took place

on account of resolution of the issue of portal faced during e-RA bidding which resulted in increase in administrative and establishment charges for an amount of Rs. 54,30,018/- and rise in interest cost for an amount of Rs. 9,69,776/- amount to Rs. 64 lakh. Thus, a total of Rs. 110 lakh was paid by the Petitioner on account of increase in acquisition price to BPC. Article 12.1.1 of the TSA provides as under:

"12.1.1 Change in law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring/non-recurring expenditure by the TSP or any income to the TSP:

* * * * *

- Any change in the Acquisition price; or".

As per Article 12.1.1 of the TSA, 'Change in Law' means the occurrence of any of the events after the date which is seven days prior to the Bid Deadline resulting into any additional recurring/non-recurring expenditure by the Transmission Service Provider or any income to the Transmission Service Provider. Any change in the acquisition price which took place after 7 days prior to the bid deadline is covered under Change in Law. Therefore, the Petitioner is entitled for relief for the increased amount of acquisition price under Change in Law.

36. Article 12.2.1 of the TSA provides as under:

"12.2 Relief for Change in Law

12.2.1 During Construction Period

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

For every cumulative increase/decrease of each Rupees Two Crore Eighty Seven Lakh Only (Rs. 2.87 crore) in the cost of the Project up to the

Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to Zero Point Three One Three percent (0.313%) of the Non-Escalable Transmission Charges.”

As per the above provision, the relief is admissible @ 0.313% for every cumulative increase of Rs. 2.87 crore in the cost of the project. Though, the Petitioner is eligible to recover the additional acquisition price of Rs. 110 lakh from the LTTCs under Change in Law, the same falls short of Rs. 2.87 crore and cannot be allowed at this stage. As and when the impact of change in law including increase in the acquisition price reaches or exceeds Rs. 2.87 crore, the Petitioner shall be entitled to claim the relief in terms of Article 12.2.1 of the TSA. Accordingly, the Petitioner is at liberty to claim the relief at appropriate point of time in accordance with law.

37. A copy of this order shall be sent to CTU and Long Term Transmission Customers of the transmission system.

38. The Petition No. 120/AT/2018 is disposed of in terms of the above.

Sd/-
(Dr. M. K. Iyer)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(P. K. Pujari)
(Chairperson)


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Appendix

Year (Term of Licence)	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non- Escalable Transmission Charges (Rs. Millions)	Quoted Escalable Transmission Charges (Rs. Millions)
1	Scheduled COD 27 July, 2021	31-Mar-22	1169.73	0.00
2	1-Apr-22	31-Mar-23	1169.73	Same as Above
3	1-Apr-23	31-Mar-24	1169.73	Same as Above
4	1-Apr-24	31-Mar-25	1169.73	Same as Above
5	1-Apr-25	31-Mar-26	1169.73	Same as Above
6	1-Apr-26	31-Mar-27	1169.73	Same as Above
7	1-Apr-27	31-Mar-28	1169.73	Same as Above
8	1-Apr-28	31-Mar-29	1169.73	Same as Above
9	1-Apr-29	31-Mar-30	1169.73	Same as Above
10	1-Apr-30	31-Mar-31	821.73	Same as Above
11	1-Apr-31	31-Mar-32	821.73	Same as Above
12	1-Apr-32	31-Mar-33	821.73	Same as Above
13	1-Apr-33	31-Mar-34	821.73	Same as Above
14	1-Apr-34	31-Mar-35	821.73	Same as Above
15	1-Apr-35	31-Mar-36	821.73	Same as Above
16	1-Apr-36	31-Mar-37	821.73	Same as Above
17	1-Apr-37	31-Mar-38	821.73	Same as Above
18	1-Apr-38	31-Mar-39	821.73	Same as Above
19	1-Apr-39	31-Mar-40	821.73	Same as Above
20	1-Apr-40	31-Mar-41	821.73	Same as Above
21	1-Apr-41	31-Mar-42	821.73	Same as Above
22	1-Apr-42	31-Mar-43	821.73	Same as Above
23	1-Apr-43	31-Mar-44	821.73	Same as Above
24	1-Apr-44	31-Mar-45	821.73	Same as Above
25	1-Apr-45	31-Mar-46	821.73	Same as Above
26	1-Apr-46	31-Mar-47	821.73	Same as Above
27	1-Apr-47	31-Mar-48	821.73	Same as Above
28	1-Apr-48	31-Mar-49	821.73	Same as Above
29	1-Apr-49	31-Mar-50	821.73	Same as Above
30	1-Apr-50	31-Mar-51	821.73	Same as Above
31	1-Apr-51	31-Mar-52	821.73	Same as Above
32	1-Apr-52	31-Mar-53	821.73	Same as Above
33	1-Apr-53	31-Mar-54	821.73	Same as Above
34	1-Apr-54	31-Mar-55	821.73	Same as Above
35	1-Apr-55	31-Mar-56	821.73	Same as Above
36	1-Apr-56	26-July-56	821.73	Same as Above

TRANSMISSION SERVICE AGREEMENT

FOR

PROCUREMENT OF TRANSMISSION SERVICES

FOR TRANSMISSION OF ELECTRICITY³
THROUGH TARIFF BASED COMPETITIVE
BIDDING FOR

TRANSMISSION SYSTEM FOR NEW WR-NR 765
KV INTER-REGIONAL CORRIDOR

BETWEEN

CHHATTISGARH STATE POWER DISTRIBUTION
COMPANY LIMITED

GOA ELECTRICITY DEPARTMENT

MAHARASHTRA STATE ELECTRICITY
DISTRIBUTION COMPANY LIMITED

ELECTRICITY DEPARTMENT, DAMAN & DIU

DNH POWER DISTRIBUTION CORPORATION
LIMITED

GUJARAT URJA VIKAS NIGAM LIMITED

M.P. POWER MANAGEMENT COMPANY LIMITED

BSES RAJDHANI POWER LIMITED

BSES YAMUNA POWER LIMITED

NEW DELHI MUNICIPAL COUNCIL

C.E.O. Project In-Charge
P.T.S.L.
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**TATA POWER DELHI DISTRIBUTION LIMITED
POWER DEVELOPMENT DEPARTMENT, JAMMU
& KASHMIR**

AJMER VIDYUT VITRAN NIGAM LIMITED

JODHPUR VIDYUT VITRAN NIGAM LIMITED

JAIPUR VIDYUT VITRAN NIGAM LIMITED

UTTRAKHAND POWER CORPORATION LIMITED

**UTTAR PRADESH POWER CORPORATION
LIMITED**

**ELECTRICITY WING OF ENGINEERING
DEPARTMENT, UNION TERRITORY OF
CHANDIGARH**

**HIMACHAL PRADESH STATE ELECTRICITY
BOARD LIMITED**

HARYANA POWER PURCHASE CENTRE

**PUNJAB STATE POWER CORPORATION
LIMITED**

AND

WR-NR POWER TRANSMISSION LIMITED

27.04.2017

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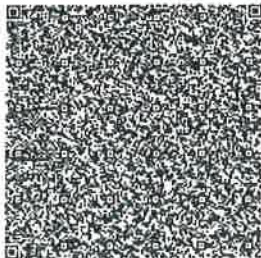
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INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL75264151925980P
Certificate Issued Date	: 26-Apr-2017 05:18 PM
Account Reference	: IMPACC (IV)/ dl775803/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL77580351161866185454P
Purchased by	: WR NR POWER TRANSMISSION LTD
Description of Document	: Article 5 General Agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: WR NR POWER TRANSMISSION LTD
Second Party	: Not Applicable
Stamp Duty Paid By	: WR NR POWER TRANSMISSION LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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P.V.T.S.L.
VARANASI

.....Please write or type below this line.....

THIS TRANSMISSION SERVICE AGREEMENT (hereinafter referred to as "TSA" or "Agreement" or "the Agreement" or "this Agreement") is made on the 27th of April of Two Thousand and Seventeen

Between:

Persons whose names, addresses and other details are provided in Schedule 1 of this Agreement (collectively referred to as the "Long Term Transmission

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

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SCHEDULES

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Schedule : 11	Contract Performance Guarantee
Schedule : 12	Supplementary Agreement

C.E.R. Project In-Charge
P.V.T.S.L.
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Customers" and individually referred to as the "Long Term Transmission Customer" respectively), which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the one part;

And

WR-NR Power Transmission Limited, incorporated under the Companies Act, 2013, having its registered office at Core-4, Scope Complex, 7, Lodhi Road, New Delhi – 110 003 (herein after referred to as Transmission Service Provider or "TSP" which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the other part;

(Each of the "Long Term Transmission Customer" or "Long Term Transmission Customers" and "TSP" are individually referred to as "Party" and collectively as the "Parties")

AND WHEREAS:

- A) In accordance with the Bidding Guidelines, the Bid Process Coordinator (hereinafter referred to as BPC) had initiated a competitive e-Reverse bidding process through issuance of RFQ and RFP for selecting a Successful Bidder to build, own, operate and maintain the Project comprising of the Elements mentioned in Schedule 2 (hereinafter referred to as the Project)
- B) Pursuant to the said e-Reverse bidding process, the BPC shall identify the Selected Bidder as the TSP, who will be responsible to set up the Project on build, own, operate and maintain basis and to provide Transmission Service on long term basis to the Long Term Transmission Customers on the terms and conditions contained in this Agreement and the Transmission License.
- C) The Selected Bidder will acquire one hundred percent (100%) of the equity shareholding of WR-NR Power Transmission Limited along with all its related assets and liabilities in terms of the provisions of the Share Purchase Agreement;
- D) The TSP has agreed to make an application for a Transmission License to the Appropriate Commission for setting up the Project on build, own, operate and maintain basis.
- E) The TSP has further agreed to make an application to the Appropriate Commission for the adoption of the Transmission Charges under Section 63 of the Electricity Act, 2003, along with a certification from the Bid Evaluation Committee in accordance with the Bidding Guidelines issued by Ministry of Power, Government of India.
- F) The Long Term Transmission Customers agree, on the terms and subject to the conditions of this Agreement, to use the available transmission capacity

C.E.C. Project In-Charge
P.V.T.S.L.
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of the Project and pay to TSP the Transmission Charges as determined in accordance with the terms of this Agreement.

- G) The terms and conditions stipulated in the Transmission License issued by the Appropriate Commission to the TSP shall be applicable to this Agreement and the TSP agrees to comply with these terms and conditions. In case of inconsistency between the Transmission License terms & conditions and the conditions of this Agreement, the conditions stipulated in the Transmission License granted by the Appropriate Commission shall prevail.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL AGREEMENTS, COVENANTS AND CONDITIONS SET FORTH HEREIN, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

A



C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



ARTICLE: 1

1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions:

- 1.1.1 The words/expressions used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under including those issued/framed by the Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time or the General Clauses Act, failing which it shall bear its ordinary English meaning.

The words/expressions when used in this Agreement shall have the respective meanings as specified below:

"Acquisition Price" shall have the same meaning as defined in the Share Purchase Agreement;

"Act" or "Electricity Act" or "Electricity Act 2003" shall mean the Electricity Act, 2003 and any amendments made to the same or any succeeding enactment thereof;

"Affiliate" shall mean a company that either directly or indirectly

- i. controls or
- ii. is controlled by or
- iii. is under common control with

a Bidding Company (in the case of a single company) or a Member (in the case of a Consortium) and "control" means ownership by one company of at least twenty six percent (26%) of the voting rights of the other company;

"Agreed Form" in relation to any document shall mean the form of the document most recently agreed to by the Parties and initialled by them for identification;



WNPTL



CSPDCL



GED



MSEDCL



ED, D&D



DNHPDCL



GUVNL



HPSEBL



BSES-YPL



BSES-RPL



PDD, J&K



NDMC



TPDDL



HPPC



UPCL



MPPMCL



EWED-UTC



PSPCL



UPPCL



RDPPG
RUVNL

"Allocated Project Capacity" shall mean, for each Long Term Transmission Customer, the sum of the generating capacities allocated to such Long Term Transmission Customer from the ISGS and the contracted power, if any, as adopted by CERC from time to time in determining sharing of transmission charges between the Long Term Transmission Customers;

"Appropriate Commission" shall mean the Central Regulatory Commission referred to in sub-section (1) of Section 76 of the Electricity Act, or the State Regulatory Commission referred to in Section 82 of the Electricity Act or the Joint Commission referred to in Section 83 of the Electricity Act, as the case may be;

"Arbitration Tribunal" shall mean the tribunal constituted under Article 16 of this Agreement;

"Availability" in relation to the Project or in relation to any Element of the Project, for a given period shall mean the time in hours during that period the Project is capable to transmit electricity at its Rated Voltage and shall be expressed in percentage of total hours in the given period and shall be calculated as per the procedure contained in Appendix -III to Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 attached herewith in Schedule 9;

"Bid" shall mean non-financial bid and financial bid submitted by the Bidder, in response to the RFP, in accordance with the terms and conditions of the RFP;

"Bid Deadline" shall mean the last date and time for submission of the Bid in response to RFP, as specified in the RFP;






















"Bidding Company" shall refer to such single company that has made a Response to RFQ for the Project;

"Bidding Consortium"/ "Consortium" shall refer to a group of companies that has collectively made a Response to RFQ for the Project;

"Bid Documents" or "Bidding Documents" shall mean the RFQ and RFP, along with all attachments thereto or clarifications thereof;

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Blue stamp: "C.E.O./Project In-charge P.V.T.S.L. VARANASI"

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPPC	 RUVNL

"Bidding Guidelines" shall mean the "Tariff Based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for Encouraging Competition in Development of Transmission Projects" issued by Government of India, Ministry of Power dated 13th April 2006 under Section - 63 of the Electricity Act and as amended from time to time;

"Bid Process Coordinator" or **"BPC"** shall mean a person or its authorized representative as notified by the Government of India / concerned State Government, responsible for carrying out the process for selection of Transmission Service Provider;

"Business Day" shall mean a day other than Sunday or a statutory holiday, on which the banks remain open for business in the State in which the concerned Long Term Transmission Customers' registered office is located;

"CEA" shall mean the Central Electricity Authority constituted under Section -70 of the Electricity Act;

"CERC" shall mean the Central Electricity Regulatory Commission of India constituted under Section-76 of the Electricity Act, 2003 or its successors;

"Change in law" shall have the meaning ascribed thereto in Article 12;

"Commercial Operation Date" or **"COD"** shall mean the date as per Article 6.2;

Provided that the COD shall not be a date prior to the Scheduled COD mentioned in the TSA, unless mutually agreed to by all Parties;

"Competent Court of Law" shall mean the Supreme Court or any High Court, or any tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to the Project;

"Connection Agreement" shall mean the agreement between the CTU/STU and the TSP, setting out the terms relating to the connection of the Project to the Inter-connection Facilities and use of the Inter State Transmission System as per the provisions of the IEGC / State Grid Code, as the case may be;


WNPTL


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MBEDCL


ED, D&D


DNHPDCL


GUVNL


HPSEBL


BSES-YPL


BSES-RPL


PDD, J&K


NDMC


TPDDL


HPPC


UPCL


MRPMCL


EWED-UTC


PSPCL


UPPCL


RBBDC
RUVNL

"Consultation Period" shall mean the period of sixty (60) days or such longer period as the Parties may agree, commencing from the date of issue of a TSP's Preliminary Termination Notice or a Long Term Transmission Customer's Preliminary Termination Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;

"Consents, Clearances and Permits" shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any Indian Governmental Instrumentality for the development, execution and operation of Project including without any limitation for the construction, ownership, operation and maintenance of the Transmission Lines and/or sub-stations;

















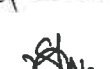



"Construction Period" shall mean the period from (and including) the Effective Date of the TSA up to (but not including) the COD of the Element of the Project in relation to an Element and up to (but not including) the COD of the Project in relation to the Project;

"Contractors" shall mean the engineering, procurement, construction, operation & maintenance contractors, surveyors, advisors, consultants, designers, suppliers to the TSP and each of their respective sub-contractors (and each of their respective successors and permitted assigns) in their respective capacities as such;

"Contract Performance Guarantee" shall mean the irrevocable unconditional bank guarantee, submitted and to be submitted by the TSP or by the Selected Bidder on behalf of the TSP to the Long Term Transmission Customers from a bank mentioned in Annexure 12 of the RFP, in the form attached here to as Schedule 11, in accordance with Article 3 of this Agreement and which shall include the additional bank guarantee furnished by the TSP under this Agreement;

"Contract Year", for the purpose of payment of Transmission Charges, shall mean the period beginning on the COD, and ending on the immediately succeeding March 31 and thereafter each period of 12

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 P.V.T.S.L.
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 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NQMC	 TPDCL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UBPCCL	 RPPPC	 RUUNL

months beginning on April 1 and ending on March 31 provided that the last Contract Year shall end on the last day of the term of the TSA;

"CTU" or "Central Transmission Utility" shall mean the utility notified by the Central Government under Section-38 of the Electricity Act, 2003;

"Day" shall mean a day starting at 0000 hours and ending at 2400 hours;

"D/C" shall mean Double Circuit;

"Dispute" shall mean any dispute or difference of any kind between a Long Term Transmission Customer and the TSP or between the Long Term Transmission Customers (jointly) and the TSP, in connection with or arising out of this Agreement including any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16;










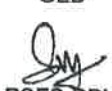


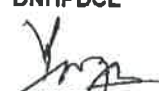








"Due Date" in relation to any Invoice shall mean the thirtieth (30th) day after the date on which any Invoice is received and duly acknowledged by the Long Term Transmission Customer (or, if that day is not a Business Day, the immediately following Business Day), and by such date, the Invoice is payable by the Long Term Transmission Customer;

"Effective Date" for the purposes of this Agreement, shall have the same meaning as per Article 2.1 of this Agreement;

"Electrical Inspector" shall mean a person appointed as such by the Appropriate Government under sub-section (1) of Section 162 of the Electricity Act 2003 and also includes Chief Electrical Inspector;

"Electricity Rules 2005" shall mean the rules framed pursuant to the Electricity Act 2003 and as amended from time to time;

"Element" shall mean each Transmission Line or each circuit of the Transmission Lines (where there are more than one circuit) or each bay of Sub-station or switching station or HVDC terminal or inverter station of the Project, which has a separate Scheduled COD as per Schedule 3 of this Agreement and has a separate percentage for recovery of Transmission Charges on achieving COD as per Schedule 6 of this Agreement;

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"Escalable Transmission Charges" shall mean the charges as specified in Schedule 6 of this Agreement;

"Event of Default" shall mean the events as defined in Article 13 of this Agreement;

"Expiry Date" shall be the date which is 35 (thirty five) years from the Scheduled COD of the Project;

"Financial Closure" shall mean the first Business Day on which funds are made available to the TSP pursuant to the Financing Agreements;

"Financially Evaluated Entity" shall mean the company which has been evaluated for the satisfaction of the financial requirement set forth in the RFQ;

"Financing Agreements" shall mean the agreements pursuant to which the TSP is to finance the Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of the Long Term Transmission Customers ;

"Financial Year" shall mean a period of twelve (12) months at midnight Indian Standard Time (IST) between 1st April & 31st March;

"Force Majeure" and **"Force Majeure Event"** shall have the meaning assigned thereto in Article 11;

"GOI" shall mean Government of India;

"Grid Code" / "IEGC" or "State Grid Code" shall mean the Grid Code specified by the Central Commission under Clause (h) of sub-section (1) of Section 79 of the Electricity Act and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;

"Indian Governmental Instrumentality" shall mean Government of India, Government of any State in India or any ministry, department, board, authority, agency, corporation, commission under the direct or


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indirect control of Government of India or any State Government or both, any political sub-division of any of them including any court or Appropriate Commission or tribunal or judicial or quasi-judicial body in India but excluding TSP and Long Term Transmission Customers;

"Insurances" shall mean the insurance cover to be obtained and maintained by the TSP in accordance with Article 9 of this Agreement;

"Interconnection Facilities" shall mean the facilities as may be set up for transmission of electricity through the use of the Project, on either one or both side of generating station's / CTU's / STU's / Long Term Transmission Customer's substations (as the case may be) which shall include, without limitation, all other transmission lines, gantries, substations and associated equipments not forming part of the Project;

"Invoice" shall mean a Monthly Transmission Charges Invoice, a Supplementary Invoice or any other Invoice or Bill raised by any of the Parties;

"Invoice Dispute Notice" shall have the same meaning as defined in Article 10.9.2 of this Agreement;

"Late Payment Surcharge" shall have the meaning ascribed thereto in Article 10.8;

"Law" or **"Laws"** in relation to this Agreement, shall mean all laws including electricity laws in force in India and any statute, ordinance, rule, regulation, notification, order or code, or any interpretation of any of them by an Indian Governmental Instrumentality having force of law and shall include all rules, regulations, decisions and orders of the Appropriate Commission;

"Lead Long Term Transmission Customer" shall have the meaning as ascribed hereto in Article 18.1.1 of this Agreement;

"Lead Member of the Bidding Consortium" or **"Lead Member"** shall mean a company who commits at least 26% equity stake in the Project, meets the technical requirement as specified in the RFQ and so designated by other Member(s) in Bidding Consortium;


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"Letter of Credit" or "LC" shall mean an unconditional, irrevocable, revolving Letter of Credit opened by the Long Term Transmission Customer in favour of the TSP with any scheduled bank;

"Lenders" means the banks, financial institutions, multilateral funding agencies, non banking financial companies registered with the Reserve Bank of India (RBI) , mutual funds, etc., including their successors and assigns, who have agreed on or before COD of the Project to provide the TSP with the debt financing described in the capital structure schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned;

Provided that, such assignment or transfer shall not relieve the TSP of its obligations to the Long Term Transmission Customers under this Agreement in any manner and shall also does not lead to an increase in the liability of any of the Long Term Transmission Customers;

"Lenders Representative" shall mean the person notified by the Lenders in writing as being the representative of the Lenders and such person may from time to time be replaced by the Lenders pursuant to the Financing Agreements by written notice to the TSP;

"Long Term Transmission Customer(s)" shall mean a person availing or intending to avail access to the Inter-State Transmission System for a period up to twenty-five (25) years or more, and for the purposes of this Project, shall refer to entities listed in Schedule 1 of this Agreement or any such other person who executes a Supplementary Agreement for availing Transmission Service as per the provisions of the TSA;

"Member in a Bidding Consortium" / "Member" shall mean each company in the Bidding Consortium;

"Month" shall mean a period of thirty (30) days from (and excluding) the date of the event;

"Monthly Transmission Charges" for any Element of the Project, after COD of the Element till COD of the Project, and for the Project after COD of the Project, shall mean the amount of Transmission Charges for the relevant Contract Year as specified in Schedule 5 of this Agreement;


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"Monthly Transmission Charges Invoice" or "Monthly Bill" shall mean a monthly invoice comprising the Monthly Transmission Charges, as per Schedule 5 hereof;

"National Load Despatch Centre" shall mean the centre established as per sub-section (1) of Section 26 of the Electricity Act 2003;

"Non-Escalable Transmission Charges" shall mean the charges as specified in column (4) of Schedule 6 of this Agreement;

"Notification" shall mean any notification, issued in the Gazette of India;

"O & M Contractor" shall mean the entity appointed from time to time by the TSP to operate, maintain & repair any of the Element(s) of the Project;






















"Open Access Customer" shall mean a consumer permitted by the State Commission to receive supply of electricity from a person other than distribution licensee of his area of supply or a generating company (including captive generating plant) or a licensee, who has availed of or intends to avail of open access;

"Operating Period" for any Element of the Project shall mean the period from (and including) the COD of such Element of the Project, up to (and including) the Expiry Date and for the Project, shall mean the period from (and including) the COD of the Project, up to (and including) the Expiry Date;

"Parent Company" shall mean a Company that holds at least twenty six percent (26%) of the paid - up equity capital directly or indirectly in the Bidding Company or in the Member in a Bidding Consortium, as the case may be;

"Preliminary Termination Notice" shall mean a Long Term Transmission Customers' Preliminary Termination Notice or TSP's Preliminary Termination Notice, as the case may be, as defined in Article 13 of this Agreement;

"Project" shall mean transmission system for New WR-NR 765 kV Inter-Regional Corridor, as detailed in Schedule 2 of this Agreement;

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"Project Execution Plan" shall mean the plan referred to in Article 3.1.3 (c) hereof;

"Prudent Utility Practices" shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric transmission utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation, repair and maintenance of the Project and which practices, methods and standards shall be adjusted as necessary, to take account of:

- (i) operation, repair and maintenance guidelines given by the manufacturers to be incorporated in the Project,
- (ii) the requirements of Law, and
- (iii) the physical conditions at the Site;

"RFP" shall mean Request For Proposal dated 27.02.2017 along with all schedules, annexures and RFP Project Documents attached thereto, issued by the BPC, including any modifications, amendments or alterations thereto;

"RFP Project Documents" shall mean the following documents to be entered into in respect of the Project, by the Parties to the respective agreements:

- a. TSA; and
- b. Share Purchase Agreement






















"RFQ" shall mean the Request for Qualification document issued by REC Transmission Projects Company Ltd. for Tariff Based Competitive-bidding process for procurement of Transmission Services for the Project. Including any modifications, amendments or alterations thereto and clarifications issued regarding the same;

"RLDC" shall mean the relevant Regional Load Dispatch Centre as defined in the Electricity Act, 2003, in the region(s) in which the Project is located;

"RPC" shall mean the relevant Regional Power Committee established by the Government of India for the specific Region(s) in accordance with the

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Electricity Act, 2003 for facilitating integrated operation of the Power System in that Region;

"Rated Voltage" shall mean the manufacturers design voltage at which the Transmission System is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with Long Term Transmission Customers;

"Rebate" shall have the meaning as ascribed to in Article 10.7 of this Agreement;

"Scheduled COD" in relation to an Element(s) shall mean the date(s) as mentioned in Schedule 3 as against such Element(s) and in relation to the Project, shall mean the date as mentioned in Schedule 3 as against such Project, subject to the provisions of Article 4.4 of this Agreement, or such date as may be mutually agreed among the Parties;

"Scheduled Outage" shall mean the final outage plan as approved by the RPC as per the provisions of the Grid Code;

"Selected Bid" shall mean the Non-Financial Bid and the Final Offer of the Selected Bidder submitted during e-reverse bidding, which shall be downloaded and attached herewith as Schedule 10 on or prior to the Effective Date;

"Share Purchase Agreement" shall mean the agreement amongst REC Transmission Projects Company Ltd., WR-NR Power Transmission Limited and the Successful Bidder for the purchase of one hundred (100%) per cent of the shareholding of the WR-NR Power Transmission Limited for the Acquisition Price, by the Successful Bidder on the terms and conditions as contained therein;

"Short Term Transmission Customer(s)" shall mean a transmission customer other than the Long Term Transmission Customer;

"Site" in relation to a substation, switching station or HVDC terminal or inverter station, shall mean the land and other places upon which such station / terminal is to be established;


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“**SLDC**” shall mean the State Load Despatch Centre established as per sub-section (1) of Section 31 of the Electricity Act 2003;

“**STU**” or “**State Transmission Utility**” shall be the Board or the Government company specified as such by the State Government under sub-section (1) of Section 39 of the Electricity Act 2003;

“**Successful Bidder**” or “**Selected Bidder**” shall mean the Bidder selected pursuant to the RFP to acquire one hundred percent (100%) equity shares of WR-NR Power Transmission Limited, along with all its related assets and liabilities, which will be responsible as the TSP to establish the Project on build, own, operate and maintain basis as per the terms of the TSA and other RFP Project Documents;

“**Supplementary Agreement**” shall mean the agreement as annexed hereto in Schedule 12 of this Agreement;

“**Supplementary Bill**” or “**Supplementary Invoice**” shall mean a bill other than a Monthly Bill raised by any of the Parties in accordance with Article 10.10;

“**Target Availability**” shall have the meaning as ascribed hereto in Article 8.2 of this Agreement;

“**Technically Evaluated Entity**” shall mean the company which has been evaluated for the satisfaction of the technical requirement set forth in RFQ;

“**Termination Notice**” shall mean a Long Term Transmission Customer Termination Notice or TSP Termination Notice, as the case may be given by Parties pursuant to the provisions of Articles 3.3.2, 3.3.4, 13.3 and 13.4 of this Agreement for the termination of this Agreement;

“**Term of Agreement**” for the purposes of this Agreement shall have the meaning ascribed thereto in Article 2.2 of this Agreement;

“**Transmission Charges**” shall mean the Final Offer of the Selected Bidder during the e-reverse bidding and adopted by the Commission, payable to the TSP by the Long Term Transmission Customers, as per the provisions of TSA ;



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"Transmission Customer(s)" shall mean any person using the Project, including the Open Access Customers;

"Transmission License" shall mean the license granted by the Appropriate Commission in terms of the relevant regulations for grant of such license issued under the Electricity Act;

"Transmission Licensee" shall mean a licensee authorized to establish and operate Transmission Lines by the Appropriate Commission;











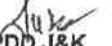










"Transmission Lines" shall mean all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works;

"Transmission Service" shall mean making the Project available for use by the Transmission Customers as per the terms and conditions of this Agreement;

"Transmission Service Provider" or "TSP" shall mean the WR-NR Power Transmission Limited, which has executed this Transmission Service Agreement and has been / shall be acquired by the Selected Bidder;

"Transmission System" shall mean a line with associated sub-stations or a group of lines inter-connected together along with associated sub-stations and the term includes equipment associated with transmission lines and sub-stations;

"Unscheduled Interchange" shall have the meaning ascribed thereto in Rule 24 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2009, as amended from time to time;

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"Unscheduled Outage" shall mean an interruption resulting in reduction of the Availability of the Element(s) / Project (as the case may be) that is not a result of a Scheduled Outage or a Force Majeure Event.

"Ultimate Parent Company" shall mean a company which owns at least twenty six percent (26%) equity in the Bidding Company or Member of a Consortium, (as the case may be) and in the Technically Evaluated Entity and/or Financially Evaluated Entity (as the case may be) and such Bidding Company or Member of a Consortium, (as the case may be) and the Technically Evaluated Entity and/or Financially Evaluated Entity (as the case may be) shall be under the direct control or indirectly under the common control of such company;

"Week" means a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

1.2 Interpretation:

Save where the contrary is indicated, any reference in this Agreement to:

"Agreement" shall be construed as including a reference to its Schedules, Appendices and Annexures;

"Rupee", "Rupees" and "Rs." shall denote lawful currency of India;






















"crore" shall mean a reference to ten million (10,000,000) and a **"lakh"** shall mean a reference to one tenth of a million (1,00,000);

"encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;

"holding company" of a company or corporation shall be construed as a reference to any company or corporation of which the other company or corporation is a subsidiary;

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"indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

"person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;













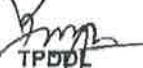








"subsidiary" of a company or corporation (the holding company) shall be construed as a reference to any company or corporation:

- (i) which is controlled, directly or indirectly, by the holding company, or
- (ii) more than half of the issued share capital of which is beneficially owned, directly or indirectly, by the holding company, or
- (iii) which is a subsidiary of another subsidiary of the holding company, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body;

"winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, re-organization, dissolution, arrangement, protection or relief of debtors.

1.2.1 Words importing the singular shall include the plural and vice versa.













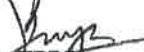








1.2.2 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented.

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- 1.2.3 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time.
- 1.2.4 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.
- 1.2.5 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part.
- 1.2.6 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.
- 1.2.7 All interest payable under this Agreement shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days.
- 1.2.8 The words "hereof" or "herein", if and when used in this Agreement shall mean a reference to this Agreement.
- 1.2.9 The contents of Schedule 10 shall be referred to for ascertaining accuracy and correctness of the representations made by the Selected Bidder in Article 17.2.1 (f) hereof.

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ARTICLE: 2

2 EFFECTIVENESS AND TERM OF AGREEMENT

2.1 Effective Date:

This Agreement shall be effective from later of the dates of the following events:

- a. The Agreement is executed and delivered by the Parties; and
- b. The Selected Bidder has acquired for the Acquisition Price, one hundred percent (100%) of the equity shareholding of REC Transmission Projects Company Ltd. in WR-NR Power Transmission Limited along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement, and
- c. The Selected Bidder, on behalf of the TSP, has provided the Contract Performance Guarantee, as per terms of Article 3.1 of this Agreement.

2.2 Term and Termination:






















2.2.1 Subject to Article 2.2.2 and Article 2.4, this Agreement shall continue to be effective in relation to the Project until the Expiry Date, when it shall automatically terminate unless extended by the Appropriate Commission for such period and on such terms and conditions as the Appropriate Commission may specify in this regard in terms of the procedures laid down by the Appropriate Commission for such matters.

2.2.2 This Agreement shall terminate before the Expiry Date:

- a. If a Termination Notice is served in accordance with Article 13
 - i. by the Majority Long Term Transmission Customers following a TSP Event of Default; or
 - ii. by the TSP following the Long Term Transmission Customers' Event of Default;

b. If the Long Term Transmission Customers or the TSP serves a Termination Notice in accordance with Article 3.3.2 and 3.3.4.

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2.3 Conditions prior to the expiry of the Transmission License






















2.3.1 In order to continue the Project beyond the expiry of the Transmission License, the TSP shall be obligated to make an application to the Appropriate Commission at least two years before the date of expiry of the Transmission License, seeking the Appropriate Commission's approval for extension of the term of Transmission License upto the Expiry Date.

2.3.2 The TSP shall timely comply with all the requirements as may be laid down by the Appropriate Commission for extension of the term of the Transmission License beyond the initial term of 25 years and the TSP shall keep the Long Term Transmission Customers fully informed about progress on its application for extension of the term of Transmission License.

2.4 Survival:

The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive liquidated damages as per the terms of this Agreement, nor shall it effect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 3.3.3, 3.3.5, Article 9.3 (Application of Insurance Proceeds), Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability & Indemnification), Article 16 (Governing Law & Dispute Resolution), Article 18 (Miscellaneous).

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ARTICLE: 3











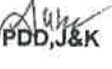










3 CONDITIONS SUBSEQUENT**3.1 Satisfaction of conditions subsequent by the TSP**

- 3.1.1 Within ten (10) days from the date of issue of Letter of Intent, the Selected Bidder, on behalf of the TSP shall provide the Contract Performance Guarantee, acquire for the Acquisition Price, one hundred percent (100%) equity shareholding of WR-NR Power Transmission Limited from REC Transmission Projects Company Ltd., who shall sell to the Selected Bidder, the equity shareholding of WR-NR Power Transmission Limited along with all its related assets and liabilities, and apply to the Appropriate Commission for grant of Transmission License.

The Selected Bidder on behalf of the TSP will provide to the Long Term Transmission Customers the Contract Performance Guarantee for an aggregate amount of Rupees Thirty Crore Thirty Eight Lakh Only (Rs 30.38 Crore), which shall be provided separately to each of the Long Term Transmission Customers for the amount calculated pro-rata in the ratio of their Allocated Project Capacity, as on the date seven (7) days prior to the Bid Deadline (rounded off to the nearest Rupees one Lakh (Rs. 100,000) with the principle that amounts below Rupees Fifty Thousand (Rs. 50,000) shall be rounded down and amounts of Rupees Fifty Thousand (Rs. 50,000) and above shall be rounded up)

- 3.1.2 The Contract Performance Guarantee shall be initially valid for a period up to three (3) months after the Scheduled COD of the Project and shall be extended from time to time to be valid for a period up to three (3) months after the COD of the Project. In case the validity of the Contract Performance Guarantee is expiring before the validity specified in this Article, the TSP shall, at least thirty (30) days before the expiry of the Contract Performance Guarantee, replace the Contract Performance Guarantee with another Contract Performance Guarantee or extend the validity of the existing Contract Performance Guarantee until the validity period specified in this Article.

The TSP agrees and undertakes to duly perform and complete the following activities within six (6) months from the Effective Date, unless such completion is affected due to the Long Term Transmission

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Customers' failure to comply with their obligations under Article 3.2 of this Agreement or by any Force Majeure Event, or if any of the activities is specifically waived in writing by the Majority Long Term Transmission Customers:

- a. To obtain the Transmission License for the Project from the Appropriate Commission;
- b. To obtain the order for adoption of Transmission Charges by the Appropriate Commission, as required under Section 63 of the Electricity Act 2003;
- c. To submit to the Lead Long Term Transmission Customer and CEA the Project Execution Plan, within one hundred and twenty (120) days from the Effective Date. The TSP's Project Execution Plan should be in conformity with the Scheduled COD as specified in Schedule 3 of this Agreement, and shall bring out clearly the organization structure, time plan and methodology for executing the Project, award of major contracts, designing, engineering, procurement, shipping, construction, testing, commissioning to commercial operation, necessary to demonstrate a complete and accurate understanding of the Project, as well as the TSP's knowledge of procedures and prevailing conditions in India. Submission of a detailed bar (GANTT) chart of the Project outlining each activity (taking longer than one Month), linkages as well as durations;
- d. To achieve Financial Closure;
- e. To provide an irrevocable letter to the Lenders duly accepting and acknowledging the rights provided to the Lenders under the provisions of Article 15.3 of this Agreement and all other RFP Project Documents; and
- f. To award the Engineering, Procurement and Construction contract ("EPC contract") for the design and construction of towers for the Project and shall have given to such Contractor an irrevocable notice to proceed.

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3.2 Satisfaction of conditions subsequent by the Long Term Transmission Customers

3.2.1 The Long Term Transmission Customers shall provide, within six (6) months from the Effective Date, an irrevocable letter to the Lenders duly accepting and acknowledging the rights provided to the Lenders as per Article 15.3 of this Agreement and all other RFP Project Documents






















3.3 Consequences of non-fulfilment of conditions subsequent

3.3.1 If any of the conditions specified in Article 3.1.3 is not duly fulfilled by the TSP even within three (3) Months after the time specified therein, then on and from the expiry of such period and until the TSP has satisfied all the conditions specified in Article 3.1.3, the TSP shall, on a weekly basis, be liable to furnish to the Long Term Transmission Customers additional Contract Performance Guarantee of Rupees One Crore Fifty Two Lakh Only (Rs 1.52 Crore) within two (2) Business Days of expiry of every such Week. Such additional Contract Performance Guarantee shall be provided to each Long Term Transmission Customer in the manner provided in Article 3.1.1 and shall become part of the Contract Performance Guarantee and all the provisions of this Agreement shall be construed accordingly. The Long Term Transmission Customers shall be entitled to hold and/or invoke the Contract Performance Guarantee, including such additional Contract Performance Guarantee, in accordance with the provisions of this Agreement.

3.3.2 Subject to Article 3.3.4, if:

- (i) the fulfilment of any of the conditions specified in Article 3.1.3 is delayed beyond nine (9) Months from the Effective Date and the TSP fails to furnish additional Contract Performance Guarantee to the Long Term Transmission Customers in accordance with Article 3.3.1 hereof; or
- (ii) the TSP furnishes additional Performance Guarantee to the Long Term Transmission Customers in accordance with Article 3.3.1 hereof but fails to fulfil the conditions specified in Article 3.1.3 within a period of twelve (12) months from the Effective Date,

the Majority Long Term Transmission Customers, as per Article 18.1.5, shall have the right to terminate this Agreement, by giving a Termination Notice to the TSP in writing of at least seven (7) days, with a copy to the

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Appropriate Commission and the Lenders' Representative.






















3.3.3 If the Long Term Transmission Customers elect to terminate this Agreement as per the provisions of Article 3.3.2, the TSP shall be liable to pay to the Long Term Transmission Customers an amount of Rupees Thirty Crore Thirty Eight Lakh Only (Rs 30.38 Crore) only as liquidated damages. The Long Term Transmission Customers shall be entitled to recover this amount of damages by invoking the Contract Performance Guarantee to the extent of Rupees Thirty Crore Thirty Eight Lakh Only (Rs 30.38 Crore) which shall be provided separately to each of the Long Term Transmission Customers on the basis of their Allocated Project Capacity in MW as on the dated seven (7) days prior to the Bid Deadline, and shall then return the balance Contract Performance Guarantee, if any, to the TSP. If the Long Term Transmission Customers are unable to recover the said amount of Rupees Thirty Crore Thirty Eight Lakh Only (Rs 30.38 Crore) or any part thereof from the Contract Performance Guarantee, the shortfall in such amount not recovered from the Contract Performance Guarantee, if any, shall be payable by the TSP to the Long Term Transmission Customers within ten (10) days after completion of the notice period.

It is clarified for removal of doubt that this Article shall survive the termination of this Agreement.

3.3.4 In case of inability of the TSP to fulfil the conditions specified in Article 3.1.3 due to any Force Majeure Event, the time period for fulfilment of the condition subsequent as mentioned in Article 3.1.3, shall be extended for a period of such Force Majeure Event, subject to a maximum extension period of three (3) Months, continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by the Majority Long Term Transmission Customers or the TSP on mutually agreeable basis by giving a notice of at least seven (7) days, in writing to the other Party, with a copy to the Appropriate Commission and the Lenders' Representative and the Contract Performance Guarantee shall be returned as per the provisions of Article 6.5.2.

Provided, that due to the provisions of this Article 3.3.4, any increase in the time period for completion of conditions subsequent mentioned under Article 3.1.3, shall lead to an equal increase in the time period for the Scheduled

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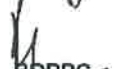

COD. No adjustments to the Transmission Charges shall be allowed on this account.

3.3.5 Upon termination of this Agreement as per Articles 3.3.2 and 3.3.4, the Lead Long Term Transmission Customer shall approach the Appropriate Commission within seven (7) days of such termination for further necessary directions as per the provisions of the Electricity Act 2003.

3.4 Progress Reports

The TSP and the Lead Long Term Transmission Customer shall notify one another in writing at least once a Month on the progress made in satisfying the conditions subsequent in Articles 3.1.3 and 3.2.

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ARTICLE: 4






















4 DEVELOPMENT OF THE PROJECT

4.1 TSP's obligations in development of the Project:

Subject to the terms and conditions of this Agreement, the TSP at its own cost and expense shall observe, comply with, perform, undertake and be responsible:

- a. for procuring and maintaining in full force and effect all Consents, Clearances and Permits, required in accordance with Law for development of the Project;
- b. for financing, constructing, owning and commissioning each of the Element of the Project for the scope of work set out in Schedule 2 of this Agreement in accordance with:
 - i. the Grid Code, the grid connectivity standards applicable to the Transmission Line and the sub-station as per the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2010, Central Electricity Authority (Grid Standards) Regulations, 2010, Central Electricity Authority (Safety requirements for construction, operation and maintenance of electrical plants and electric lines) Regulations, 2011, Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and as amended from time to time,
 - ii. Prudent Utility Practices and the Law;
- c. for entering into a Connection Agreement with the CTU/STU (as applicable) in accordance with the Grid Code.
- d. for owning the Project throughout the term of this Agreement free and clear of any encumbrances except those expressly permitted

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under Article 15 of this Agreement;

- e. to co-ordinate and liaise with concerned agencies and provide on a timely basis relevant information with regard to the specifications of the Project that may be required for interconnecting the Project with the Interconnection Facilities;
- f. for providing all assistance to the Arbitrators as they may require for the performance of their duties and responsibilities;
- g. to provide to the Long Term Transmission Customers with a copy to CEA, on a monthly basis, progress reports with regard to the Project and its execution (in accordance with Agreed Form) to enable the Long Term Transmission Customers / CEA to monitor and co-ordinate the development of the Project matching with the Interconnection Facilities.
- h. to comply with all its obligations undertaken in this Agreement.

4.2 Long Term Transmision Customers' obligations in Implementation of the Project:

4.2.1 Subject to the terms and conditions of this Agreement, Long Term Transmission Customers, at their own cost and expense, undertake to be responsible;

- a. for assisting and supporting the TSP in obtaining the Consents, Clearances and Permits required for the Project and in obtaining any applicable concessions for the Project, by providing letters of recommendation to the concerned Indian Governmental Instrumentality, as may be requested by the TSP from time to time;
- b. for arranging and making available the Interconnection Facilities to enable the TSP to connect the Project;
- c. for complying with all their obligations under this Agreement, and
- d. for providing all assistance to the Arbitrators as they may require for the performance of their duties and responsibilities.


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

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4.3 Time for Commencement and Completion:

- a. The TSP shall take all necessary steps to commence work on the Project from the Effective Date of the Agreement and shall achieve Scheduled COD of the Project in accordance with the time schedule specified in Schedule 3 of this Agreement.
- b. The COD of each Element of the Project shall occur no later than the Scheduled COD or within such extended time to which the TSP shall be entitled under Article 4.4 hereto.

4.4 Extension of time:

4.4.1 In the event that the TSP is prevented from performing its obligations under Article 4.1 (a), (b) and (e) by the stipulated date, due to any Long Term Transmission Customers' Event of Default, the Scheduled COD shall be extended, by a 'day for day' basis, subject to the provisions of Article 13.

4.4.2 In the event that an Element or the Project cannot be commissioned by its Scheduled COD on account of any Force Majeure Event as per Article 11, the Scheduled COD shall be extended, by a 'day for day' basis, for a maximum period of one hundred and eighty (180) days. In case the Force Majeure Event continues even after the maximum period of one hundred and eighty (180) days, the TSP or the Majority Long Term Transmission Customers may choose to terminate the Agreement as per the provisions of Article 13.5.

4.4.3 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on how long the Scheduled COD should be deferred by, any Party may raise the Dispute to be resolved in accordance with Article 16.

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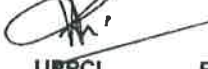


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4.5 Metering Arrangements:

- 4.5.1 The TSP shall comply with all the provisions of the IEGC and the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time, with regard to the metering arrangements for the Project. The TSP shall fully cooperate with the CTU/ STU /RLDC and extend all necessary assistance in taking meter readings.

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ARTICLE: 5

5 CONSTRUCTION OF THE PROJECT

5.1 TSP's Construction Responsibilities:






















5.1.1 The TSP at its own cost and expense, shall be responsible for designing, constructing, erecting, completing and commissioning each Element of the Project by the Scheduled COD in accordance with the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2010, Central Electricity Authority (Grid Standards) Regulations, 2010, Central Electricity Authority (Safety requirements for construction, operation and maintenance of electrical plants and electric lines) Regulations, 2011, Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and as amended from time to time, Prudent Utility Practices and other applicable Laws.

5.1.2 The TSP acknowledges and agrees that it shall not be relieved from any of its obligations under this Agreement or be entitled to any extension of time by reason of the unsuitability of the Site or Transmission Line route(s) for whatever reasons. The TSP further acknowledges and agrees that it shall not be entitled to any financial compensation in this regard.

5.1.3 The TSP shall be responsible for obtaining all Consents, Clearances and Permits relating but not limited to road / rail / river / canal / power line / crossings, Power and Telecom Coordination Committee (PTCC), defence, civil aviation, right of way / way-leaves and environmental & forest clearances from relevant authorities required for developing, financing, constructing, maintaining/ renewing all such Consents, Clearances and Permits in order to carry out its obligations under this Agreement in general and Article 5.1.1 in particular and shall furnish to the Lead Long Term Transmission Customer promptly with copy/ies of each Consents, Clearances and Permits, which it obtains. The Long Term Transmission Customers shall assist and support the TSP in obtaining the Consents, Clearances and Permits required for the Project and in obtaining any applicable concessions for the Project, by providing

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letters of recommendation to the concerned Indian Governmental Instrumentality, as may be reasonably required from time to time.

- 5.1.4 The TSP shall be responsible for:
- (a) acquisition of land for location specific substations, switching stations or HVDC terminal or inverter stations (if required);
 - (b) final selection of Site including its geo-technical investigation;
 - (c) survey and geo-technical investigation of line route in order to determine the final route of the Transmission Lines;
 - (d) seeking access to the Site and other places where the Project is being executed, at its own costs, including payment of any crop compensation or any other compensation as may be required.

5.1.5 In case the Project involves any resettlement and rehabilitation, the resettlement and rehabilitation package will be implemented by the State Government authorities, for which the costs is to be borne by the TSP and no changes would be allowed in the Transmission Charges on account of any variation in the resettlement and rehabilitation cost. The TSP shall provide assistance on best endeavour basis, in implementation of the resettlement and rehabilitation package, if execution of such package is in the interest of expeditious implementation of the Project and is beneficial to the Project affected persons.

5.2 Appointing Contractors:

5.2.1 The TSP shall conform to the requirements as provided in this Agreement while appointing Contractor(s) for procurement of goods & services.

5.2.2 The appointment of such Contractor(s) shall neither relieve the TSP of any of its obligations under this Agreement nor make Long Term Transmission Customers liable for the performance of such Contractor(s).


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5.3 Monthly Progress Reporting:

The TSP shall provide to the Long Term Transmission Customers, on a monthly basis, progress reports with regard to the Project and its execution (in accordance with Agreed Form) to enable the Long Term Transmission Customers to monitor and co-ordinate the development of the Project, matching with the Interconnection Facilities.

A copy of such monthly report shall also be sent by the TSP to the CEA.

5.4 Quality of Workmanship:

The TSP shall ensure that the Project is designed, built and completed in a good workmanlike manner using sound engineering and construction practices, and using only materials and equipment that are new and of international – utility grade quality such that, the useful life of the Project will be till the Expiry Date.

The TSP shall ensure that design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards and Codes issued by Bureau of Indian Standards and only in case they are not applicable under certain conditions, the other equivalent internationally recognised Standards and Codes shall be followed.

5.5 Inspection by the Lead Long Term Transmission Customer:













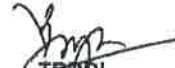








The Lead Long Term Transmission Customer shall designate, from time to time by a written notice to the TSP, at the most three (3) employees from any of the Long Term Transmission Customers, who shall have access at all reasonable times to the Site and to all such places where the Project is being executed for the purpose of inspecting the progress of the Project, at its own cost and expenses.

5.6 Site regulations and Construction Documents

The TSP shall abide by the Safety Rules and Procedures as mentioned in Schedule 4 of this Agreement

The TSP shall retain at the Site and make available for inspection to the Lead Long Term Transmission Customer at all reasonable times copies

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of the Consents, Clearances and Permits, construction drawings and other documents related to construction.





















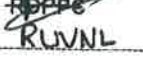
5.7 Supervision of work:

The TSP shall provide all necessary superintendence for execution of the Project and its supervisory personnel shall be available to provide full-time superintendence for execution of the Project. The TSP shall provide skilled personnel who are experienced in their respective fields.

5.8 Remedial Measures:

The TSP shall take all necessary actions for remedying the shortfall in achievement of timely progress in execution of the Project,, if any, as intimated by the CEA. However, such intimation by the CEA and the subsequent effect of such remedial measures carried out by the TSP shall not relieve the TSP of its obligations in the Agreement. CEA may carry out random inspections during the Project execution, as and when deemed necessary by it. If the shortfalls as intimated to the TSP are not remedied to the satisfaction of the CEA, it may refer the same to the Appropriate Commission for appropriate action.

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ARTICLE: 6

6 CONNECTION AND COMMISSIONING OF THE PROJECT**6.1 Connection with the Inter-Connection Facilities:**

6.1.1 The TSP shall give the RLDC(s), CTU/ STU, as the case may be, the Long Term Transmission Customers and any other agencies as required at least sixty (60) days advance written notice of the date on which it intends to connect an Element of the Project, which date shall be not earlier than its Scheduled COD or Schedule COD extended as per Article 4.4.1 of this Agreement, unless the Lead Long Term Transmission Customer otherwise agrees.






















6.1.2 The RLDC / SLDC (as the case may be) or the CTU / STU (as the case may be) or the Lead Long Term Transmission Customer may, for reasonable cause, including failure to arrange for Interconnection Facilities as per Article 4.2, defer the connection for up to fifteen (15) days from the date notified by the TSP pursuant to Article 6.1.1 if it notifies to the TSP in writing, before the date of connection, of the reason for the deferral and when the connection is to be rescheduled. However, no such deferment on one or more occasions would be for more than an aggregate period of 30 days. Further, the Scheduled COD would be extended as required, for all such deferments on day for day basis.

6.1.3 Subject to Articles 6.1.1 and 6.1.2, any Element of Project may be connected with the Interconnection Facilities when:

- a. it has been completed in accordance with this Agreement and the Connection Agreement;
- b. it meets the Grid Code, Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and all other Indian legal requirements and

The TSP has obtained the approval in writing of the Electrical Inspector certifying that the Element is ready from the point of view of safety of supply and can be connected with the Interconnection Facilities.

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6.2 Commercial Operation:













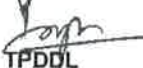








6.2.1 An Element of the Project shall be declared to have achieved COD seventy two (72) hours following the connection of the Element with the Interconnection Facilities or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or seven (7) days after the date of deferment, if any, pursuant to Article 6.1.2.

Provided that an Element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to have achieved COD as defined in Schedule 3 of this Agreement, have been declared to have achieved their respective COD.

6.2.2 Once any Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent, shall be eligible for payment of the Monthly Transmission Charges applicable for such Element.

6.3 Liquidated Damages for delay due to Long Term Transmission Customer Event of Default or Direct Non Natural Force Majeure Events or Indirect Non Natural Force Majeure Events or Natural Force Majeure Event (affecting the Long Term Transmission Customer)

If the TSP is otherwise ready to connect the Element(s) of the Project and has given due notice, as per provisions of Article 6.1.1, to the Long Term Transmission Customer(s) of the date of intention to connect the Element(s) of the Project, where such date is on or before the Scheduled COD, but is not able to connect the Element(s) of the Project by the said date specified in the notice, due to a Long Term Transmission Customer Event of Default or due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event or (Natural Force Majeure Event affecting the Long Term Transmission Customer) provided such Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event or (Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) has continued for a period of more than three (3) continuous or non-continuous Months, the TSP shall, until the effects of the Long Term Transmission Customer Event of Default or of Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure






















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Event or (Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) no longer prevent the TSP from connecting the Element(s) of the Project , be deemed to have achieved COD relevant to that date and to this extent, be deemed to have been providing Transmission Service with effect from the date notified, and shall be treated as follows.

- a. In case of delay on account of the Long Term Transmission Customer Event of Default, the Long Term Transmission Customer(s) shall make payment to the TSP of Non Escalable Transmission Charges in proportion to their Allocated Project Capacity, calculated on Target Availability for and during the period of such delay.
- b. In case of delay due to Direct Non Natural Force Majeure Event, the Long Term Transmission Customer(s) shall make payments to the TSP of Non Escalable Transmission Charges calculated on Target Availability for the period of such events in excess of three (3) continuous or non continuous Months in the manner provided in (d) below.
- c. In case of delay due to Indirect Non Natural Force Majeure Event or (Natural Force Majeure Event affecting the Long Term Transmission Customer(s)), the Long Term Transmission Customer(s) shall make payment to the TSP for debt service, subject to a maximum of Non Escalable Transmission Charges calculated on Target Availability, which is due under the Financing Agreements for the period of such events in excess of three (3) continuous or non continuous Months in the manner provided in (d) below.
- d. In case of delay due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)), the Long Term Transmission Customer(s) shall be liable to make payments mentioned in (b) and (c) above, after commencement of Transmission Service, in the form of an increase in Non Escalable Transmission Charges. These amounts shall be paid from the date, being the later of a) the date of cessation of such Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission

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Customer(s)) and b) the completion of sixty (60) days from the receipt of the Financing Agreements by the Long Term Transmission Customer(s) from the TSP.

Provided such increase in Non Escalable Transmission Charges shall be determined by Appropriate Commission on the basis of putting the TSP in the same economic position as the TSP would have been in case the TSP had been paid amounts mentioned in (b) and (c) above in a situation where the Force Majeure Event had not occurred.

For the avoidance of doubt, it is specified that the charges payable under this Article 6.3.1 shall be paid by the Long Term Transmission Customer(s) in proportion to their then Allocated Project Capacity.


















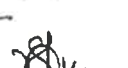



6.4 Liquidated Damages for Delay in achieving COD of Project:

6.4.1 If the TSP fails to achieve COD of any Element of the Project or the Project, by the Element's / Project's Scheduled COD as extended under Articles 4.4.1 and 4.4.2, then the TSP shall pay to the Long Term Transmission Customer(s), as communicated by the Lead Long Term Transmission Customer, in proportion to their Allocated Project Capacity as on the date seven (7) days prior to the Bid Deadline, a sum equivalent to 3.33% of Monthly Transmission Charges applicable for the Element of the Project [in case where no Elements have been defined, to be on the Project as a whole] / Project, for each day of delay up to sixty (60) days of delay and beyond that time limit, at the rate of five percent (5%) of the Monthly Transmission Charges applicable to such Element / Project, as liquidated damages for such delay and not as penalty, without prejudice to Long Term Transmission Customers' any rights under the Agreement.

6.4.2 The TSP's maximum liability under this Article 6.4 shall be limited to the amount of liquidated damages calculated in accordance with Article 6.4.1 for and up to six (6) months of delay for the Element or the Project. Provided that in case of failure of the TSP to achieve COD of the Element of the Project even after the expiry of six (6) months from its Scheduled COD, the provisions of Article 13 shall apply.

6.4.3 The TSP shall make payment of the liquidated damages calculated pursuant to Article 6.4.1 within ten (10) days of the earlier of:

- a. the date on which the applicable Element achieves COD; or

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b. the date of termination of this Agreement.

The payment of such damages shall not relieve the TSP from its obligations to complete the Project or from any other obligation and liabilities under the Agreement.

6.4.4 If the TSP fails to pay the amount of liquidated damages within the said period of ten (10) days, the Long Term Transmission Customers shall be entitled to recover the said amount of the liquidated damages by invoking the Contract Performance Guarantee. If the then existing Contract Performance Guarantee is for an amount which is less than the amount of the liquidated damages payable by the TSP to the Long Term Transmission Customers under this Article 6.3, the TSP shall be liable to forthwith pay the balance amount.

6.5 Return of Contract Performance Guarantee

6.5.1 If the TSP fails to achieve COD of any of the Elements on their respective Scheduled COD specified in this Agreement, subject to conditions mentioned in Article 4.4, the Long Term Transmission Customers shall have the right to encash the Contract Performance Guarantee and appropriate in their favour as liquidated damages an amount specified in Article 6.4.1, without prejudice to the other rights of the Long Term Transmission Customers under this Agreement.

6.5.2 The Contract Performance Guarantee as submitted by TSP in accordance with Article 3.1.1 shall be released by the Long Term Transmission Customers within three (3) months from the COD of the Project. In the event of delay in achieving Scheduled COD of any of the Elements by the TSP (otherwise than due to reasons as mentioned in Article 3.1.1 or Article 11) and consequent part invocation of the Contract Performance Guarantee by the Long Term Transmission Customers, the Long Term Transmission Customers shall release the Contract Performance Guarantee if any, remaining unadjusted, after the satisfactory completion by the TSP of all the requirements regarding achieving the Scheduled COD of the remaining Elements of the Project. It is clarified that the Long Term Transmission Customers shall also return/release the Contract Performance Guarantee in the event of (i) applicability of Article 3.3.2 to the extent the Contract Performance Guarantee is valid for an amount in excess of Rupees Thirty Crore Thirty Eight Lakh Only (Rs 30.38 Crore) or (ii) termination of this Agreement by


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




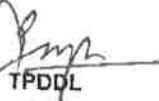








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any Party as mentioned under Article 3.3.4 of this Agreement.

6.5.3 The release of the Contract Performance Guarantee shall be without prejudice to other rights of the Long Term Transmission Customers under this Agreement.

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ARTICLE: 7

7 OPERATION AND MAINTENANCE OF THE PROJECT












7.1 Operation and Maintenance of the Project:

7.1.1 The TSP shall be responsible for ensuring that the Project is operated and maintained in accordance with the Indian Electricity Grid Code (IEGC) / State Grid Code (as applicable), Transmission License, directions of National Load Despatch Centre / RLDC / SLDC (as applicable), Prudent Utility Practices, other legal requirements including the terms of Consents, Clearances and Permits and is made available for use by the Transmission Customers as per the provisions of applicable regulations including but not limited to the Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations, 2008, Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters) Regulations, 2009, Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, and the Central Electricity Authority (Grid Standards) of Operation and Maintenance of Transmission Lines Regulations, 2010 as amended from time to time and provisions of this Agreement..

7.1.2 The TSP shall operate and maintain the Project in an efficient, coordinated and economical manner and comply with the directions issued by the National Load Despatch Centre, RLDC or the SLDC, as the case may be, in line with the provisions of the Electricity Act 2003 and Rule 5 of the Electricity Rules, 2005, and as amended from time to time.

7.1.3 The TSP shall be responsible to provide non-discriminatory open access to the Project as per the provisions of the Electricity Act 2003, Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations, 2008, Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters) Regulations, 2009 (as amended from time to time) and applicable regulations of the relevant State Electricity Regulatory Commission, as the case may be, as amended from time to time. The Long Term Transmission Customers agree with the TSP to provide such access to the Open Access Customers.

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- 7.1.4 If the TSP fails to comply with the directions issued by the Appropriate Commission or the RLDC / SLDC, as the case may be and is liable to pay a penalty under the provisions of the Electricity Act 2003, such penalties shall be borne by the TSP and cannot be claimed from any of the Long Term Transmission Customers.
- 7.1.5 The TSP may, with prior intimation to the Appropriate Commission and the Lead Long Term Transmission Customer, engage in any business for the optimum utilisation of the assets, subject to the provisions of Section 41 of the Electricity Act 2003 and Transmission License.
- 7.1.6 The TSP shall abide by the Safety Rules and Procedures during the Operation Period as mentioned in Schedule 4 of this Agreement.

7.2 Scheduled Outage

- 7.2.1 In line with the provisions of the Grid Code, as amended from time to time, the TSP shall provide its annual outage plan, and shall be governed by the decisions of the RPC in this regard.

7.3 Unscheduled Outage

- 7.3.1 In the event of an Unscheduled Outage, the TSP shall inform, in writing to the concerned RLDC/SLDC, as the case may be, and the Lead Long Term Transmission Customer, the reasons and the details of occurrence of such Unscheduled Outage. The TSP shall further inform about, the nature of the work to be carried out, the estimated time required to complete it and the latest time by which in its opinion the work should begin consistent with the Prudent Utility Practices.
- 7.3.2 The TSP shall use its reasonable endeavours consistent with Prudent Utility Practices to carry out the maintenance in minimum time schedule to address such Unscheduled Outage and bring the Element/Project back in operation.

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ARTICLE: 8

8 AVAILABILITY OF THE PROJECT






















8.1 Calculation of Availability of the Project:

Calculation of Availability for the Elements and for the Project, as the case may be, shall be as per Appendix III of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, as applicable seven (7) days prior to the Bid Deadline and as appended in Schedule 9

8.2 Target Availability:

The Target Availability of the Project shall be 98%.

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ARTICLE: 9

9 INSURANCES

9.1 Insurance:

9.1.1 The TSP shall effect and maintain or cause to be effected and maintained during the Construction Period and the Operating Period, Insurances against such risks, with such deductibles and endorsements and co-beneficiary/insured, as may be necessary under

- a. any of the Financing Agreements,
- b. the Laws, and
- c. in accordance with Prudent Utility Practices.

The Insurances shall be taken effective from a date prior to the date of the Financial Closure till the Expiry Date.

9.2 Evidence of Insurance cover:













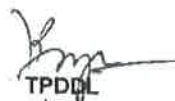








9.2.1 The TSP shall furnish to the Lead Long Term Transmission Customer copies of certificates and policies of the Insurances as soon as they are effected and renewed by or on behalf of the TSP from time to time in terms of Article 9.1

9.3 Application of Insurance Proceeds:

9.3.1 Save as expressly provided in this Agreement, the policies of Insurances and the Financing Agreements, the proceeds of any insurance claim made due to loss or damage to the Project or any part of the Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

9.3.2 If a Natural Force Majeure Event renders the Project no longer economically and technically viable and the insurers under the Insurances make payment on a "total loss" or equivalent basis, the portion of the proceeds of such Insurance available to the TSP (after making admissible payments to the Lenders as per the Financing Agreements) shall be allocated to the TSP and the Long Transmission

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Customers shall have no claim on such proceeds of the Insurance.

9.3.3 Subject to the requirements of the Lenders under the Financing Agreements, any dispute or difference between the Parties as to whether the Project is no longer economically and technically viable due to a Force Majeure Event or whether that event was adequately covered in accordance with this Agreement by the Insurances shall be determined in accordance with Article 16.

9.4 Effect on liability of the Long Term Transmission Customers

9.4.1 The Long Term Transmission Customers shall have no financial obligations or liability whatsoever towards the TSP in respect of this Article 9.

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ARTICLE: 10**10 BILLING AND PAYMENT OF TRANSMISSION CHARGES**

10.1 Subject to provisions of this Article 10, the Long Term Transmission Customers shall pay to the TSP, in Indian Rupees, on monthly basis, the Monthly Transmission Charges from the date on which an Element(s) has achieved COD until the Expiry Date of this Agreement, unless terminated earlier, in line with the provisions of Schedule 5 of this Agreement.

10.2 Calculation of Monthly Transmission Charges:

The Monthly Transmission Charges for each Contract Year shall be calculated in accordance with the provisions of Schedule 5 of this Agreement.

10.3 Incentive Payment

Incentive payment, on account of Availability being more than the Target Availability shall be payable by the Long Term Transmission Customer(s), in line with Clause 1.2.2 of Schedule 5 of this Agreement and shall be paid on an annual basis. The annual incentive amount payable to the TSP shall be shared by the Long Term Transmission Customer(s) in the ratio of the Transmission Charges paid or actually payable to the TSP by them existing at the end of the relevant Contract Year.

10.4 Payment of Penalty

The TSP shall pay a penalty on account of Availability being less than Ninety Five percent (95%) in any Contract Year in respect of the Element(s) having achieved COD or in case of the Project, after COD of the Project, to be computed in line with Clause 1.2.3 of Schedule 5 of this Agreement and paid on an annual basis. This penalty payable by the TSP shall be apportioned in favour of the Long Term Transmission Customer(s) in the ratio of the Transmission Charges paid or actually payable to the TSP by them existing at the end of the relevant Contract Year.


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10.5 Delivery of Invoices:

10.5.1 TSP's Invoices

- a. Commencing with the month following the month in which the COD of an Element (which is first Commissioned) occurs, the TSP shall submit to Long Term Transmission Customers by the fifth day of such and each succeeding month (or, if such day is not a Business Day, the immediately following Business Day) an Invoice in the Agreed Form (the "Monthly Transmission Charge Invoice") signed by the authorised signatory of the TSP setting out the computation of the Monthly Transmission Charges to be paid by the Long Term Transmission Customers to the TSP in respect of the immediately preceding month in accordance with this Agreement; and
- b. Each Monthly Transmission Charge Invoice shall include detailed calculations of the amounts payable under it, together with such further supporting documentation and information as Long Term Transmission Customers may reasonably require / request, from time to time.

10.5.2 Long Term Transmission Customers Invoices






















- a. Long Term Transmission Customers shall (as and when any amount becomes due to be paid by TSP), on the fifth day of the month (or, if such day is not a Business Day, the immediately following Business Day) submit to the TSP an Invoice in the Agreed Form (the "Long Term Transmission Customers Invoice") setting out the computation of any amount that may be payable to it by the TSP for the immediately preceding month pursuant to this Agreement.

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- b. Each Long Term Transmission Customer's Invoice shall include detailed calculations of the amounts payable under it, together with such further supporting documentation as the TSP may reasonably require/request, from time to time.

10.6 Payment of Invoices:

10.6.1 Pursuant to Article 10.4, any amount payable under an Invoice shall be paid in immediately available and freely transferable clear funds, for

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Transmission Service Agreement

value on or before the Due Date, to such account of the TSP or Long Term Transmission Customers as shall have been previously notified to Long Term Transmission Customers or the TSP, as the case may be.

10.6.2 Where in respect of any month there is both:

- a. an amount payable by the Long Term Transmission Customers to TSP pursuant to a Monthly Transmission Charge Invoice and
- b. an amount payable by the TSP to Long Term Transmission Customer pursuant to a Long Term Transmission Customer's Invoice as per provisions of this Agreement,













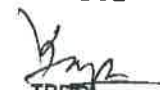






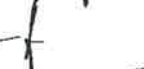

the two amounts, to the extent agreed to be set off by the TSP may, be set off against each other and the balance, if any, shall be paid by Long Term Transmission Customers to the TSP or by TSP to Long Term Transmission Customers, as the case may be.

10.6.3 The Long Term Transmission Customers shall pay the amount payable under the Monthly Transmission Charge Invoice and the Supplementary Bill on the Due Date to such account of the TSP, as shall have been previously notified by the TSP to the Long Term Transmission Customers in accordance with Article 10.6.6 below.

10.6.4 All payments made by the Long Term Transmission Customers shall be appropriated by the TSP in the following order of priority:

- i. towards Late Payment Surcharge, payable to the TSP, if any;
- ii. towards earlier unpaid Monthly Transmission Charge Invoice, if any;
- iii. towards earlier unpaid Supplementary Bill, if any;
- iv. towards the then current Monthly Transmission Charge Invoice, if any; and
- v. towards the then current Supplementary Bill.

10.6.5 All payments required to be made under this Agreement shall only include any deduction or set off for:

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- i. deductions required by the Law; and
- ii. amounts claimed by the Long Term Transmission Customers from the TSP, through an Invoice duly acknowledged by the TSP, to be payable by the TSP, and not disputed by the TSP within thirty (30) days of receipt of the said Invoice and such deduction or set-off shall be made to the extent of the amounts not disputed. It is clarified that the Long Term Transmission Customers shall be entitled to claim any set off or deduction under this Article, after expiry of the said thirty (30) day period.

Provided further, the maximum amounts that can be deducted or set-off by all the Long Term Transmission Customers taken together (proportionate to their Allocated Project Capacity in case of each Long Term Transmission Customer) under this Article in a Contract Year shall not exceed Rupees Ten Crore Thirteen Lakh Only (Rs 10.13 Crore), except on account of payments under sub Article (i) above.





















10.6.6 The TSP shall open a bank account at [Insert identified place or account] (the "Designated Account") for all payments to be made by the Long Term Transmission Customers to the TSP, and notify the Long Term Transmission Customers of the details of such account at least ninety (90) days before the Scheduled COD of the first Element to the Long Term Transmission Customers. The Long Term Transmission Customers shall, on the day of payment, notify the TSP of the payment made to the Designated Account. The Long Term Transmission Customers shall also designate a bank account at [Insert identified place] for payments to be made by the TSP to Long Term Transmission Customers and notify the TSP of the details of such account ninety (90) days before the Scheduled COD of the first Element.

10.7 Payment of Rebate:

10.7.1 In case the Long Term Transmission Customer pays to the TSP through any mode of payment in respect of a Monthly Transmission Charge Invoice or Supplementary Bill, the following shall apply:

- a. For payment of Invoices through any mode of payment, a Rebate of 2% shall be allowed on the Monthly Transmission Charge Invoice or Supplementary Bill for payments made in full within one

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Business Day of the receipt of the Invoice; or

- b. For payment of Invoices subsequently, but within the Due Date, a Rebate of 1% shall be allowed on the payments made in full.
- c. Applicable rate of Rebate at (a) and (b) above shall be based on the date on which the payment has been actually credited to the TSP's account. Any delay in transfer of money to the TSP's account, on account of a statutory holiday, public holiday, or any other reasons shall be to the account of the Long Term Transmission Customers.
- d. No Rebate shall be payable on the bills raised on account of Change in Law relating to taxes, duties and cess;

Provided that if any Long Term Transmission Customer fails to pay a Monthly Transmission Charge Invoice/ Supplementary Bill or part thereof within and including the Due Date, the TSP shall recover such amount as per provisions of Article 10.11.1 (f).

10.8 Surcharge






















10.8.1 Any amount due from one Party to the other, pursuant to this Agreement and remaining unpaid for thirty (30) days after the Due Date, shall bear Late Payment Surcharge @ 1.25% per month on the unpaid amount. Such Late Payment Surcharge shall be calculated on simple rate basis and shall accrue from the Due Date until the amount due is actually received by the payee.

10.9 Disputed Invoices

10.9.1 If either Party does not question or dispute an invoice within thirty (30) days of receiving it, the Invoice shall be considered correct, complete and conclusive between the Parties.

10.9.2 If either Party disputes any item or part of an item set out in any Invoice then that Party shall serve a notice (an "Invoice Dispute Notice") on the other Party setting out (i) the item or part of an item which is in dispute, (ii) its estimate of what such item or part of an item should be, (iii) and with all written material in support of its claim.

10.9.3 If the invoicing Party agrees to the claim raised in the Invoice Dispute






















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Notice issued pursuant to Article 10.9.2, the invoicing Party shall revise such Invoice within seven (7) days of receiving such notice from the disputing Party and if the disputing Party has already made the excess payment, the invoicing Party shall refund to the disputing Party, such excess amount within fifteen (15) days of receiving such notice. In such a case, the excess amount shall be refunded along with interest at the same rate as the Late Payment Surcharge, which shall be applied from the date on which such excess payment was made to the invoicing Party and up to and including the date on which such payment has been received as refund.

- 10.9.4 If the invoicing Party does not agree to the claim raised in the Invoice Dispute Notice issued pursuant to Article 10.9.2, it shall, within fifteen (15) days of receiving the Invoice Dispute Notice, furnish a notice to the disputing Party providing (i) reasons for its disagreement; (ii) its estimate of what the correct amount should be; and (iii) all written material in support of its counter-claim.
- 10.9.5 Upon receipt of notice of disagreement to the Invoice Dispute Notice under Article 10.9.4, authorised representative(s) or a director of the board of directors/member of board of each Party shall meet and make best endeavours to amicably resolve such Dispute within fifteen (15) days of receiving such notice of disagreement to the Invoice Dispute Notice.
- 10.9.6 If the Parties do not amicably resolve the dispute within fifteen (15) days of receipt of notice of disagreement to the Invoice Dispute Notice pursuant to Article 10.9.4, the matter shall be referred to Appropriate Commission for Dispute resolution in accordance with Article 16.
- 10.9.7 If a Dispute regarding a Monthly Transmission Charge Invoice or a Supplementary Invoice is settled pursuant to Article 10.7 or by Dispute resolution mechanism provided in this Agreement in favour of the Party that issues the Invoice Dispute Notice, the other Party shall refund the amount, if any incorrectly charged and collected from the disputing Party or pay as required, within five (5) days of the Dispute either being amicably resolved by the Parties pursuant to Article 10.9.5 or settled by Dispute resolution mechanism, along with interest (at the same rate as Late Payment Surcharge) or Late Payment Surcharge from the date on which such payment had been made to the invoicing Party or the date on which such payment was originally due, as may be applicable.

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10.9.8 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the concerned Long Term Transmission Customer shall, without prejudice to its right to Dispute, be under an obligation to make payment, of the lower of (a) an amount equal to simple average of last three (3) months Invoices (being the undisputed portion of such three months Invoices) and (b) Monthly Invoice which is being disputed, provided such Monthly Invoice has been raised based on the Allocated Project Capacity and in accordance with this Agreement.

10.10 Payment of Supplementary Bill

10.10.1 Either Party may raise a bill on the other Party ("Supplementary Bill") for payment on account of:

- i. adjustments (if any) required by the Regional Energy Account ;
or
- ii. quarterly or annual reconciliation as per Article 10.13; or
- iii. Change in Law as provided in Article 12,

and such Bill shall be paid by the other Party.

10.11 Payment Security Mechanism:

10.11.1 Establishment of Letter of Credit:

- (a) Not later than one (1) Month prior to the Scheduled COD of the first Element of the Project, each Long Term Transmission Customer shall, through a scheduled bank, open a Letter of Credit in favour of the TSP, to be made operative from a date prior to the Due Date of its first Monthly Transmission Charge Invoice under this Agreement and shall be renewed annually.
- (b) The draft of the proposed Letter of Credit shall be provided by each Long Term Transmission Customer to the TSP not later than the Financial Closure of the Project and shall be mutually agreed between the Parties.
- (c) The Letter of Credit shall have a term of twelve (12) Months and shall be for an amount:


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- i. for the first Contract Year or for each subsequent Contract Year, equal to one point one (1.1) times the estimated average Monthly Transmission Charges based on Target Availability of the Elements or Project with Scheduled COD in such Contract Year, as the case may be;
- ii. Provided that, the TSP shall not make any drawl before the Due Date and shall not make more than one drawl in a month.

Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.11.1, otherwise than by reason of drawal of such Letter of Credit by the TSP, the relevant Long Term Transmission Customer shall restore such shortfall within seven (7) days.

- (d) Long Term Transmission Customers shall cause the scheduled bank issuing the Letter of Credit to intimate the TSP, in writing regarding establishing of such Letter of Credit.
- (e) In case of drawal of the Letter of Credit by the TSP in accordance with the terms of this Article 10.11.1, the amount of the Letter of Credit shall be reinstated within seven (7) days from the date of such drawal.
- (f) If any Long Term Transmission Customer fails to pay a Monthly Transmission Charge Invoice / Supplementary Bill or part thereof within and including the Due Date, then, unless an Invoice Dispute Notice is received by the TSP as per the provisions of Article 10.9.2, the TSP may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from the Long Term Transmission Customers, an amount equal to such Monthly Transmission Charge Invoice/Supplementary Bill or part thereof plus Late Payment Surcharge, if applicable, in accordance with Article 10.8 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- i. a copy of the Monthly Transmission Charge Invoice/Supplementary Bill which has remained unpaid by such Long Term Transmission Customer;

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- ii. a certificate from the TSP to the effect that the Invoice at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date; and
- iii. calculations of applicable Late Payment Surcharge, if any.

Provided that failure on the part of the TSP to present the documents for negotiation of the Letter of Credit shall not attract any Late Payment Surcharge on the Long Term Transmission Customers.

- (g) Each Long Term Transmission Customer shall ensure that the Letter of Credit shall be renewed not later than thirty (30) days prior to its expiry.
- (h) All costs relating to opening and maintenance of the Letter of Credit shall be borne by the Long Term Transmission Customers. However, the Letter of Credit negotiation charges shall be borne and paid by the TSP.
- (i) If a Long Term Transmission Customer fails to pay (with respect to a Monthly Bill or Supplementary Bill) an amount exceeding thirty percent (30%) of the most recent undisputed Monthly Bill, for a period of seven (7) days after the Due Date and the TSP is unable to recover the amount outstanding to the TSP through the Letter of Credit,
 - (i) the TSP shall issue a notice to such Long Term Transmission Customer within seven (7) days from such period, with a copy to each of the other Long Term Transmission Customers, highlighting the nonpayment of such amount by such Long Term Transmission Customer;
 - (ii) If such Long Term Transmission Customer still fails to pay such amount within a period of thirty (30) days after the issue of notice by TSP as mentioned in (i) above, the TSP shall approach the RLDC / SLDC (as the case may be) requesting for the alteration of the schedule of dispatch of the lowest cost power of such Long Term Transmission Customer(s) from the Central Generating Stations, and the


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RLDC / SLDC shall continue to reschedule the lowest cost power till all the dues of the TSP are recovered;

- Provided that in this case, the quantum of electricity and the corresponding period in which it would be rescheduled for dispatch shall be corresponding to the amount of default. This electricity will then be dispatched to other utilities by the concerned RLDC/SLDC, as the case may be, during the peak hours, i.e., 7pm to 10 pm. The price of this electricity will be determined as per the UI rate;

- Provided further that the revenue from such diverted power would be used to pay the dues first of the generating company (which would include the capacity charges as well as the energy charges) and the remainder would be available for covering the default amount and the balance (if any), after recovering both the charges, would be paid to the defaulting Long Term Transmission Customer.

10.12 Payment Intimation






















Long Term Transmission Customers shall remit all amounts due under an Invoice raised by the TSP to the TSP's account by the Due Date and notify the TSP of such remittance on the same day. Similarly, the TSP shall pay all amounts due under an Invoice raised by Long Term Transmission Customers by the Due Date to concerned Long Term Transmission Customer's account and notify such Long Term Transmission Customers/s of such payment on the same day.

10.13 Quarterly and Annual Reconciliation

10.13.1 Parties acknowledge that all payments made against Monthly Bill(s) and Supplementary Bill(s) shall be subject to quarterly reconciliation at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year to take into account Regional Energy Account, adjustments in Transmission Charges payments, Rebates, Late Payment Surcharge, Incentive, Penalty, or any other reasonable circumstance as may be mutually agreed between the Parties.

10.13.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year, as the case may



















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be, is available and has been finally verified and adjusted, the TSP and each Long Term Transmission Customer shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the TSP or Long Term Transmission Customers, as the case may be, shall raise a Supplementary Bill for the payments as may be due as a result of reconciliation for the relevant quarter/ Contract Year and shall make payment of such Supplementary Bill for the adjustments in Transmission Charges payments for the relevant quarter/Contract Year.

10.13.3 Interest / Late Payment Surcharge shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16

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ARTICLE: 11

11 FORCE MAJEURE

11.1 Definitions

11.1.1 The following terms shall have the meanings given hereunder.

11.2 Affected Party

11.2.1 An Affected Party means any of the Long Term Transmission Customers or the TSP whose performance has been affected by an event of Force Majeure.

11.2.2 An event of Force Majeure affecting the CTU/STU or any agent of the Long Term Transmission Customers, which has affected the Interconnection Facilities, shall be deemed to be an event of Force Majeure affecting the Long Term Transmission Customers.













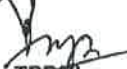








11.2.3 Any event of Force Majeure shall be deemed to be an event of Force Majeure affecting the TSP only if the Force Majeure event affects and results in, late delivery of machinery and equipment for the Project or construction, completion, commissioning of the Project by Scheduled COD and/or operation thereafter ;

11.3 Force Majeure

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) Natural Force Majeure Events:

act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon,

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tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years,

(b) **Non-Natural Force Majeure Events:**

i. **Direct Non-Natural Force Majeure Events**

- Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the TSP; or
- the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consents, Clearances and Permits required by the TSP to perform their obligations under the RFP Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other Consents, Clearances and Permits required for the development/ operation of the Project, provided that a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or
- any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality which is directed against the Project, provided that a Competent Court of Law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down.

ii. **Indirect Non - Natural Force Majeure Events**

- act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or
- radioactive contamination or ionising radiation originating from a source in India or resulting from any other Indirect Non Natural Force Majeure Event mentioned above, excluding circumstances where the source or cause of contamination or radiation is brought


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or has been brought into or near the Site by the Affected Party or those employed or engaged by the Affected Party; or

- industry wide strikes and labour disturbances, having a nationwide impact in India.




















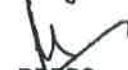

11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- (a) Unavailability, late delivery, or changes in cost of the machinery, equipment, materials, spare parts etc. for the Project;
- (b) Delay in the performance of any Contractors or their agents;
- (c) Non-performance resulting from normal wear and tear typically experienced in transmission materials and equipment;
- (d) Strikes or labour disturbance at the facilities of the Affected Party;
- (e) Insufficiency of finances or funds or the Agreement becoming onerous to perform; and
- (f) Non-performance caused by, or connected with, the Affected Party's:
 - i. negligent or intentional acts, errors or omissions;
 - ii. failure to comply with an Indian Law; or
 - iii. breach of, or default under this Agreement or any Project Documents.

11.5 Notification of Force Majeure Event

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should

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reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

11.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.6 Duty to perform and duty to mitigate






















To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

11.7 Available Relief for a Force Majeure Event

Subject to this Article 11













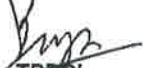








- (a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
- (b) every Party shall be entitled to claim relief for a Force Majeure Event affecting its performance in relation to its obligations under this Agreement.

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- (c) For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of such event(s).
- (d) For so long as the TSP is claiming relief due to any Force Majeure Event under this Agreement, the Lead Long Term Transmission Customer may, from time to time on one (1) day notice, inspect the Project and the TSP shall provide the Lead Long Term Transmission Customer's personnel with access to the Project to carry out such inspections, subject to the Lead Long Term Transmission Customer's personnel complying with all reasonable safety precautions and standards.

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ARTICLE: 12

12 CHANGE IN LAW**12.1 Change in Law**

12.1.1 Change in Law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring / non-recurring expenditure by the TSP or any income to the TSP:

- the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;
- a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;
- the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;
- a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits;
- any change in the licensing regulations of the Appropriate Commission, under which the Transmission License for the Project was granted if made applicable by such Appropriate Commission to the TSP;
- any change in the Acquisition Price; or
- any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.

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12.1.2 Notwithstanding anything contained in this Agreement, Change in Law shall not cover any change:

- a. on account of regulatory measures by the Appropriate Commission including calculation of Availability; and
- b. in any tax applied on the income or profits of the TSP.

12.2 Relief for Change in Law

12.2.1 During Construction Period:

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- For every cumulative increase/decrease of each Rupees Two Crore Eighty Seven Lakh Only (Rs. 2.87 Crore) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to Zero Point Three One Three percent (0.313%) of the Non-Escalable Transmission Charges.

12.2.2 During the Operation Period:

During the Operation Period, the compensation for any increase/decrease in revenues shall be determined and effective from such date, as decided by the Appropriate Commission whose decision shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

Provided that the above mentioned compensation shall be payable only if the increase/decrease in revenues or cost to the TSP is in excess of an amount equivalent to one percent (1%) of Transmission Charges in aggregate for a Contract Year.

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12.2.3 For any claims made under Articles 12.2.1 and 12.2.2 above, the TSP shall provide to the Long Term Transmission Customers and the Appropriate Commission documentary proof of such increase/decrease in cost of the Project/revenue for establishing the impact of such Change in Law.

12.2.4 The decision of the Appropriate Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective, shall be final and binding on both the Parties subject to rights of appeal provided under applicable Law.

12.3 Notification of Change in Law:

12.3.1 If the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Lead Long Term Transmission Customer of such Change in Law as soon as reasonably practicable after becoming aware of the same.

12.3.2 The TSP shall also be obliged to serve a notice to Lead Long Term Transmission Customer even when it is beneficially affected by a Change in Law.

12.3.3 Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its effect on the TSP.

12.4 Payment on account of Change in Law

12.4.1 The payment for Change in Law shall be through Supplementary Bill as mentioned in Article 10.10. However, in case of any change in Monthly Transmission Charges by reason of Change in Law, as determined in accordance with this Agreement, the Monthly Invoice to be raised by the TSP after such change in Transmission Charges shall appropriately reflect the changed Monthly Transmission Charges.

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

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ARTICLE: 13

13 EVENTS OF DEFAULT AND TERMINATION

13.1 TSP Event of Default

The occurrence and continuation of any of the following events shall constitute a TSP Event of Default, unless any such TSP Event of Default occurs as a result of a breach by the Long Term Transmission Customers of their obligations under this Agreement, the Long Term Transmission Customers Event of Default or a Force Majeure Event:

- a. After having taken up the construction of the Project, the abandonment by the TSP or the TSP's Contractors of the construction of the Project for a continuous period of two (2) months and such default is not rectified within thirty (30) days from the receipt of notice from the Lead Long Term Transmission Customer in this regard;
- b. The failure to commission any Element of the Project by the date falling six (6) months after its Scheduled COD;
- c. If the TSP:
 - i. assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Project in contravention of the provisions of this Agreement; or
 - ii. transfers or novates any of its obligations pursuant to this Agreement, in a manner contrary to the provisions of this Agreement;

except where such transfer is in pursuance of a Law and

- it does not affect the ability of the transferee to perform, and such transferee has the financial and technical capability to perform, its obligations under this Agreement;

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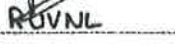
- is to a transferee who assumes such obligations under the Project and this Agreement remains effective with respect to the transferee;

- d. If:
- i. The TSP becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days; or
 - ii. any winding up or bankruptcy or insolvency order is passed against the TSP; or
 - iii. the TSP goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law,

Provided that a dissolution or liquidation of the TSP will not be a TSP Event of Default where such dissolution or liquidation of the TSP is for the purpose of a merger, consolidation or reorganization with the prior approval of the Appropriate Commission as per the provisions of Central Electricity Regulatory Commission (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 or as amended from time to time; or

- e. Revocation of the Transmission License of TSP; or
- f. Non-payment of i) an amount exceeding Rupees Fifty (50) lakhs required to be paid to the Long Term Transmission Customers under this Agreement within three (3) months after the Due Date of an undisputed Invoice raised by the said Long Term Transmission Customer(s) on the TSP or ii) an amount up to Rupees Fifty (50) lakhs required to be made to the Long Term Transmission Customers under this Agreement within six (6) months after the Due Date of an undisputed Invoice; or
- g. Failure on the part of the TSP to comply with the provisions of Article 18.2 of this Agreement; or

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


















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- h. the TSP repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Lead Long Term Transmission Customer in this regard; or
- i. after Commercial Operation Date of the Project, the TSP fails to achieve monthly Target Availability of 98%, for a period of six (6) consecutive months or within a non-consecutive period of six (6) months within any continuous aggregate period of eighteen(18) months except where the Availability is affected by Force Majeure Events as per Article 11; or
- j. any of the representations and warranties made by the TSP in Article 17 of this Agreement being found to be untrue or inaccurate. Further, in addition to the above, any of the undertakings submitted by the Selected Bidder at the time of submission of the Bid being found to be breached or inaccurate, including but not limited to undertakings from its Parent Company/ Affiliates related to the minimum equity obligation; or
- k. the TSP fails to complete/fulfil all the activities/conditions within the specified period as per Article 3 ; or
- l. except where due to any Long Term Transmission Customer's failure to comply with its obligations, the TSP is in material breach of any of its obligations under this Agreement and such material breach is not rectified by the TSP within thirty (30) days of receipt of notice in this regard from the Majority Long Term Transmission Customers; or
- m. the TSP fails to take the possession of the land required for location specific substations, switching stations or HVDC terminal or inverter stations and/or fails to pay the requisite price to the parties and/or any State Government authority from whom the land is acquired, within twelve (12) months from the Effective Date.

13.2 Long Term Transmission Customers' Event of Default

The occurrence and continuation of any of the following events shall constitute a Long Term Transmission Customers' Event of Default, unless any such Long Term Transmission Customers' Event of Default occurs as

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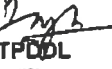








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a result of a breach by the TSP of its obligations under this Agreement, a TSP Event of Default or a Force Majeure Event:

- a. a Long Term Transmission Customer fails to pay (with respect to a Monthly Bill or Supplementary Bill) an amount exceeding thirty percent (30%) of the most recent undisputed Monthly Bill, for a period of ninety (90) days after the Due Date and the TSP is unable to recover the amount outstanding to the TSP through the Letter of Credit; or
- b. the Long Term Transmission Customer repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the TSP in this regard; or
- c. except where due to the TSP's failure to comply with its obligations, the Long Term Transmission Customers are in material breach of any of their obligations under this Agreement and such material breach is not rectified by the Long Term Transmission Customer within thirty (30) days of receipt of notice in this regard from the TSP to all the Long Term Transmission Customers; or
- d. any of the representations and warranties made by the Long Term Transmission Customers in Article 17 of this Agreement being found to be untrue or inaccurate; or
- e. if:
 - i. any Long Term Transmission Customer becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days; or
 - ii. any winding up or bankruptcy or insolvency order is passed against the Long Term Transmission Customer; or
 - iii. the Long Term Transmission Customer goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law,

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Provided that it shall not constitute a Long Term Transmission Customer Event of Default where such






















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dissolution or liquidation of such Long Term Transmission Customer is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement, similar to such Long Term Transmission Customer and expressly assumes all obligations of such Long Term Transmission Customer under this Agreement and is in a position to perform them;

13.3 Termination Procedure for TSP Event of Default

- a. Upon the occurrence and continuance of any TSP's Event of Default under Article 13.1 the Majority Long Term Transmission Customers, through the Lead Long Term Transmission Customer, may serve notice on the TSP, with a copy to the Appropriate Commission and the Lenders' Representative, of their intention to terminate this Agreement (a "Long Term Transmission Customer's Preliminary Termination Notice"), which shall specify in reasonable detail, the circumstances giving rise to such Long Term Transmission Customer's Preliminary Termination Notice.
- b. Following the issue of a Long Term Transmission Customer's Preliminary Termination Notice, the Consultation Period shall apply and would be for the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- c. During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement, and the TSP shall not remove any material, equipment or any part of the Project, without prior consent of the Lead Long Term Transmission Customer.
- d. Following the expiry of the Consultation Period, unless the Parties shall have otherwise agreed to the contrary or the circumstances giving rise to Long Term Transmission Customers Preliminary Termination Notice shall have ceased to exist or shall have been remedied, the Long Term Transmission Customers may terminate this Agreement by giving written notice of thirty (30) days ("Long Term Transmission Customers' Termination Notice") to the TSP, with a copy to the Lenders' Representative and the Appropriate Commission. Unless the Lenders have exercised their rights of

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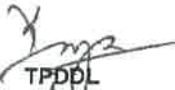








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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 REBDC	 KUVNL

substitution as per the provisions of Article 15.3 of this Agreement and the Appropriate Commission has agreed to such substitution rights of the Lenders or otherwise directed by the Appropriate Commission, this Agreement shall terminate on the date of expiry of such Long Term Transmission Customers' Termination Notice. Upon termination of the Agreement, the Lead Long Term Transmission Customer shall approach the Appropriate Commission seeking revocation of the Transmission License and further action as per the provisions of the Electricity Act, 2003.

13.4 Termination Procedure for Long Term Transmission Customers Event of Default

- a. Upon the occurrence of a Long Term Transmission Customers Event of Default under Article 13.2, the TSP may serve notice on Long Term Transmission Customers, with a copy to the Appropriate Commission and the Lenders' Representative, of its intention to terminate this Agreement (a "TSP's Preliminary Termination Notice"), which notice shall specify in reasonable detail the circumstances giving rise to such TSP's Preliminary termination Notice.
- b. Following the issue of a TSP's Preliminary Termination Notice, the Consultation Period shall apply.
- c. The Consultation Period would be for the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- d. During the Consultation Period, both Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- e. Following the expiry of the Consultation Period, unless the Parties shall have otherwise agreed or the circumstances giving rise to the TSP Preliminary Termination Notice shall have ceased to exist or shall have been remedied, the TSP may terminate this Agreement by giving written notice of thirty (30) days ("TSP's Termination Notice") to the Lead Long Term Transmission Customer, with a copy to the Lenders' Representative and the Appropriate Commission. Unless the Lenders have exercised their rights for

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 REPPC	 RVNL

substitution as per provisions of Article 15.3 of this Agreement and the Appropriate Commission has agreed to such substitution rights of the Lenders or otherwise directed by the Appropriate Commission, this Agreement shall terminate on the date of expiry of such Termination Notice.

13.5 Termination due to Force Majeure

In case the Parties could not reach an agreement pursuant to Article 4.4.2 of this Agreement and the Force Majeure Event or its effects continue to be present, either Party shall have the right to cause termination of the Agreement. The Long Term Transmission Customers shall also have the right to cause termination of the Agreement and to approach the Appropriate Commission to seek further directions in this regard. In such an event, subject to the terms and conditions of the






















Financing Agreements, this Agreement shall terminate on the date of such Termination Notice. In case of such termination, the Contract Performance Guarantee shall be returned to the TSP as per the provisions of Article 6.5.2.

13.5.1 In case of termination of this Agreement, the TSP shall provide to the Lead Long Term Transmission Customer the full names and addresses of its Contractors as well as complete designs, design drawings, manufacturing drawings, material specifications and technical information, as required by the Long Term Transmission Customers within 30 (thirty) days of Termination Notice.

13.6 Revocation of the Transmission License

13.6.1 The Appropriate Commission may, as per the provisions of the Electricity Act, 2003, revoke the Transmission License of the TSP. In the event of the revocation of the Transmission License, the Appropriate Commission would take necessary steps as per the provisions of the Electricity Act, 2003. Further the Long Term Transmission Customers reserve the right to terminate the Agreement in the event of the revocation of the Transmission License of the TSP by the Appropriate Commission.

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ARTICLE: 14

14 LIABILITY AND INDEMNIFICATION**14.1 Indemnity**

14.1.1 The TSP shall indemnify, defend and hold each Long Term Transmission Customer harmless against:

- (a) any and all third party claims, actions, suits or proceedings against the Long Term Transmission Customers for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the TSP of any of its obligations under this Agreement, except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of Long Term Transmission Customers, its contractors, servants or agents; and
- (b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by Long Term Transmission Customers from third party claims arising by reason of:
- i. a breach by the TSP of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the TSP, for which specific remedies have been provided for under this Agreement) except to the extent that any such losses, damages, costs and expenses including legal costs, fines, penalties and interest (together to constitute "Indemnifiable Losses") has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of Long Term Transmission Customers, its contractors, servants or agents or
 - ii. any of the representations and warranties of the TSP under this Agreement being found to be inaccurate or untrue.

14.1.2 Each of the Long Term Transmission Customers shall indemnify, defend and hold the TSP harmless against:

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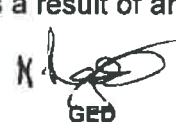

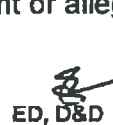

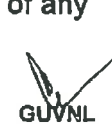














- (a) any and all third party claims, actions, suits or proceedings against the TSP, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the Long Term Transmission Customers of any of their obligations under this Agreement except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the TSP, its Contractors, servants or agents; and
- (b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the TSP from third party claims arising by reason of:
 - i. a breach by the Long Term Transmission Customers of any of their obligations under this Agreement (Provided that this Article 14 shall not apply to such breaches by Long Term Transmission Customers, for which specific remedies have been provided for under this Agreement.), except to the extent that any such Indemnifiable Losses have arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the TSP, its Contractors, servants or agents or
 - ii. any of the representations and warranties of the Long Term Transmission Customers under this Agreement being found to be inaccurate or untrue.

14.2 Patent Indemnity:

14.2.1

- (a) The TSP shall, subject to the Long Term Transmission Customers compliance with Article 14.2.1 (b), indemnify and hold harmless the Long Term Transmission Customers and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Long Term Transmission Customers may suffer as a result of any infringement or alleged infringement of any

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patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Agreement by reason of the setting up of the Project by the TSP.

Such indemnity shall not cover any use of the Project or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Agreement, any infringement resulting from the misuse of the Project or any part thereof, or any products produced in association or combination with any other equipment, plant or materials not supplied by the TSP, pursuant to the Agreement.

- (b) If any proceedings are brought or any claim is made against the Long Term Transmission Customers arising out of the matters referred to in Article 14.2.1 (a), the Lead Long Term Transmission Customer shall promptly give the TSP a notice thereof, and the TSP shall at its own expense take necessary steps and attend such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. The TSP shall promptly notify the Lead Long Term Transmission Customer of all actions taken in such proceedings or claims.
- (c) If the TSP fails to notify the Lead Long Term Transmission Customer within twenty-eight (28) days after receipt of such notice from the Long Term Transmission Customers under Article 14.2.1 (b) above, that it intends to attend any such proceedings or claim, then the Long Term Transmission Customers shall be free to attend the same on their own behalf at the cost of the TSP. Unless the TSP has so failed to notify the Lead Long Term Transmission Customer within the twenty eight (28) days period, the Lead Long Term Transmission Customer shall make no admission that may be prejudicial to the defence of any such proceedings or claims.
- (d) The Lead Long Term Transmission Customer shall, at the TSP's request, afford all available assistance to the TSP in attending to such proceedings or claim, and shall be reimbursed by the TSP for all reasonable expenses incurred in so doing.

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14.2.2

- (a) The Long Term Transmission Customers, subject to the TSP's compliance with Article 14.2.2 (b) shall indemnify and hold

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harmless the TSP and its employees, officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of whatsoever nature, including attorney's fees and expenses, which the TSP may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Agreement by reason of the setting up of the Project by the TSP.

- (b) If any proceedings are brought or any claim is made against the TSP arising out of the matters referred to in Article 14.2.2 (a) the TSP shall promptly give the Lead Long Term Transmission Customer a notice thereof, and the Long Term Transmission Customers shall at its own expense take necessary steps and attend such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. The Lead Long Term Transmission Customer shall promptly notify the TSP of all actions taken in such proceedings or claims.
- (c) If the Lead Long Term Transmission Customer fails to notify the TSP within twenty-eight (28) days after receipt of such notice from the TSP under Article 14.2.2 (b) above, that it intends to attend any such proceedings or claim, then the TSP shall be free to attend the same on its own behalf at the cost of the Long Term Transmission Customers. Unless the Lead Long Term Transmission Customer has so failed to notify the TSP within the twenty (28) days period, the TSP shall make no admission that may be prejudicial to the defence of any such proceedings or claim.
- (d) The TSP shall, at the Long Term Transmission Customers request, afford all available assistance to the Long Term Transmission Customers in attending to such proceedings or claim, and shall be reimbursed by the Long Term Transmission Customers for all reasonable expenses incurred in so doing.

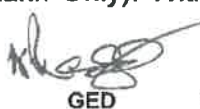
14.3 Monetary Limitation of liability

14.3.1 A Party ("Indemnifying Party") shall be liable to indemnify the other Party ("Indemnified Party") under this Article 14 for any indemnity claims made in a Contract Year only up to an amount of Rs. 2.03 Crore (Rupees Two Crore Three Lakh Only). With respect to each Long Term Transmission

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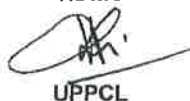

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Customer, the above limit of Rs. 2.03 Crore (Rupees Two Crore Three Lakh Only) shall be divided in the ratio of their Allocated Project Capacity, as existing on the date of the indemnity claim.

14.4 Procedure for claiming indemnity

14.4.1 Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Articles 14.1 or 14.2 the Indemnified Party shall promptly notify the Indemnifying Party of such claim, proceeding, action or suit referred to in Articles 14.1 or 14.2 in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim, proceeding, action or suit. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice.






















Provided however that, if:

- i. the Parties choose to contest, defend or litigate such claim, action, suit or proceedings in accordance with Article 14.4.3 below; and
- ii. the claim amount is not required to be paid/deposited to such third party pending the resolution of the Dispute,

the indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is settled in favour of the indemnified Party.

14.4.2 The Indemnified Party may contest, defend and litigate a claim, action, suit or proceeding for which it is entitled to be indemnified under Articles 14.1 or 14.2 and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified Party. However, such Indemnified Party shall not settle or compromise such claim, action, suit or proceedings without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

14.4.3 An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives

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such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

14.5 Limitation on Liability

14.5.1 Except as expressly provided in this Agreement, neither the TSP nor the Long Term Transmission Customers nor their respective officers, directors, agents, employees or Affiliates (including, officers, directors, agents or employees of such Affiliates), shall be liable or responsible to the other Party or its Affiliates including its officers, directors, agents, employees, successors, insurers or permitted assigns for incidental, indirect or consequential, punitive or exemplary damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of transmission capacity or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of the Long Term Transmission Customers, the TSP or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.5.2 The Long Term Transmission Customers shall have no recourse against any officer, director or shareholder of the TSP or any Affiliate of the TSP or any of its officers, directors or shareholders for such claims excluded under this Article. The TSP shall also have no recourse against any officer, director or shareholder of Long Term Transmission Customers, or any Affiliate of Long Term Transmission Customers or any of its officers, directors or shareholders for such claims excluded under this Article.

14.6 Duty to Mitigate

The party entitled to the benefit of an indemnity under this Article 14 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 REPS RUVNL	

ARTICLE: 15

15 ASSIGNMENTS AND CHARGES

15.1 Assignments:

15.1.1 This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, except as provided in Article 15.2.4.

15.2 Permitted Charges:

15.2.1 Neither Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement.

15.2.2 However, the TSP may create any encumbrance over all or part of the receivables, Letter of Credit or the other assets of the Project in favour of the Lenders or the Lenders' Representative on their behalf, as security for amounts payable under the Financing Agreements and any other amounts agreed by the Parties.

Provided that:






















i. the Lenders or the Lenders' Representative on their behalf shall have entered into the Financing Agreements and agreed in writing to the provisions of this Agreement; and

ii. any encumbrance granted by the TSP in accordance with this Article 15.2.2 shall contain provisions pursuant to which the Lenders or the Lender's Representative on their behalf agrees unconditionally with the TSP to release from such encumbrances upon payment by the TSP to the Lenders of all amounts due under the Financing Agreements.

15.2.3 Article 15.2.1 does not apply to:

a. liens arising by operation of Law (or by an agreement evidencing the same) in the ordinary course of the TSP carrying out the Project;

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- b. pledges of goods, the related documents of title and / or other related documents, arising or created in the ordinary course of the TSP carrying out the Project; or
- c. security arising out of retention of title provisions in relation to goods acquired in the ordinary course of the TSP carrying out the Project.












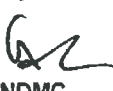








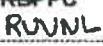
15.2.4 Neither the TSP nor any of the Long Term Transmission Customers can relinquish or transfer its rights and obligations, without prior approval of the Appropriate Commission.

15.3 Substitution Rights of the Lenders

15.3.1 The TSP would need to operate and maintain the Project under the provisions of the Transmission License granted by the Appropriate Commission and the provisions of this Agreement and can not assign the Transmission License or transfer the Project or part thereof to any person by sale, lease, exchange or otherwise, without the prior approval of the Appropriate Commission.

15.3.2 However, in the case of default by the TSP in debt repayments, the Appropriate Commission may, on an application from the Lenders, assign the Transmission License to the nominee of the Lenders subject to the fulfilment of the qualification requirements and provisions of the Central Electricity Regulatory Commission (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 or as amended from time to time.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPC	 RVNL

• **Monthly Escalable Transmission Charges (METC mn)**

The Monthly Escalable Transmission Charges (METC_{mn}) for month 'm' for the Contract Year 'n' shall be calculated by the following formula,

$$METC_{mn} = [\text{Escalable Transmission Charge for the first Contract year (as provided in Schedule 6)} / \text{No. of days in the Contract Year 'n'}] * \text{No. of days in the month 'm'} * p/q$$

Where,

'p' is the escalation index as per Schedule 7 at the beginning of the month 'm' (expressed as a number)

'q' is the escalation index as per Schedule 7 applicable as at the beginning of the first Contract Year mentioned in Schedule 6 (expressed as a number)

• **Monthly Non Escalable Transmission Charges (MNETCmn)**

The Monthly Non Escalable Transmission Charges (MNETCmn) for month 'm' for the Contract Year 'n' shall be calculated as follows;

$$MNETC_{mn} = [\text{Non Escalable Transmission Charge for the Contract Year 'n' (as provided in Schedule 6)} / \text{No. of days in the Contract Year 'n'}] * \text{No. of days in the month 'm'}$$

Provided, no Transmission Charges shall be paid during the period for which the RLDC has not allowed the operation of the Element/Project due to the failure of the TSP to operate it as per the provisions of the Grid Code.

1.2.2 Incentive Payment

If and to the extent the Availability in a Contract Year exceeds ninety eight percent (98%) for AC system, the TSP shall be entitled for an annual Incentive as calculated below:

$$\text{Incentive} = 0.02 * \text{Annual Transmission Charges} * (\text{Actual annual Availability} - \text{Target Availability})$$

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 EBPPC	 RUVNL

Provided that no Incentive shall be payable above the Availability of 99.75% for AC system.

Incentive shall be shared by the Long Term Transmission Customer(s) in the ratio of the Transmission Charges paid or actually payable to the TSP by then existing at the end of the relevant Contract Year.

1.2.3 Penalty

If and to the extent that the Availability in a Contract Year falls below ninety five percent (95%) for AC system, the TSP shall be entitled for an annual penalty as per the formula given below:

$$\text{Penalty} = 0.02 \times \text{Annual Transmission Charges} \times (\text{Target Availability} - \text{Actual Annual Availability})$$

The penalty payable by the TSP shall be apportioned in favour of the Long Term Transmission Customer(s) in the ratio of the Transmission Charges paid or actually payable to the TSP by them existing at the end of the relevant Contract Year.

1.3 Recovery from Short Term Transmission Customers

The Transmission Charges to be paid by the Long Term Transmission Customers to the TSP shall stand reduced in proportion to their then existing Allocated Project Capacity at the end of the relevant month, to the extent of adjustable revenues from Short Term Transmission Customers.

The charges payable by the Short Term Transmission Customers shall be calculated on the basis of the provisions of the Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations, 2008 or as amended from time to time.

1.4 Scheduling Charges

The payment of scheduling charges to the respective RLDC or SLDC, as the case may be, shall be the responsibility of the Long Term Transmission Customers.

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TPDDL


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EWED-UTC


PSPCL


UPPCL


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$$\left[\sum_{m=1}^m T_{mn} / \text{No. of days in the month 'm' in Contract Year 'n'} * \text{No. of days in the month 'm' in Contract Year 'n' for which bill is raised} \right] - \sum_{m=1}^{M-1} \text{MTC (m-1)}$$

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Monthly Transmission Charge MTC (m)=

$$\left[\sum_{m=1}^M T_m / \text{No. of days in the month 'm' in Contract Year 'n'} * \text{AA/NA} * \text{No. of days in the month 'm' in Contract Year 'n' for which the bill is raised} \right] - \sum_{m=1}^{M-1} \text{MTC (m-1)}$$






















where:

- m is the month in Contract Year 'n'
- M= month considered for payment in the Contract Year 'n'
- T_{mn}= Transmission Charges for the month 'm' in Contract Year 'n' and is equal to the sum of Monthly Escalable Transmission Charges (METC mn) and Monthly Non Escalable Transmission Charges (MNETC mn)
- CA is the Cumulative Availability , as per REA, from the first day of the Contract Year "n" in which month "m" occurs upto and including upto the end of the month "m";
- AA is the actual Availability for the month 'm' in the Contract Year n, as per REA, (expressed in percentage);

NA is the Target Availability;

MTC (m-1) is the Payable Monthly Transmission Charge for the month '(m-1)' for the Contract Year 'n'

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Charges shall be payable on proportionate basis as provided in this Schedule. In case of the Availability being lower than the level as specified in Article 10.4, the TSP shall pay a penalty as per the provisions in this Schedule. This penalty payable by the TSP shall be apportioned in favour of the Long Term Transmission Customer(s) in the ratio of the Transmission Charges paid or actually payable to the TSP then existing at the end of the relevant Contract Year.

- g. The Availability shall be calculated as per the procedure specified in Appendix III of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 as notified by CERC and as attached herewith.
- h. All applicable Rebates and Surcharges will be computed and Invoices, as required, would be raised based on the provisions laid out in Articles 10.7 of this Agreement.
- i. Reactive Power compensations and payments shall be as per the provisions of the Grid Code.

1.2 Components of Monthly Bill

The Monthly Bill for any month in a Contract Year shall consist of the following:











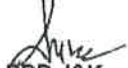










- i. Monthly Transmission Charges in accordance with Article 1.2.1 below;
- ii. Incentive Payment determined in accordance with Article 1.2.2 below (applicable on annual basis and included only in the Monthly Tariff Payment for the first month of the next Contract Year); and
- iii. Penalty Payment determined in accordance with Article 1.2.3 below (applicable on annual basis and included in the Monthly Tariff Payment for the first month of the next Contract Year.

1.2.1 Computation of Monthly Transmission Charges

The Monthly Transmission Charges for any month m in a Contract Year n shall be calculated as below:

If $CAS > NA$;

Monthly Transmission Charge $MTC(m) =$

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 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RBPPG	 RUVNL

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Schedule: 5

Computation of Transmission Charges






















[Note: As referred to in the definitions of "Monthly Transmission Charges", "Monthly Transmission Charges Invoice" and in Articles 10.1, 10.2, 10.3 and 11.7 (c) of this Agreement]

1.1 General

- a. The Monthly Transmission Charges to be paid by the Long Term Transmission Customers to the TSP for providing Transmission Service for any Contract Year during the term of the Agreement shall be in accordance with this Schedule.
- b. The Transmission Charges to be paid to the TSP shall comprise of the Escalable Transmission Charges and the Non Escalable Transmission Charges, payable by each Long Term Transmission Customer, in proportion to their Allocated Project Capacity for the Contract Year, as determined by the CERC. In the event of change by CERC in the methodology for the allocation of Transmission Charges between the Long Term Transmission Customers, such revised methodology shall apply.
- c. For the purpose of payment, the Escalable Transmission Charges to be paid in any Contract Year shall be the Escalable Transmission Charge as per Schedule 6 duly escalated as provided in Schedule 7.
- d. In case of any extension of time period for the Scheduled COD, the applicable Transmission Charges in relation to an Element shall be the Transmission Charges of the Contract Year in which the COD of such Element occurs or it has deemed to have occurred, and in relation to the Project, the Transmission Charges applicable will be for the Contract Year in which the COD occurs.
- e. The Annual Transmission Charges shall be the sum of the Payable Annual Escalable Transmission Charges and the Payable Annual Non Escalable Transmission Charges for the Contract Year n.
- f. The Transmission Charges shall be payable based on the Allocated Project Capacity at Target Availability and Incentive for Availability beyond the Target Availability as provided in this schedule shall be admissible for payment. In case of Availability being lower than the Target Availability, the Transmission

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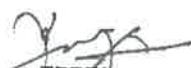







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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RDEPC	 RUVNL

4: **Watching and Lighting:**

The TSP shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper construction, operation, maintenance/repair of any of the Elements of the Project, or for the safety of the owners and occupiers of adjacent property and for the safety of the public, during such maintenance/repair.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RBPPC RUVNL	

Schedule: 4

Safety Rules and Procedures

[Note: As referred to in Articles 5.6 and 7.1.6 of this Agreement]

1: Site Regulations and Safety:

The TSP shall establish Site regulations within sixty (60) days from fulfilment of conditions subsequent, as per Prudent Utility Practices setting out the rules to be observed in the execution of the Agreement at the Site and shall comply therewith.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Project, gate control, sanitation, medical care, and fire prevention, public health, environment protection, security of public life, etc.

Copies of such Site regulations shall be provided to the Lead Long Term Transmission Customer and CEA for the purpose of monitoring of the Project.

2: Emergency Work:

In cases of any emergency, the TSP shall carry out all necessary remedial work as may be necessary.

If the work done or caused to be done by any Party other than the TSP, the TSP shall, reimburse the actual costs incurred, to the other Party carrying out such remedial works.

3: Site Clearance:

In the course of execution of the Agreement, the TSP shall keep the Site reasonably free from all unnecessary obstruction, storage, remove any surplus materials, clear away any wreckage, rubbish and temporary works from the Site, and remove any equipment no longer required for execution of the Agreement. After completion of all Elements of the Project, the TSP shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site clean and safe.

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Schedule: 3

Scheduled COD













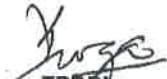








[Note: As referred to in the definition of "Element", "Scheduled COD", and in Articles 3.1.3 (c), 4.1 (b) and 4.3 (a) of this Agreement]

Sr. 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.	Vindhyachal Pooling Station - Varanasi 765kV D/c line	40 Months from date of transfer of SPV	100%	NIL

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.

Scheduled COD for overall Project: 40 months from Effective Date

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1.1 Project Description



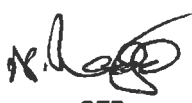








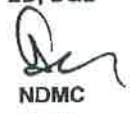








To enhance the power transfer capability between Western and Northern Regions, the following WR - NR Inter-regional corridor has been approved:

Vindhyachal Pooling Station - Varanasi 765kV D/c line

The corridor shall provide strong connectivity between NR and WR grids and facilitate reliable flow of power from various generation projects in WR to load centers in NR.

1.2 Scope of Work and Commissioning schedules of each element of the scheme and also the conductor specification for the transmission lines are given in Table- 1 above.

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7. The minimum ground clearance for 765 kV transmission lines shall be 15 m so that maximum electric field does not exceed 10kV/m within the ROW and does not exceed 5kV/m at the edge of the ROW as per international guidelines.
8. The minimum mid span separation between earthwire and conductor shall be 9.0 m for 765 kV D/C transmission lines. Shielding angle shall not exceed 10 deg for 765 kV D/C line.
9. Transposition is to be done for all transmission lines whose length is greater than 100 km.
10. The switching impulse withstand voltage (wet) for 765 kV line shall be 1550 kVp.
11. The Fault current for design of line shall be 50 kA for 1 sec for 765 kV.
12. The lines shall be designed for very heavy pollution level (creepage of 31mm/kV as per IEC-60815). Silicone rubber polymer insulators shall be used for the transmission lines.
13. Each tower shall be earthed such that tower footing resistance does not exceed 10 ohms. Pipe type or Counterpoise type earthing shall be provided in accordance with relevant IS. Additional earthing shall be provided on every 7 to 8 kms distance at tension tower for direct earthing of both shield wires.

SPECIFIC TECHNICAL REQUIREMENTS FOR COMMUNICATION

In order to meet the requirement for grid management and operation of substations, Transmission Service Provider (TSP) shall conform to the following requirements.

For Vindhyachal Pooling Station - Varanasi 765 D/C Line:

On 765 D/C transmission line between Vindhyachal Pooling Station and Varanasi 765KV station, one OPGW containing 24 fibres is to be installed by the TSP in place of one conventional earth wire during the construction of line for grid management and substation operation purpose by CTU. The installation of OPGW shall be done from gantry of Vindhyachal Pooling Station up to gantry of Varanasi 765 KV and shall be terminated in a joint box to be provided by TSP at both the

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PSPCL

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Transmission line	ACSR Conductor specified	Equivalent AAAC conductor based on 53.5% conductivity of Al Alloy	Stranding details of AAAC Conductor	Sub-conductor Spacing
765kV D/C (Hexa Zebra) transmission lines	Zebra : Stranding 54/3.18 mm-Al + 7/3.18 mm-Steel, 428 sq mm, Aluminium area, 28.62 mm diameter	28.71 mm diameter; 487.5 sq.mm Aluminium alloy area	61/3.19mm	457 mm

Note: The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC.

6. The required phase to phase spacing and horizontal spacing for 765 kV D/C line shall be governed by the tower design as well as minimum live metal clearances for 765kV voltage level respectively under different insulator swing angles.

For 765 kV transmission lines:






















The minimum live metal clearances for 765 kV line may be considered as follows:

- (i) Under stationary conditions
From tower body: For 765 kV D/C: 6.1 m
For 765 kV S/C: 5.6 m
- (ii) Under swing conditions

Wind pressure Condition	Minimum electrical clearance
a) Swing angle (25°)	4.4 mtrs
b) Swing angle (55°)	1.3 mtrs

However, the phase to phase spacing for 765kV line shall not be less than 15m

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Solidity Ratio	Drag Coefficient
Upto 0.05	3.6
0.1	3.4
0.2	2.9
0.3	2.5
0.4	2.2
0.5 and above	2.0

As per Clause 12.1.2.1 b) 2) of IS 802:2015, Under security condition for tension and dead end towers, the transverse loads due to line deviation shall be the component of 100 percent mechanical tension of conductor and ground wire/ OPGW corresponding to 100% of design wind pressure at everyday temperature or 36% design wind pressure at minimum temperature after accounting for drag coefficient and gust response factor.

As per CEA's technical standards for construction of lines Regulation 2010, Transmission Service Provider (TSP) may adopt any additional loading/ design criteria for ensuring reliability of the line, if so desired and/ or deemed necessary.

4. A) For power line crossing of 400 kV or above voltage level, large angle & dead end towers (i.e. D/DD/QD) shall be used on either side of power line crossing (i.e D/DD/QD- D/DD/QD arrangement).
- B) For power line crossing of 132 kV and 220 kV voltage level, angle towers (B/C/D/DB/DC/DD/ QB/QC/QD) shall be used on either side of power line crossing depending upon the merit of the prevailing site condition and line deviation requirement.
- C) For power line crossing of 66 kV and below voltage level, suspension/tension towers shall be provided on either side of power line crossing depending upon the merit of the prevailing site condition and line deviation requirement.
5. The conductor configuration shall be as follows: -

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BSES-RPL


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RDMC


TPDDL


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Schedule: 2

Project Description and Scope of Project

1.0 Project Scope:







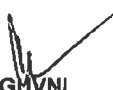














Table 1: New WR-NR 765 kV Inter-Regional Corridor

S.N.	Scheme/ Transmission Works	Completion Target
New WR-NR 765 kV Inter-Regional Corridor		
1.	765 kV Vindhyanchal Pooling Station- Varanasi D/C line	40 months
Note: i. POWERGRID will provide 2 nos. 765kV line bays at Vindhyachal 765/400kV PS for termination of Vindhyachal Pooling Station – Varanasi 765 kV D/c line. ii. POWERGRID will provide 2 nos. 765kV GIS line bays at Varanasi 765/400kV GIS Substation along with 2 nos. 1x330MVAR line reactor for termination of Vindhyachal PS – Varanasi 765 kV D/c line.		

SPECIFIC TECHNICAL REQUIREMENTS FOR TRANSMISSION LINES

- The Tower shall be fully galvanized using mild steel or/and high tensile steel sections. Bolts and nuts with spring washer are to be used for connection.
- IS Steel section of tested quality in conformity with IS 2062:2011, grade E 250 (Designated Yield Strength 250 Mpa) and/or grade E 350 (Designated Yield Strength 350 MPa) are to be used in towers, extensions, gantry structures and stub setting templates. However, use of steel grade having designated yield strength more than 350 MPa is not permitted. The steel used for fabrication of towers shall be manufactured by primary steel producers only.

3. Towers shall be designed as per IS-802:2015 considering wind zone as per IS-875. However, drag coefficient of the tower shall be as follows:-

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDDL	 HPFC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPPC	 RUVNL

Transmission Service Agreement





















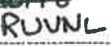
Sl. No.	Name of the Long Term Transmission Customer	Address of Registered Office	Law under which incorporated	Allocated Project Capacity (in MW)*
17.	Himachal Pradesh State Electricity Board Limited	Vidyut Bhawan, Shimla -171 004	Companies Act, 1956	2.02%
18.	Haryana Power Purchase Centre	Shakti Bhavan Sector - 6, Panchkula - 134 109	--	9.06%
19.	Punjab State Power Corporation Limited	Thermal Sheds, T 1-A, Patiala	Companies Act, 1956	6.95%

* While the bidding is being done on the basis of existing Standard Bidding Documents (SBDs), and the list of LTTC is being provided as per the format of the existing SBDs. It is clarified that the transmission charges will be shared and recovered as per the applicable CERC regulation. The transmission charges will be shared and recovered for payment as per the applicable CERC regulation which is at present the Point of Connection mechanism of sharing. As per the present CERC regulation the charges will be recovered by the Central Transmission Utility from the DICs and disbursed to the TSPs as per the Revenue Share Agreement.

Note: The above list of Long Term Transmission Customers is subject to change. Any addition or deletion in this list after the award of Lol shall be duly notified to the Parties to the Agreement.

The new Long Term Transmission Customers shall become a Party to this Agreement after agreeing to the terms and conditions of this Agreement and signing a Supplemental Agreement as annexed in Schedule 12 to this Agreement.

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C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 EDPPG	 RVUNL

Transmission Service Agreement

Sl. No.	Name of the Long Term Transmission Customer	Address of Registered Office	Law under which incorporated	Allocated Project Capacity (in MW)*
		New Delhi - 110092		
10.	New Delhi Municipal Council	NDMC, New Delhi - 110001	--	0.17%
11.	TATA Power Delhi Distribution Limited	NDPL House, Hudson Lines, Kingsway Camp, Delhi - 110 009	Companies Act, 1956	2.76%
12.	Power Development Department, Jammu & Kashmir	Govt. of Jammu & Kashmir, SLDC Building, 1st Floor, Gladani Power House, Narwal, Jammu	--	2.10%
13.	Rajasthan Discoms Power Procurement Centre (on behalf of following discoms) Urja Vikas Nigam Limited	Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar Jaipur - 302 005	--	
i.	Ajmer Vidyut Vitran Nigam Limited	Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer-305004	Companies Act, 1956	3.08%
ii.	Jodhpur Vidyut Vitran Nigam Limited	New Power House, Industrial Area, Jodhpur - 342 003	Companies Act, 1956	3.52%
iii.	Jaipur Vidyut Vitran Nigam Limited	Vidyut Bhawan, Janpath, Jaipur - 302 005 Rajasthan	Companies Act, 1956	4.40%
14.	Uttarakhand Power Corporation Limited	Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road, Balliwala Chowk, Dehradun-248001	Companies Act, 1956	2.35%
15.	Uttar Pradesh Power Corporation Limited	14th Floor, Shakti Bhawan Extension, 14 -Ashok Marg, Lucknow	Companies Act, 1956	17.00%
16.	Electricity Wing of Engineering Department, Union Territory of Chandigarh	OP Circle, 5th Floor, New Deluxe Building, Sector - 9, Chandigarh	--	0.32%



WNPTL



CSPDCL



GED



MSEDCL



ED, D&D



DNHPDCL



GUVNL




HPSEBL



BSES-YPL



BSES-RPL



PDD, J&K



NDMC



TPDDL



HPPC



UPCL



MPPMCL



EWED-UTC



PSPCL



UPPCL



RBSPCL



RUVNL

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VARANASI

Schedule: 1

List of Long Term Transmission Customers

Note: As referred to in the recital of this Agreement and in the definition of "Long Term Transmission Customers" in this Agreement

Sl. No.	Name of the Long Term Transmission Customer	Address of Registered Office	Law under which incorporated	Allocated Project Capacity (in MW)*
1.	Chhattisgarh State Power Distribution Company Limited	Near Water Tank, Mowa Road, Mowa, Dubey Colony, Raipur, Chhattisgarh 492001	Companies Act, 1956	1.53%
2.	Goa Electricity Department	Electricity Department, Government of Goa 3rd Floor, Vidyut Bhavan, Tiswadi, GOA - 403001	--	1.13%
3.	Maharashtra State Electricity Distribution Company Limited	5 th Floor, Prakashgad, Bandra (E), Mumbai - 400 051	Companies Act, 1956	15.40%
4.	Electricity Department, Daman & Diu	Kesariya - Diu Road, Gandhipara, Diu, Daman and Diu 362520	--	0.41%
5.	DNH Power Distribution Corporation Limited	Vidyut Bhavan, Near Secretariat, Amli, Silvassa, Dadra and Nagar Haveli 396230	Companies Act, 1956	0.89%
6.	Gujarat Urja Vikas Nigam Limited	Sardar Patel Vidyut Bhavan, Race Course, Vadodara 390 007 Gujarat, India .	Companies Act, 1956	12.77%
7.	M.P. Power Management Company Limited	Shakti Bhavan, MPSEB Colony, Rampur, Jabalpur, Madhya Pradesh 482008	Companies Act, 1956	9.09%
8.	BSES Rajdhani Power Limited	BSES Bhawan, Nehru Place, New Delhi - 110 019	Companies Act, 1956	3.32%
9.	BSES Yamuna Power Limited	2nd Floor, Shakti Kiran Bldg., Karkardooma,	Companies Act, 1956	1.71%



WNPCL



CSPDCL



GED



MSEDCL



ED, D&D



DNHPDCL



GUVNL



HPSEBL



BSES-YPL



BSES-RPL



PDD, J&K



NDMC



TPDDL



HPPCL



UPCL



MPPMCL



EWED-UTC



PSPCL






















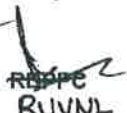
UPPCL



RUVNL

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P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RUPPE RUVNL	

20. For and on behalf of Himachal Pradesh State Electricity Board Limited

[Signature]

Name:
Designation:
Address:

Suneel Grover
.....
Er. Suneel Grover
Chief Engineer (SO&P),
HPSEBL, Vidyut Bhawan,
Shimla-171004

21. WITNESSES:

For and on behalf of Northern Regional Power Committee

[Signature]
Name:
Designation:
Address:

(Suman Kumar)
.....
अध्यक्ष/अधीक्षक/Executive Engineer
उ. वि. समिति/N.R.P.C.
18-A, कटवारिया सराय, नई दिल्ली-16
18-A, Katwaria Sarai, New Delhi-16

22. WITNESSES:

For and on behalf of Western Regional Power Committee

[Signature]
Name:
Designation:
Address:

(A-BALAN)
.....
सदस्य सचिव/MEMBER SECRETARY
भारत सरकार, के.वि.प्रा./Govt. of India, C.E.A.,
पश्चिम क्षेत्रीय विद्युत समिति, मुंबई
Western Regional Power Committee, Mumbai

23. WITNESSES:

For and on behalf of Power Grid Corporation of India Limited (CTU)

[Signature]
Name:
Designation:
Address:

Pratyush Singh
.....
प्रद्युम्न सिंह/PRATYUSH SINGH
Sr. Design Engineer (CTU-Planning)
पावर ग्रिड कॉर्पोरेशन ऑफ़ इंडिया लिमिटेड
Power Grid Corporation of India Ltd.
प्लॉट नं०-2, सेक्टर-29, गुरुगंज-122 001 (हरियाणा)
Plot No.-2, Sector-29, Gurgaon-122 001 (Haryana)

Indra
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

<i>[Signature]</i> WNPTL	<i>[Signature]</i> CSPDCL	<i>[Signature]</i> GED	<i>[Signature]</i> MSEDCL	<i>[Signature]</i> ED, D&D	<i>[Signature]</i> DNHPDCL	<i>[Signature]</i> GUVNL
<i>[Signature]</i> HPSEBL	<i>[Signature]</i> BSES-YPL	<i>[Signature]</i> BSES-RPL	<i>[Signature]</i> PDD,J&K	<i>[Signature]</i> NDMC	<i>[Signature]</i> TPDDL	<i>[Signature]</i> HPPC
<i>[Signature]</i> UPCL	<i>[Signature]</i> MPPMCL	<i>[Signature]</i> EWED-UTC	<i>[Signature]</i> PSPCL	<i>[Signature]</i> UPPCL	<i>[Signature]</i> RBPSC	<i>[Signature]</i> KUVNL

Transmission Service Agreement

16. For and on behalf of New Delhi Municipal Council

[Signature]

Name:
Designation:
Address:

Tazir
AMIN AHMED TAZIR
Director (Power)
New Delhi Municipal Council
Pallika Karkhana
New Delhi

17. For and on behalf of Electricity Wing of Engineering Department, Union Territory of Chandigarh

[Signature]

Name:
Designation:
Address:

Arjun
Superintending Engineer
Electy. "Op" Circle
U.T. CHD. Administration

18. For and on behalf of Utrakhhand Power Corporation Limited

[Signature]

Name: *Sunil Vaid*
Designation: *S. E (Comm)*
Address: *UPCL, Dehradun*

Sunil Vaid
Superintending Engineer (Comm)
UPCL, Urja Bhawan, Dehradun

19. For and on behalf of Uttar Pradesh Power Corporation Limited

[Signature]

Name:
Designation:
Address:

Ch. R.
C.B. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Bcta.
Lucknow

Inclw
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

<i>[Signature]</i> WNPTL	<i>[Signature]</i> CSPDCL	<i>[Signature]</i> GED	<i>[Signature]</i> MSEDCL	<i>[Signature]</i> ED, D&D	<i>[Signature]</i> DNHPDCL	<i>[Signature]</i> GUVNL
<i>[Signature]</i> HPSEBL	<i>[Signature]</i> BSES-YPL	<i>[Signature]</i> BSES-RPL	<i>[Signature]</i> PDD,J&K	<i>[Signature]</i> NDMC	<i>[Signature]</i> TPDDL	<i>[Signature]</i> HPPC
<i>[Signature]</i> UPCL	<i>[Signature]</i> MPPMCL	<i>[Signature]</i> EWED-UTC	<i>[Signature]</i> PSPCL	<i>[Signature]</i> UPPCL	<i>[Signature]</i> REBPC	<i>[Signature]</i> RUVNL

12. For and on behalf of **M.P. Power Management Company Limited**

[Signature]

Name:
Designation:
Address:

RBS Shams
RAVI BHUSHAN
Resident Engineer
M.P. Power Management Co. Ltd.
(AGovt. of M.P. Undertaking)
M-13, Green Park Main, New Delhi

13. For and on behalf of **BSES Yamuna Power Limited**

[Signature]

Name:
Designation:
Address:

Sunil Kumar Kakkar
Sunil Kumar Kakkar
Additional Vice President
Power Management
BSES Yamuna Power Ltd
2nd Floor, Shakti Kiran Bldg.
Karkardooma, New Delhi-110092

14. For and on behalf of **BSES Rajdhani Power Limited**

[Signature]

Name: Sanjay Srivastava
Designation: Additional Vice President, Power Management Group
Address: BSES Rajdhani Power Limited
2nd Floor, B-Block, BSES Bhawan, Nehru Place - 110013

SANJAY SRIVASTAVA
Head Power Management Group
BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place
New Delhi - 110019
BSES

Sanjay Srivastava

15. For and on behalf of **TATA Power Delhi Distribution Limited**

[Signature]

Name:
Designation:
Address:

Sanjay Kumar Banga
Sanjay Kumar Banga
Chief - Power Mgt., Contracts & BD
TATA Power Delhi Distribution Ltd.

Jelani

CEO/Project In-Charge
P.V.T.S.L.
VARANASI

<i>[Signature]</i> WNPTL	<i>[Signature]</i> CSPDCL	<i>[Signature]</i> GED	<i>[Signature]</i> MSEDCL	<i>[Signature]</i> ED, D&D	<i>[Signature]</i> DNHPDCL	<i>[Signature]</i> GUVNL
<i>[Signature]</i> HPSEBL	<i>[Signature]</i> BSES-YPL	<i>[Signature]</i> BSES-RPL	<i>[Signature]</i> PDD,J&K	<i>[Signature]</i> NDMC	<i>[Signature]</i> TPDDC	<i>[Signature]</i> HPPC
<i>[Signature]</i> UPCL	<i>[Signature]</i> MPPMCL	<i>[Signature]</i> EWED-UTC	<i>[Signature]</i> PSPCL	<i>[Signature]</i> UPPCL	<i>[Signature]</i> RDPCL	<i>[Signature]</i> RUVNL

8. For and on behalf of Electricity Department, Daman & Diu

[Signature]

Name:
Designation:
Address:

Executive Engineer
Electricity Department
DAMAN.

9. For and on behalf of DNH Power Distribution Corporation Limited

[Signature]

Name:
Designation:
Address:

Chief Engineer
DNH Power Distribution Corporation Ltd.
U.T. of Dadra & Nagar Haveli Silvassa

10. For and on behalf of Power Development Deptt., Jammu & Kashmir

[Signature]

Name:
Designation:
Address:

Chief Engineer
Commercial Engineering
PDD, J (Ph. 0191-2474233)

11. For and on behalf of Gujarat Urja Vikas Nigam Limited

[Signature]

Name:
Designation:
Address:

A.N. Khambhatta
Superintending Engineer
Gujarat Urja Vikas Nigam Limited
Vadodara-390007.

Sukh
C.E.O./Project In-Charge
P.V.T.S.L.
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BSES-RPL

PDD, J&K

NDMC

TPDDC

HPPC

UPCL

MPPMCL

EWEL-UTC

PSPCL

UPPCL

RPPCL

RUVNL

4. For and on behalf of Punjab State Power Corporation Limited

[Signature]

Name:
Designation:
Address:

Director/Distribution
PSPCL, Patiala

5. For and on behalf of Goa Electricity Department

[Signature]

Name:
Designation:
Address:

Chief Electrical Engineer
Electricity Department
Panaji-Goa.

6. For and on behalf of Maharashtra State Electricity Distribution Company Limited

[Signature]

Name:
Designation:
Address:

Chief Engineer (Power Purchase)
M.S.E.D.C.L.

7. For and on behalf of Rajasthan Discoms Power Procurement Centre
Rajasthan Vija Viras Nigam Limited,
[Signature]

Name:
Designation:
Address:

Managing Director
RUVNL, JAIPUR

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P.V.T.S.L.
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 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDCL	 HPPCL
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPCL	 RUVNL

such provision shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DATE AND PLACE SET FORTH ABOVE.

1. For and on behalf of **WR-NR POWER TRANSMISSION LIMITED**

[Signature]

Valli Natarajan

Name:
Designation:
Address:

Ms. Valli Natarajan
Chairman
Core-4, SCOPE Complex,
7, Lodhi Road, New Delhi -
110 003

2. For and on behalf of **Chhattisgarh State Power Distribution Company Limited**

[Signature]

[Signature]

Name:
Designation:
Address:

Chief Engineer
(Regulatory Affairs & Power Management)
C.S.P.D.C.L. Raipur

3. For and on behalf **Haryana Power Purchase Centre**

[Signature]

Pawan Bains

Name: **PAWAN BAINS**
Designation: **XEN**
Address: **1/2 CE/HPPC, UHBVN, PH**

Executive Engineer / LTP
Haryana Power Purchase Centre
UHBVN, Panchkula

Selva
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

<i>[Signature]</i> WNPTL	<i>[Signature]</i> CSPDCL	<i>[Signature]</i> GED	<i>[Signature]</i> MSEDCL	<i>[Signature]</i> ED, D&D	<i>[Signature]</i> DNHPDCL	<i>[Signature]</i> GUVNL
<i>[Signature]</i> HPSEBL	<i>[Signature]</i> BSES-YPL	<i>[Signature]</i> BSES-RPL	<i>[Signature]</i> PDD,J&K	<i>[Signature]</i> NDMC	<i>[Signature]</i> TPDDL	<i>[Signature]</i> HPPC
<i>[Signature]</i> UPCL	<i>[Signature]</i> MPPMCL	<i>[Signature]</i> EWED-UTC	<i>[Signature]</i> PSPCL	<i>[Signature]</i> UPPCL	<i>[Signature]</i> REPPC	<i>[Signature]</i> RUVNL

(a) "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the BPC who is or has been associated or dealt in any manner, directly or indirectly with the Bid process or the Lol or has dealt with matters concerning the TSA or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the BPC, shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or (ii) engaging in any manner whatsoever, whether during the Bid Process or after the issue of the Lol or after the execution of the TSA, as the case may be, any person in respect of any matter relating to the Project or the Lol or the TSA, who at any time has been or is a legal, financial or technical adviser of the BPC in relation to any matter concerning the Project;

(b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid process;

(c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bid process;













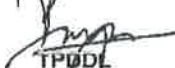








(d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the BPC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid process; or (ii) having a Conflict of Interest; and

(e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid process;

18.23 Compliance with Law:

Despite anything contained in this Agreement but without prejudice to Article 12, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made there under,

Review
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P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MS&EDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EW&D-UTC	 PSPCL	 UPPCL	 RPPC	 RVNL





















18.21.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

18.22 Fraudulent and Corrupt Practices

18.22.1 The TSP and its respective officers, employees, agents and advisers shall observe the highest standard of ethics during the subsistence of this Agreement. Notwithstanding anything to the contrary contained in the Agreement, the Long Term Transmission Customer(s) may terminate the Agreement without being liable in any manner whatsoever to the TSP, if it determines that the TSP has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid process. In such an event, the Long Term Transmission Customer(s) shall forfeit the Contract Performance Guarantee, without prejudice to any other right or remedy that may be available to the Long Term Transmission Customer(s) hereunder or subsistence otherwise.

18.22.2 Without prejudice to the rights of the Long Term Transmission Customer(s) under Clause 18.22.1 hereinabove and the rights and remedies which the Long Term Transmission Customer(s) may have under this Agreement, if a TSP is found by the Long Term Transmission Customer(s) to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid process, or after the issue of Letter of Intent (hereinafter referred to as Lol) or after the execution of the TSA, the Long Term Transmission Customer(s) may terminate the Agreement without being liable in any manner whatsoever to the TSP. Further, the TSP shall not be eligible to participate in any tender or RFP issued by the Long Term Transmission Customer(s) during a period of 2 (two) years from the date such TSP is found by the Long Term Transmission Customer(s) to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

18.22.3 For the purposes of this Clause 18.22, the following terms shall have the meaning hereinafter respectively assigned to them:

 WNPTL	 CSPDCL	 GED	 MSDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 RDD, J&K	 NDMC	 IBDCL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RDPPC RUVNL	

File
C.E.O./Project In-Charge
P.V. JOSHI
VARANASI

(xvi) **Electricity Wing of Engineering Department, Union Territory of Chandigarh**
Address :

Attention :

Email :

Fax. No. :

Telephone No. :

seelecty@gmail.com

(0172) 2740475

(0172) 2740505

Superintending Engineer
Electy. OP Circle
CHD Administration

(xvii) **Uttar Pradesh Power Corporation Limited**

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

14th Floor, Shakti Bhawan Extension

14-Ashok Marg Lucknow

ceppa@uppcl.org

0522-2287846

(xviii) **Uttarakhand Power Corporation Limited**

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

Victoria Cross Vijayta Babar Singh Uroja Bhawan
Kanwali Road, Balliwala Chowk, Dehradun
-248001

cgmupcl@yahoo.com

0135-2762804 / 0135-2763839 / 08475 822221

(xix) **Himachal Pradesh State Electricity Board Limited**

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

Er. Suneel Grover
Chief Engineer (SO&P),
HPSEBL, Vidyut Bhawan,
Shimla-171004

0177-2657901
cesbp@hpseb.in

18.21.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

WNPTL

CSPDCL

GED

MSEDCL

ED, D&D

DNHPDCL

GUVNL

HPSEBL

BSES-YPL

BSES-RPL

PDD, J&K

NDMC

TEPDCL

HPPC

UPCL

MPPMCL

EWED-UTC

PSRCL

UPPCL






















KEPFC

RUUNL

Inclaw
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

- (xi) **M.P. Power Management Company Limited**
 Address : Block No 11, Shakti Bhawan, Rampur, Jabalpur (MP) - 482008
 Attention : Chief General Manager (Comm.)
 Email : markand.chincholkar@mppmcl.com
 Fax. No. : 0761-2661245
 Telephone No. : 011-26567276 / 26519437 (Delhi Office)
 : 0761-2661245 / 2702404
- (xii) **BSES Yamuna Power Limited**
 Address : Sunil Kumar Kakkar
 Additional Vice President
 Power Management
 BSES Yamuna Power Ltd
 2nd Floor, Shakti Kiran Bldg.
 Karkardooma, New Delhi-110092
 Email : sunil.kakkar@relianceada.com
 Fax. No. :
 Telephone No. : 011-39992002
- (xiii) **BSES Rajdhani Power Limited** SANJAY SRIVASTAV
 Address : Head Power Management Group
 BSES Rajdhani Power Ltd.
 BSES Bhawan, Nehru Place
 New Delhi - 110019
 Email : sanjay.srivastav@relianceada.com
 Fax. No. :
 Telephone No. : 011-39999037
- (xiv) **TATA Power Delhi Distribution Limited**
 Address : NDPL House, Hudson Line,
 Kingsway Camp, Delhi-110009.
 Attention : Sanjay Banga.
 Email : sanjay.banga@tatapower-dcl.com
 Fax. No. : 011-27468042
 Telephone No. : 011-66112231
- (xv) **New Delhi Municipal Council**
 Address : Palika Sadan, Flat No-8, Harichandra Mathur Lane
 NDMC Building, New Delhi-110001
 Attention : Director of Power
 Email : director.power@ndmc.gov.in
 Fax. No. :
 Telephone No. : 9870575995

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 UPCL	 MPPMCL	 EWED, UTC	 PSPCL	 UPPCL	 BPPCL	 RUVNL

- (vi) **Rajasthan Urja Vikas Nigam Limited,**
~~Rajasthan Discoms Power Procurement Centre~~
 Address : Vidyt Bhawan, Jyoti Nagar, Janpath
 Jaipur
 Attention :
 Email : mdrouvnl@gmail.com
 Fax. No. :
 Telephone No. : 0141 - 2743144
- (vii) **Electricity Department, Daman & Diu**
 Address : Vidyt Bhawan, Somnath, Kachigam Road
 Kachigam, Daman - 396210
 Attention : Executive Engineer
 Email : elec-dmn-dd@nic.in
 Fax. No. :
 Telephone No. : 0260 - 2408800
- (viii) **DNH Power Distribution Corporation Limited**
 Address : Vidyt Bhawan, New Secretariat, Amli, Silvassa
 Dadar & Nagar Haveli - 396230
 Attention : Chief Engineer
 Email : caparmav1956@gmail.com ONH Power Distribution Corporation Ltd.
 U.T. of Dadra & Nagar Haveli, Silvassa
 Fax. No. :
 Telephone No. : 0260 - 2406558
- (ix) **Power Development Deptt., Jammu & Kashmir**
 Address :
 Attention :
 Email :
 Fax. No. :
 Telephone No. :
 Chief Engineer
 Commercial & Survey Wing
 PDD, J&K Jammu (Ph. 0191-2474233)
- (x) **Gujarat Urja Vikas Nigam Limited**
 Address : Sardar Patel Vidyt Bhawan, Race Course
 Vadodara - 390007, Gujarat, India
 Attention : Superintending Engineer
 Email : set.guvnl@gebmil.com
 Fax. No. : 0265 - 2344543
 Telephone No. : 2310582-86/9879618752


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18.21.3 If to the Long Term Transmission Customers, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the addresses below:

- (i) **Chhattisgarh State Power Distribution Company Limited**
 Address : 4th floor, Sewa Bhawan, Damania, Raipur - 492013 (CG)
 Attention : Chief Engineer (CR&PM)
 Email : cecomceb@rediffmail.com
 Fax. No. : 0771-2574442
 Telephone No. : 0771-2574441
- (ii) **Haryana Power Purchase Centre**
 Address : 
 Attention : Executive Engineer / LTP
 Email : Haryana Power Purchase Centre
 Fax. No. : Unbhvn, Panchkula
 Telephone No. :
- (iii) **Punjab State Power Corporation Limited**
 Address : o/o CE/PP&R, Shed - D3, Shakti Vihar
 Attention : PSPCL, PTA - 147001
 Email : ceppr@gmail.com
 Fax. No. :
 Telephone No. : 0175-2300534
- (iv) **Goa Electricity Department**
 Address : Vidyut Bhawan, 3rd floor, Opp. Betim Jetty, Panjim, Goa 403001
 Attention : Chief Electrical Engineer
 Email : ce-elec-goa@nic.in
 Fax. No. : 0832-2426986
 Telephone No. : 0832-2224680
- (v) **Maharashtra State Electricity Distribution Company Limited**
 Address : Power Purchase, Prakashgad, Plot No-6-9, 5th floor
 Bandra Mumbai - 51
 Attention : C.E. (Power Purchase)
 Email : ceppmsedcl@gmail.com
 Fax. No. :
 Telephone No. : 022-26474211
- Signature*
- C.E.O./Project In-Charge*
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FDD, J&K | 
NDMC | 
TPDCL | 
HPPC |
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MPPMCL | 
EWED-UTC | 
PSPCL | 
UPPCL | 
RBPPC | 
RUVNL |

shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

18.19 Relationship of the Parties:

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership or agency or any such other relationship between the Parties or to impose any partnership obligation or liability upon either Party and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

18.20 Entirety:

18.20.1 This Agreement along with its sections, schedules and appendices is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement.

18.20.2 Except as provided in this Agreement, all prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement or the provision of Transmission Service under this Agreement to the Long Term Transmission Customers by the TSP shall stand superseded and abrogated.






















18.21 Notices:

18.21.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language

18.21.2 If to the TSP, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the addressee below:

Address
 Attention
 Email
 Fax. No.
 Telephone No.

Signature
 C.E.O./Project In-Charge
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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPC	 RUVNL

between them shall be the order in which they are placed below::

- terms and conditions of Transmission License
- applicable Law, rules and regulations framed there under,
- this Agreement.

18.16 Independent Entity:

18.16.1 The TSP shall be an independent entity performing its obligations pursuant to the Agreement.

18.16.2 Subject to the provisions of the Agreement, the TSP shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the TSP or Contractors engaged by the TSP in connection with the performance of the Agreement shall be under the complete control of the TSP and shall not be deemed to be employees, representatives, Contractors of Long Term Transmission Customers and nothing contained in the Agreement or in any agreement or contract awarded by the TSP shall be construed to create any contractual relationship between any such employees, representatives or Contractors and the Long Term Transmission Customers.

18.17 Amendments:

18.17.1 This Agreement may only be amended or supplemented by a written agreement between the Parties and after obtaining approval of the Appropriate Commission, where necessary.

18.18 Waiver:

18.18.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorised representative of such Party:

18.18.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other Parties

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NDMC

UPPCL

DNHPDCL

TPDDL

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RUVNL

GUVNL

HPPC

18.12 No Consequential or Indirect Losses

The liability of the TSP and the Long Term Transmission Customers shall be limited to that explicitly provided in this Agreement. Provided that, notwithstanding anything contained in this Agreement, under no event shall the Long Term Transmission Customers or the TSP claim from one another any indirect or consequential losses or damages.

18.13 Discretion:

Except where this Agreement expressly requires a Party to act fairly or reasonably, a Party may exercise any discretion given to it under this Agreement in any way it deems fit.

18.14 Confidentiality

18.14.1 The Parties undertake to hold in confidence this Agreement and RFP Project Documents and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:



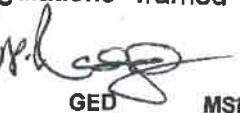










- (a) to their professional advisors;
- (b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- (c) disclosures required under Law

without the prior written consent of the other Parties.

Provided that the TSP agrees and acknowledges that any of the Long Term Transmission Customers may at any time, disclose the terms and conditions of the Agreement and the RFP Project Documents to any person, to the extent stipulated under the Law and the Competitive Bidding Guidelines.

18.15 Order of priority in application:

In case of inconsistencies between the terms and conditions stipulated in Transmission License issued by Appropriate Commission to the TSP, agreement(s) executed between the Parties, applicable Law including rules and regulations framed there under, the order of priority as

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18.9 Commercial Acts

The Long Term Transmission Customers and the TSP unconditionally and irrevocably agree that the execution, delivery and performance by each of them of this Agreement and any other RFP Project Document to which it is a Party constitute private and commercial acts rather than public or governmental acts;

18.10 Restriction of Shareholders/Owners Liability

18.10.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement.

18.10.2 Further, the financial liabilities of the shareholder/s of each Party to this Agreement shall be restricted to the extent provided in the Indian Companies Act, 1956.





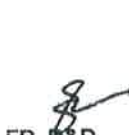















18.11 Taxes and Duties:

18.11.1 The TSP shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/levied on the TSP, its Contractors or their employees, that are required to be paid by the TSP as per the Law in relation to the execution of the Project and for providing Transmission Service as per the terms of this Agreement.

18.11.2 Long Term Transmission Customers shall be indemnified and held harmless by the TSP against any claims that may be made against Long Term Transmission Customers in relation to the matters set out in Article 18.11.1.

18.11.3 Long Term Transmission Customers shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the TSP by the Long Term Transmission Customers on behalf of TSP or its personnel, provided the TSP has consented in writing to Long Term Transmission Customers for such work, which consent shall not be unreasonably withheld.

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paid or undertaken to pay or shall in the future pay any unlawful commission, bribe, pay-off or kick-back; and

2. it has not in any other manner paid any sums, whether in Indian currency or foreign currency and whether in India or abroad to the other Party to procure this Agreement, and the TSP and the Long Term Transmission Customers hereby undertake not to engage in any similar acts during the Term of Agreement.

18.5 Severability

The invalidity or enforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

18.6 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which collectively shall be deemed one and the same Agreement.






















18.7 Breach of Obligations

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

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18.8 Nomination Restriction

Notwithstanding anything contained to the contrary in this Agreement, wherever a reference is made to the right of a Long Term Transmission Customer to nominate a third Party to receive benefits under this Agreement, such Third Party shall have a financial standing comparable to that of the Long Term Transmission Customer in question.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RBDC	 RUVNL

If the Parent Company or the Ultimate Parent Company of the Selected Bidder A directly holds thirty percent (30%) of the equity in WR-NR Power Transmission Limited, then holding of Selected Bidder A in WR-NR Power Transmission Limited shall be thirty percent (30%);

If Selected Bidder A holds thirty percent (30%) equity of the Affiliate and the Affiliate holds fifty percent (50%) equity in WR-NR Power Transmission Limited, then, for the purposes of ascertaining the minimum equity/equity lock-in requirements specified above, the effective holding of Bidder A in WR-NR Power Transmission Limited shall be fifteen percent (15%), (i.e., 30%* 50%)

18.2.5 The provisions as contained in this Article 18.2 shall override the terms of the consortium agreement submitted as part of the Bid.

18.2.6 The TSP shall be responsible to report, within thirty (30) days from the occurrence of any event that would result in any change in the equity holding structure from that existed as on the date of signing of the Share Purchase Agreement. In such cases, the Lead Long Term Transmission Customer would reserve the right to ascertain the equity holding structure and to call for all such required documents / information/clarifications as may be required.

18.3 Language:

18.3.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.



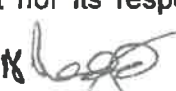

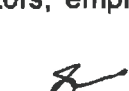
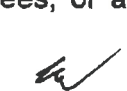















18.3.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.

18.4 Affirmation

The TSP and the Long Term Transmission Customers, each affirm that:

neither it nor its respective directors, employees, or agents has

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shall not be less than the following:

- (a) Fifty one percent (51%) up to a period of two (2) years after COD of the Project; and
- (b) Twenty six percent (26%) for a period of three (3) years thereafter





Provided that in case the Lead Member or Bidding Company is holding equity through Affiliate/s, Ultimate Parent Company or Parent Company, such restriction as specified in (a) and (b) above shall apply to such entities.

Provided further, that in case the Selected Bidder is a Bidding Consortium, the Lead Member shall continue to hold equity of at least twenty six percent (26%) upto a period of five (5) years after COD of the Project and any Member of such Bidding Consortium shall be allowed to divest its equity as long as the other remaining Members (which shall always include the Lead Member) hold the minimum equity specified in (a) and (b) above.

18.2.2 If equity is held by the Affiliates, Parent Company or Ultimate Parent Company of the Selected Bidder, subject to the second proviso to Article 18.2.1, then such Affiliate, Parent Company or Ultimate Parent Company shall be eligible to transfer its shareholding in WR-NR Power Transmission Limited to another Affiliate or to the Parent Company / Ultimate Parent Company of the Selected Bidder. If any such shareholding entity, qualifying as an Affiliate / Parent Company / Ultimate Parent Company, is likely to cease to meet the criteria to qualify as an Affiliate / Parent Company / Ultimate Parent Company, the shares held by such entity shall be transferred to another Affiliate / Parent Company / Ultimate Parent Company of the Selected Bidder.

18.2.3 Subject to Article 18.2.1, all transfer(s) of shareholding of WR-NR Power Transmission Limited by any of the entities referred to in Article 18.2.1 and 18.2.2 above, shall be after prior written permission from the Lead Long Term Transmission Customer.

18.2.4 For computation of effective Equity holding, the Equity holding of the Selected Bidder or its Ultimate Parent Company in such Affiliate(s) or Parent Company and the equity holding of such Affiliate(s) or Ultimate Parent Company in WR-NR Power Transmission Limited shall be computed in accordance with the example given below:

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Agreement, and the Lead Long Term Transmission Customer earlier appointed under Article 18.1.1 shall automatically cease to be the Lead Long Term Transmission Customer. It is clarified that all decisions taken by the "Uttar Pradesh Power Corporation Limited" appointed under Article 18.1.1., in its capacity as Lead Long Term Transmission Customer before such change, shall continue to be valid, in accordance with this Agreement.

18.1.3 In the event of "Maharashtra State Electricity Distribution Company Limited" becoming the Lead Long Term Transmission Customer as per Article 18.1.2, all the Long Term Transmission Customers shall also appoint any of Long Term Transmission Customers, other than "Uttar Pradesh Power Corporation Limited", appointed under Article 18.1.1, as an Alternate Lead Long Term Transmission Customer and thereafter the provisions of Article 18.1.2 shall be applicable.













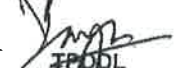







18.1.4 Notwithstanding anything contained above, any decision which is required to be taken by the Long Term Transmission Customers jointly under the provisions of Article 13, shall be taken by all the Long Term Transmission Customers and in case of difference amongst the Long Term Transmission Customers, the said decision shall be taken by the Majority Long Term Transmission Customers, as defined in Article 18.1.5 below.

18.1.5 Any decision taken by Long Term Transmission Customers, who taken together constitute sixty five percent (65%) of the Allocated Project Capacity and constitute in number at least fifty percent (50%) of the total number of Long Term Transmission Customers (hereinafter referred to as "Majority Long Term Transmission Customers"), shall be binding on the Lead Long Term Transmission Customer and all other Long Term Transmission Customers. Majority Long Term Transmission Customers shall also have the right to replace the Lead Long Term Transmission Customer by any other Long Term Transmission Customer of their choice. All decisions taken by the Majority Long Term Transmission Customers in this Agreement shall be conveyed by the Lead Long Term Transmission Customer.

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18.2 Equity Lock-in Commitment:

18.2.1 The aggregate equity share holding of the Selected Bidder in the issued and paid up equity share capital of WR-NR Power Transmission Limited

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RDEPC RUVNL	

ARTICLE: 18






















18 MISCELLANEOUS PROVISIONS

18.1 Lead Long Term Transmission Customer:

18.1.1 The Long Term Transmission Customers hereby appoint and authorise "Uttar Pradesh Power Corporation Limited" [hereinafter referred to as the "Lead Long Term Transmission Customer"] to represent all the Long Term Transmission Customers for discharging the rights and obligations of the Long Term Transmission Customers, which are required to be undertaken by all the Long Term Transmission Customers. All the Long Term Transmission Customers shall follow and be bound by the decisions of the Lead Long Term Transmission Customer on all matters specified in the Schedule 8 of this Agreement. Accordingly, each Long Term Transmission Customer agrees that any decision, communication, notice, action or inaction of the Lead Long Term Transmission Customer on such matters shall be deemed to have been on its/his behalf and shall be binding on each of the Long Term Transmission Customer. The TSP shall be entitled to rely upon any such action, decision or communication or notice from the Lead Long Term Transmission Customer. It is clarified that provisions under this Article 18.1 are not intended to and shall not render the Lead Long Term Transmission Customer liable to discharge Transmission Charges payments due to TSP from the other Long Term Transmission Customers.

18.1.2 The Long Term Transmission Customers hereby also appoint and authorise "Maharashtra State Electricity Distribution Company Limited" [hereinafter referred to as the "Alternate Lead Long Term Transmission Customer"], to act as Lead Long Term Transmission Customer as per the provisions of this Article 18.1.2, on the occurrence of any Event of Default specified in Article 13 by the Lead Long Term Transmission Customer. In such an event, the TSP may, at its option, within a period of fifteen (15) days from the date of issue of the TSP's Preliminary Termination Notice referred to in Article 13 and if the said default by the Lead Long Term Transmission Customer subsists, specify in writing to all the Long Term Transmission Customers that the Alternate Lead Long Term Transmission Customer shall thereafter act as the Lead Long Term Transmission Customer. In such a case, if the TSP so notifies, the Alternate Lead Long Term Transmission Customer shall, thereafter, act as Lead Long Term Transmission Customer for the purposes of this





















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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RBPPC	 RUVNL

- f. deleted.
- g. The TSP makes all the representations and warranties above to be valid as on the date of this Agreement.

17.2.2 The TSP makes all the representations and warranties above to be valid as on the date of this Agreement.

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there are no outstanding judgements, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to comply with its obligations under this Agreement;

- 17.1.2 Each of the said Long Term Transmission Customer makes all the representations and warranties above to be valid as on the date of this Agreement.

17.2 Representation and Warranties of the TSP:

- 17.2.1 The TSP hereby represents and warrants to and agrees with the Long Term Transmission Customers as follows and acknowledges and confirms that the Long Term Transmission Customers is relying on such representations and warranties in connection with the transactions described in this Agreement:

- a. It has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- b. This Agreement is enforceable against it in accordance with its terms;
- c. The consummation of the transactions contemplated by this Agreement on the part of the TSP will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the TSP is a Party or to which the TSP is bound which violation, default or power has not been waived;
- d. The TSP is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against the TSP;
- e. There are no actions, suits, claims, proceedings or investigations pending or, to the best of the TSP's knowledge, threatened in writing against the TSP at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgments, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to execute the Project or to comply with its obligations under this Agreement.


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BSES-RPL


PDD,J&K


NDMC


TPDDL


HPFC


UPCL


MPPMCL


EWED-UTC


PSPCL


UPPCL


RPPFC


RUVNL

ARTICLE: 17






















17 REPRESENTATION AND WARRANTIES

17.1 Representation and warranties of the Long Term Transmission Customers

17.1.1 Each Long Term Transmission Customer hereby represents and warrants to and agrees with the TSP as follows and acknowledges and confirms that the TSP is relying on such representations and warranties in connection with the transactions described in this Agreement:

- a. It has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- b. This Agreement is enforceable against the said Long Term Transmission Customer in accordance with its terms;
- c. The consummation of the transactions contemplated by this Agreement on the part of said Long Term Transmission Customer will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the said Long Term Transmission Customer is a Party or to which the said Long Term Transmission Customer is bound, which violation, default or power has not been waived;
- d. The said Long Term Transmission Customer is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against the said Long Term Transmission Customer;
- e. There are no actions, suits, claims, proceedings or investigations pending or, to the best of the said Long Term Transmission Customer's knowledge, threatened in writing against the said Long Term Transmission Customer at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RDPCC	 RUVNL

- (iv) The award shall be enforceable in any court having jurisdiction, subject to the applicable Laws.
- (v) The provisions of this Article shall survive the termination of this Agreement for any reason whatsoever.

16.4 Parties to Perform Obligations:

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.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 REPPC	 RUVNL

dispute resolution in accordance with Article 16.3.

16.3 Dispute Resolution:

16.3.1 Where any Dispute

- i. arises from a claim made by any Party regarding any provisions of this Agreement, , or
- ii. relates to any matter agreed to be referred to the Appropriate Commission, including those under Articles, 2.2.1, 3.3.5, 5.1.2, 7.1.4, 7.1.5, 9.3.3, 10.9.6, 12.1.1, 12.2, 13, 15.2.4, 15.3, 16.3.3, and 18.17.1 hereof,

such Dispute shall be submitted to adjudication by the Appropriate Commission.






















Appeal against the decisions of the Appropriate Commission shall be admissible only as per the provisions of the Electricity Act, 2003, as amended from time to time.

16.3.2 The obligations of the Long Term Transmission Customers under this Agreement towards the TSP shall not be affected in any manner by reason of inter-se disputes amongst the Long Term Transmission Customers.

16.3.3 Where any dispute is referred by the Appropriate Commission to be settled through arbitration process, such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 and the Rules of the Indian Council of Arbitration, in accordance with the process specified in this Article.

- (i) The Arbitration Tribunal shall consist of three arbitrators to be appointed in accordance with the Indian Council of Arbitration Rules
- (ii) The place of arbitration shall be New Delhi, India. The language of the arbitration shall be English.
- (iii) The Arbitration Tribunal's award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.

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 HPSEBL	 BSES-YPL	 BSES-RPL	 F&D, J&K	 NDMC	 FP&DL	 HPPC
 UPCL	 MPPMCL	 EW&D-UTC	 PSPCL	 UPPCL	 RE&PC	 RVVNL

ARTICLE: 16**16 GOVERNING LAW AND DISPUTE RESOLUTION****16.1 Governing Law:**

This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in New Delhi, India.

16.2 Amicable Settlement:






















16.2.1 Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement, including its existence or validity or termination or whether during the execution of the Project or after its completion and whether prior to or after the abandonment of the Project or termination or breach of the Agreement by giving a written notice to the other Party, which shall contain:

- (i) a description of the Dispute;
- (ii) the grounds for such Dispute; and
- (iii) all written material in support of its claim.

16.2.2 The other Party shall, within thirty (30) days of issue of notice issued under Article 16.2.1, furnish:

- (i) counter-claim and defences, if any, regarding the Dispute; and
- (ii) all written material in support of its defences and counter-claim.

16.2.3 Within thirty (30) days of issue of notice by the Party pursuant to Article 16.2.1 if the other Party does not furnish any counter claim or defense under Article 16.2.2, or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.3, the Dispute shall be referred for

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RDPCL	 RUVNL

Schedule: 6

Transmission Charges

[Note: As referred to in the definitions of "Element", "Escalable Monthly Charges", "Non Escalable Monthly Charges" and "Monthly Transmission Charges" and in Clauses 1.1 (c) of Schedule 5 of this Agreement]

[To be incorporated from the Bid of the Selected Bidder]

[In case of pre-signing of RFP Project Documents, this needs to be inserted after selection of the Selected Bidder]

Year	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (in Rupees Millions)	Escalable Transmission Charges (in Rupees Millions)
(1)	(2)	(3)	(4)	(5)
1	Scheduled COD 13.10.2020	31-March		
2	1-April	31-March		
3	1-April	31-March		
4	1-April	31-March		
5	1-April	31-March		
6	1-April	31-March		
7	1-April	31-March		
8	1-April	31-March		
9	1-April	31-March		
10	1-April	31-March		
11	1-April	31-March		
12	1-April	31-March		
13	1-April	31-March		
14	1-April	31-March		
15	1-April	31-March		
16	1-April	31-March		
17	1-April	31-March		
18	1-April	31-March		
19	1-April	31-March		
20	1-April	31-March		
21	1-April	31-March		
22	1-April	31-March		
23	1-April	31-March		
24	1-April	31-March		

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Stamp: WAPDA

Signatures and Stamps:

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- CSPDCL
- GED
- MSEDCL
- ED, D&D
- DNHPDCL
- GVNCL
- HPSEBL
- BSES-YPL
- BSES-RPL
- PDD, J&K
- NDMC
- TPDDL
- FPPC
- UPCL
- MPPMCL
- EWED-UTC
- PSPCL
- UPPCL
- RDPPC
- RVNCL

Transmission Service Agreement

Year	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (In Rupees Millions)	Escalable Transmission Charges (In Rupees Millions)
25	1-April	31-March		
26	1-April	31-March		
27	1-April	31-March		
28	1-April	31-March		
29	1-April	31-March		
30	1-April	31-March		
31	1-April	31-March		
32	1-April	31-March		
33	1-April	31-March		
34	1-April	31-March		
35	1-April	31-March		
36	1-April	35 th anniversary of Scheduled COD		

[This table needs to be replicated exactly as from Annexure-4 of the RFP (i.e. Financial Bid of the Selected Bidder).]

Notes:

- Charges for the first Contract Year are the Transmission Charges applicable for the twelve month period (from the immediately preceding 1 April from the Scheduled COD till the immediately succeeding 31 March) irrespective of the duration of the first Contract Year.
- Charges for the second Contract Year are the Transmission Charges applicable for the full Contract Year
- Charges for the last Contract Year are the Transmission Charges applicable for the twelve month period (from immediately preceding 1 April to the date of 35th anniversary of the Scheduled COD till the immediately succeeding 31 March) irrespective of the duration of the last Contract Year.
- However, in cases of both (a) and (c) above, total Transmission Charges payable to the TSP are computed proportionately for the total number of days in the first and last Contract Year respectively.

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NDMC

PPDDL

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EWED-UTC

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Transmission Service Agreement

- e. Charges for Short Term Open Access of the Project shall be as per the provisions of Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations 2008 as notified by CERC and as amended from time to time.

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPC	 RUVNL

Schedule: 7

Escalation Index

[Note: As referred to in Clause 1.1 of Schedule 5 of this Agreement]

The index ("Escalation Index") to be applied for escalation of Escalable Transmission Charges shall be computed by assuming that as on the date of the COD, the value of such Escalation Index is 100. Thereafter, for each month after the COD, the value of the Escalation Index shall be computed by applying the per annum inflation rate specified by CERC for payment of Escalable Transmission Charges, as per the provisions of the Competitive Bidding Guidelines.

For the avoidance of doubt, it is clarified that:

- If the prevailing inflation rate specified by CERC is 4.7% per annum, then at the end of the first month after the COD, the value of the Escalation Index shall be 100.3917 [i.e., $100 * (1 + 4.7\%/12)$] for Escalable Transmission Charges. Thereafter, at the end of the second month beyond such first month, the value of the Escalation Index shall be 100.7833 [i.e. $100 * [1 + (4.7\% * 2)/12]$] and so on. The value of the Escalation Index at the end of the Nth Month after the COD shall be calculated as: $100 * (1 + N * 0.047 / 12)$ for Quoted Escalable Transmission Charges.
- the per annum inflation rate specified by CERC shall be revised only at the end of every six (6) months.
- The value of the Escalation Index shall be calculated upto the fourth decimal point.

In case, due to any reason, CERC discontinues the publication of the inflation rate mentioned above, then the Lead Long Term Transmission Customer and the TSP shall replace the above inflation rate with an inflation rate which shall be computed on the same basis as was being used by CERC to estimate their notified inflation rate.

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Schedule: 8

List of Articles

List of Articles under which rights and obligations of the Long Term Transmission Customers (including all matters incidental thereto and related follow-up), which are required to be undertaken by the Lead Long Term Transmission Customer, or by Majority Long Term Transmission Customers or by the Long Term Transmission Customers jointly, respectively:

A) Rights and Obligations of the Long Term Transmission Customers required to be undertaken by the Lead Long Term Transmission Customer

1. **Article 3.3.5** (approach the Appropriate Commission on termination of the Agreement on TSP's not able to meet conditions subsequent)
2. **Article 5.5** (inspection of the Project during the construction phase);
3. **Articles 6.1.1 and 6.1.2** (extension of Scheduled COD);
4. **Article 6.4.1** (communication with the TSP on imposition of liquidated damages)
5. **Articles 7.3.2** (notice for maintenance of Interconnection Facilities under the purview of the Long Term Transmission Customers);
6. **Article 11.7 (d)** (inspection of Project during operation of Force Majeure);
7. **Article 13.1 (a)** (notice to TSP on abandonment of Project);
8. **Article 13.3. (d)** (to approach the Appropriate Commission for revocation of Transmission Licensee on account of TSP's Event of Default);
9. **Articles 14.2.1 (b), 14.2.2 (b) and 14.2.2 (c)** (notice for patent indemnity);
10. **Article 14.2.1 (d)** (provide assistance to the TSP during the proceedings of patent indemnity);


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 RDPPC
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11. **Article 18.2.3** (written permission to TSP for divestment of equity holding and subsequent verification of equity structure, post-divestment); and
 12. **Schedule 7** (computation of alternative escalation index in the event of CERC discontinuing publishing of the inflation rate mentioned in this schedule).
- B) Rights and Obligations of the Long Term Transmission Customers required to be undertaken by the Majority Long Term Transmission Customers**
1. **Article 2.3.1**(decision to continue the Project beyond the Expiry Date);
 2. **Article 3.1.3** (waiver of the TSP's obligations due to reasons attributable to the Long Term Transmission Customer(s));
 3. **Articles 3.3.2 and 3.3.4** (right to terminate the Agreement on non-fulfillment of conditions subsequent);
 4. **Articles 13.1 (k) and 13.1 (l)** (invocation of termination of the Agreement due to the TSP's Event of Default;
 5. **Article 13.3** (notice to TSP for termination of Agreement on TSP's Event of Default;
 6. **Article 18.1.4** (in case of any difference of opinion on any decision among the Long Term Transmission Customers, decision in such cases to be taken by the Majority Long Term Transmission Customers); and
 7. **Article 18.1.5** (Right to replace the Lead Long Term Transmission Customer).

and any other Articles of this Agreement not specifically mentioned herein, which provide for a joint action by all the Long Term Transmission Customers.

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Schedule: 9






















**Appendix III of Central Electricity Regulatory Commission
(Terms and Conditions of Tariff) Regulations, 2014**

Procedure for Calculation of Transmission System Availability Factor for a Month:

1. Transmission system availability factor for a calendar month (TAFM) shall be calculated by the respective transmission licensee, got verified by the concerned RLDC and certified by the Member-Secretary, Regional Power Committee of the region concerned, separately for each AC and HVDC transmission system and grouped according to sharing of transmission charges. Transmission System Availability shall be calculated separately for each Regional Transmission System and inter-regional transmission system. For the purpose of calculation of TAFM:
 - i) AC transmission lines: Each circuit of AC transmission line shall be considered as one element.
 - ii) Inter-Connecting Transformers (ICTs): Each ICT bank (three single phase transformer together) shall form one element.
 - iii) Static VAR Compensator (SVC): SVC along with SVC transformer shall form one element. However, 50% credit to inductive and 50% to capacitive rating shall be given.
 - iv) Bus Reactors/Switchable line reactors: Each Bus Reactors/Switchable line reactors shall be considered as one element.
 - v) HVDC Bi-pole links: Each pole of HVDC link along with associated equipment at both ends shall be considered as one element.
 - vi) HVDC back-to-back station: Each block of HVDC back-to-back station shall be considered as one element. If associated AC line (necessary for transfer of interregional power through HVDC back-to-back station) is not available, the HVDC back-to-back station block shall also be considered as unavailable.
2. The Availability of AC and HVDC portion of Transmission system shall be calculated as under:

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPPC	 RUVNL

%TAFM for AC System:

$$\frac{o \times AV_o + p \times AV_p + q \times AV_q + r \times AV_r}{o + p + q + r} \times 100$$

% TAFM for HVDC system

$$\frac{s \times AV_s + t \times AV_t}{S + t} \times 100$$






















Where

- o = Total number of AC lines.
- AVo = Availability of o number of AC lines.
- p = Total number of bus reactors/switchable line reactors
- AVp = Availability of p number of bus reactors/switchable line reactors
- q = Total number of ICTs.
- AVq = Availability of q number of ICTs.
- r = Total number of SVCs.
- AVr = Availability of r number of SVCs.
- s = Total number of HVDC poles
- AVs = Availability of s number of HVDC poles
- t = Total number of HVDC back-to-back station blocks
- AVt = Availability of t number of HVDC back-to-back station blocks

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The weightage factor for each category of transmission elements shall be as under:

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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPC	 RUVNL

- (a) For each circuit of AC line – Surge Impedance Loading for Uncompensated line (SIL) multiplied by ckt-km.

SIL rating for various voltage level and conductor configuration is given in **Appendix-IV**. However, for the voltage levels and/or conductor configurations not listed in Annexure-I, appropriate SIL based on technical considerations may be used for availability calculation under intimation to long-term transmission customers/DICs.

For compensated AC line, Surge Impedance Loading (SIL) shall be as certified by the Regional Power Committee (RPC) Secretariat considering the compensation on the line.

For shunt compensated line the reduced value of SIL shall be taken in accordance with the location of the reactor. Similarly in case of the lines with series compensation the higher SIL shall be taken as per the percentage of compensation.

- (b) For each HVDC pole- The rated MW capacity x ckt-km
- (c) For each ICT bank – The rated MVA capacity
- (d) For SVC- The rated MVAR capacity (inductive and capacitive)
- (e) For Bus Reactor/switchable line reactors – The rated MVAR capacity.
- (f) For HVDC back-to-back station connecting two Regional grids- Rated MW capacity of each block.



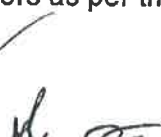


















4. The availability for each category of transmission elements shall be calculated based on the weightage factor, total hours under consideration and non-available hours for each element of that category. The formulae for calculation of Availability of each category of the transmission elements are as per **Appendix-V**.

5. The transmission elements under outage due to following reasons shall be deemed to be available:

- i. Shut down availed for maintenance or construction of elements of another transmission scheme. If the other transmission scheme belongs to the transmission licensee, the Member-Secretary, RPC may restrict the deemed availability period to that considered reasonable by him for the work involved.
- ii. Switching off of a transmission line to restrict over voltage and manual tripping of switched reactors as per the directions of RLDC.






















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 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 REPPC	 RUVNL

6. Outage time of transmission elements for the following contingencies shall be excluded from the total time of the element under period of consideration.
- i. Outage of elements due to acts of God and force majeure events beyond the control of the transmission licensee. However, onus of satisfying the Member Secretary, RPC that element outage was due to aforesaid events and not due to design failure shall rest with the transmission licensee. A reasonable restoration time for the element shall be considered in accordance with Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 as amended from time to time and any additional time taken by the transmission licensee for restoration of the element beyond the reasonable time shall be treated as outage time attributable to the transmission licensee. Circuits restored through ERS (Emergency Restoration System) shall be considered as available.
 - ii. Outage caused by grid incident/disturbance not attributable to the transmission licensee, e.g. faults in substation or bays owned by other agency causing outage of the transmission licensee's elements, and tripping of lines, ICTs, HVDC, etc. due to grid disturbance. However, if the element is not restored on receipt of direction from RLDC while normalizing the system following grid incident/disturbance within reasonable time, the element will be considered not available for the period of outage after issuance of RLDC's direction for restoration.

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 HPSEBL	 BSES-YPL	 BSES-RPL	 M&D, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWFO-UTC	 PSPCL	 UPPCL	 RPPC	 RUVNL

Appendix-IV

SURGE IMPEDANCE LOADING (SIL) OF AC LINES

S.No.	Line voltage (kV)	Conductor Configuration	SIL (MW)
1	765	Quad Bersimis	2250
2	400	Quad Bersimis	691
3	400	Twin Moose	515
4	400	Twin AAAC	425
5	400	Quad Zebra	647
6	400	Quad AAAC	646
7	400	Tripple Snowbird	605
8	400	ACKC(500/26)	556
9	400	Twin ACAR	557
10	220	Twin Zebra	175
11	220	Single Zebra	132
12	132	Single Panther	50
13	66	Single Dog	10

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BSES-RPL


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NDMC


TPDDL


IPPC


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EWED-UTC


PSPCL


UPPCL


IPPC


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**Appendix-V
FORMULAE FOR CALCULATION OF AVAILABILITY OF EACH CATEGORY OF
TRANSMISSION ELEMENTS**

$$AV_o(\text{Availability of } o \text{ no. of AC lines}) = \frac{\sum_{i=1}^o W_i(T_i - T_{NAi})}{\sum_{i=1}^o W_i}$$

$$AV_s(\text{Availability of } s \text{ no. of HVDC pole}) = \frac{\sum_{j=1}^s W_j(T_j - T_{NAj})}{\sum_{j=1}^s W_j}$$

$$AV_q(\text{Availability of } q \text{ no. of ICTs}) = \frac{\sum_{k=1}^q W_k(T_k - T_{NAk})}{\sum_{k=1}^q W_k}$$






















$$AV_r(\text{Availability of } r \text{ no. of SVCs}) = \frac{\sum_{l=1}^r 0.5W_{lI}(T_{lI} - T_{NAI}) + \sum_{l=1}^r 0.5W_{lC}(T_{lC} - T_{NAC})}{\sum_{l=1}^r 0.5W_{lI} + \sum_{l=1}^r 0.5W_{lC}}$$

$$AV_p(\text{Availability of } p \text{ no. of Switched Bus reactors}) = \frac{\sum_{m=1}^p W_m(T_m - T_{NAM})}{\sum_{m=1}^p W_m}$$

$$AV_t(\text{Availability of } t \text{ no. of HVDC Back-to-back Blocks}) = \frac{\sum_{n=1}^t W_n(T_n - T_{NAn})}{\sum_{n=1}^t W_n}$$

- Where W_i = Weightage factor for i^{th} transmission line
 W_j = Weightage factor for j^{th} HVDC pole
 W_k = Weightage factor for k^{th} ICT
 W_{lI} & W_{lC} = Weightage factors for inductive & capacitive operation of l^{th} SVC
 W_m = Weightage factor for m^{th} bus reactor
 W_n = Weightage factor for n^{th} HVDC back to back block.

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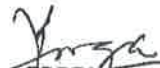






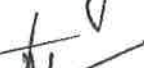

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TRPDCL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPGL	 UPPCL	 RPPPC	 RVUNL

Transmission Service Agreement

$T_i, T_j, T_k, T_l, T_c, T_m \& T_n$ - The total hours of i^{th} AC line, j^{th} HVDC pole, k^{th} ICT, l^{th} SVC (Inductive Operation), l^{th} SVC (Capacitive Operation), m^{th} Switched Bus Reactor & n^{th} HVDC back-to-back block during the period under consideration (excluding time period for outages not attributable to transmission licensee for reasons given in Para 6 of the procedure)

$T_{NAi}, T_{NAj}, T_{NAk}, T_{NAL}, T_{NAl}, T_{NAII}, T_{NAII}$ - The non-availability hours (excluding the time period for outages not attributable to transmission licensee taken as deemed availability as per Para 5 of the procedure) for i^{th} AC line, j^{th} HVDC pole, k^{th} ICT, l^{th} SVC (Inductive Operation), l^{th} SVC (Capacitive Operation), m^{th} Switched Bus Reactor and n^{th} HVDC back-to-back block.

Signature
 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 RDB, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 HPPC	 RUVNL

Schedule: 10

Entire Bid (both financial bid and non-financial bid) of the Selected Bidder to be attached

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

WNPTL
CSPDCL
GED
MSEDCL
ED, D&D
DNHPDCL
GUVNL
HPSEBL
BSES-YPL
BSES-RPL
FDB, J&K
NDMC
TPDDL
HPPC
UPCL
MPPMCL
EWED-UTC
PSPCL
WPPCL
RPPC
RVUNL

Schedule: 11

Contract Performance Guarantee




















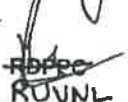

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign entities submitting Bids are required to follow the applicable law in their country. To be provided separately in the name of each of the Long Term Transmission Customer(s), in proportion to their Allocated Project Capacity as provided in Schedule 1 of this document)

In consideration of the[Insert name of the TSP or Selected Bidder on behalf of the TSP, with address] agreeing to undertake the obligations under the TSA datedand the other RFP Project Documents and REC Transmission Projects Co. Ltd. ("BPC"), agreeing to execute the Share Purchase Agreement with the Selected Bidder, regarding setting up the Project, the [Insert name and address of the bank issuing the guarantee and address of the head office] (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to[Insert Name of the Long Term Transmission Customer] at[Insert the Place from the address of the Long Term Transmission Customer indicated in the TSA] forthwith on demand in writing from[Name of the Long Term Transmission Customer] or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees Crores (Rs.) only [Insert the amount of the bank guarantee in respect of the Long Term Transmission Customer as per the terms of TSA separately to each Long Term Transmission Customer in the ratio of Allocated Project Capacities, as on the date seven (7) days prior to the Bid Deadline] on behalf of M/s. [Insert name of the Selected Bidder].

This guarantee shall be valid and binding on the Guarantor Bank up to and includingand shall not be terminable by notice or any change in the constitution of the Bank or the term of the TSA or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. Crores (Rs.)only. Our Guarantee shall remain in force until[Insert the date of validity of the Guarantee as per Article 3.1.2 of this TSA]. The Long Term Transmission Customer shall be entitled to invoke this Guarantee up to thirty (30) days of the last date of the validity of this Guarantee.

Indira
C.E.O./Project In-Charge
P.V.S.L. VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RBPDCL	 RUVNL

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from the Long Term Transmission Customer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Long Term Transmission Customer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by WR-NR Power Transmission Limited, [Insert name of the TSP] and/or any other person. The Guarantor Bank shall not require the Long Term Transmission Customer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Long Term Transmission Customer in respect of any payment made hereunder.

THIS BANK GUARANTEE shall be interpreted in accordance with the laws of India.



















The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

THIS BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank.

THIS BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the Long Term Transmission Customer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, to make any claim against or any demand on WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, or to give any notice to WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, or to enforce any security held by the Long Term Transmission Customer or to exercise, levy or enforce any distress, diligence or other process against WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Long Term Transmission Customer and may be assigned, in whole or in part, (whether absolutely or by way of security) by Long Term Transmission Customer to any entity to whom the Lead Long Term Transmission Customer is entitled to assign its rights and obligations under the TSA.

Below
C.E.O./Project In-Charge
P.V.T.S.
VARANASI

 WMPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPC- RUVNL	

Transmission Service Agreement

The Guarantor Bank hereby agrees and acknowledges that the Long Term Transmission Customer shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. Crores (Rs.) only and it shall remain in force until[Date to be inserted on the basis of Articleof TSA], with an additional claim period of thirty (30) days thereafter. This BANK GUARANTEE shall be extended from time to time for such period, as may be desired by [Insert name of the Selected Bidder or Lead Member in case of the Consortium]. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the Long Term Transmission Customer serves upon us a written claim or demand.

In witness where of:

Signature

Name:













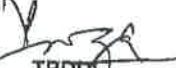
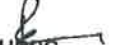







Power of attorney No.:

For:

..... [Insert Name of the Bank]

Banker's Seal and Full Address, including mailing address of the Head Office

Indev
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MS&DCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD,J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPPC	 RUVNL

Schedule: 12

SUPPLEMENTARY AGREEMENT

BETWEEN

..... [Insert name of the TSP]

AND

..... [Insert name of the new Long Term Transmission Customer 1],

..... [Insert name of the new Long Term Transmission Customer 2],

..... [Insert name of the new Long Term Transmission Customer n]


THIS SUPPLEMENTARY AGREEMENT entered into on [insert date] [insert day] of [insert month] in [insert year] by and between, [Insert name of the Transmission Service Provider] incorporated under the Companies Act, 1956, having its registered office at (here in after referred to as Transmission Service Provider or "TSP", which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the first part,

AND

..... [Insert name of the new Long Term Transmission Customer '1'] having its registered office at..... [Insert address of the new Long Term Transmission Customer 1] and having an Allocated Project Capacity as specified in the Table 2 of this Supplementary Agreement, (which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the second part,

Saleem

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 FDD, J&K	 NDMC	 TPDCL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RPPPG RUVNL	

Transmission Service Agreement

..... [Insert name of the new Long Term Transmission Customer '2'] having its registered office at..... [Insert address of the new Long Term Transmission Customer 1] and having an Allocated Project Capacity as specified in the Table 2 of this Supplementary Agreement, (which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the third part,

..... [Insert name of the new Long Term Transmission Customer 'n'] having its registered office at..... [Insert address of the new Long Term Transmission Customer 1] and having an Allocated Project Capacity as specified in the Table 2 of this Supplementary Agreement, (which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the nth part.

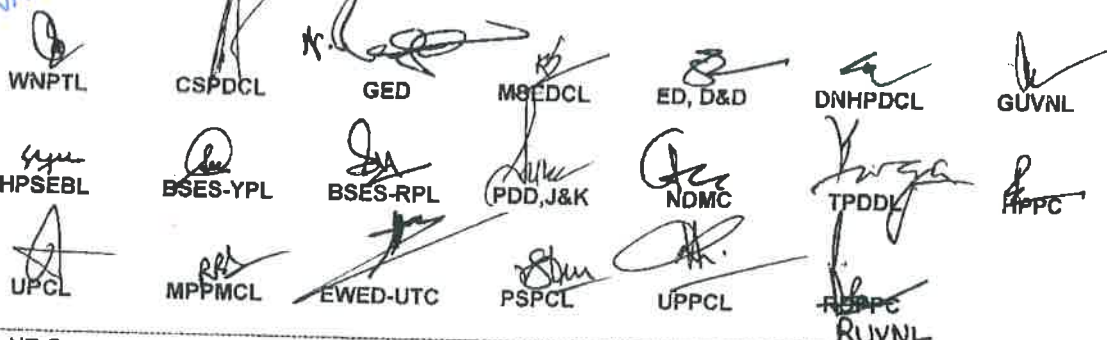
WHEREAS:

- A. The TSP has executed the TSA with the existing Long Term Transmission Customers as listed out in Schedule 1 of the TSA.
- B. The existing Long Term Transmission Customers as listed out in Schedule 1 of the TSA have executed the TSA with the TSP.
- C. The TSP has agreed to provide the Transmission Service to the existing Long Term Transmission Customers as per the terms and conditions of the TSA.
- D. The Allocated Project Capacity of the existing Long Term Transmission Customers as on this date.....[Insert date] is as detailed below:

Table : 1

Sl. No.	Name of the existing Long Term Transmission Customers	Allocated Project Capacity (in MW)
1		
2		
3		
.		
.		

E. The existing Long Term Transmission Customers have agreed, on the terms and subject to the conditions of the TSA, to use the available transmission



 WNPTL CSPDCL GED MBEDCL ED, D&D DNHPDCL GUVNL

 HPSEBL BSES-YPL BSES-RPL PDD,J&K NDMC TPDDL HPPC

 UPCL MPPMCL EWED-UTC PSPCL UPPCL RUPCL RUVNL

capacity of the Project and pay TSP the Transmission Charges as determined in accordance with the terms of the TSA.

NOW THEREFORE THIS AGREEMENT WITNESSETH as under:

- 1) The new Long Term Transmission Customer(s) and their Allocated Project Capacity as on this date.... [Insert date] are as detailed below:





















Table 2:

Sl. No.	Name of the new Long Term Transmission Customer(s)	Allocated Project Capacity (in MW)
1		
2		
3		
.		
.		

- 2) The new Long Term Transmission Customer(s) have been granted long term open access from the CTU/STU, as the case may be, and are beneficiaries to the Project.
- 3) The new Long Term Transmission Customer(s) agree to the terms and conditions laid down in the TSA, to use the Project and pay the TSP the Transmission Charges as determined in accordance with the terms of the TSA and the provisions of this Supplementary Agreement.
- 4) The TSP agrees to provide the Transmission Service to the new Long Term Transmission Customer(s) as per the terms and conditions of the TSA.
- 5) All terms and conditions of the TSA between the TSP and the existing Long Term Transmission Customers (as listed out in Table 1 of this Supplementary Agreement) shall apply, mutatis mutandis without any change, to the new Long Term Transmission Customers (as listed out in Table 2 of this Supplementary Agreement)

IN WITNESS WHEREOF the parties have executed these presents through their Authorised Representatives

WITNESS:
















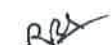



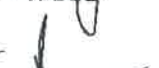

 WNPTL	 CSPDCL	 GED	 MS&EDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPFC
 UPCL	 MPPMCL	 EW&D-UTC	 RSPCL	 UPPCL	 RUPCL	 RUVNL

Signature
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

**Table 3:
WITNESS**

- | | |
|---|--|
| <p>1. Signature:
Name:
Designation:</p> | <p>For and on behalf of
[Insert name of the TSP]</p> |
| <p>2. Signature:
Name:
Designation:</p> | <p>For and on behalf of
[Insert name of the new
Long Term Transmission
Customer 1]</p> |
| <p>3. Signature:
Name:
Designation:</p> | <p>For and on behalf of
[Insert name of the new
Long Term Transmission
Customer 1]</p> |
| <p>n. Signature:
Name:
Designation:</p> | <p>For and on behalf of
[Insert name of the new
Long Term Transmission
Customer n]</p> |

Index
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

 WNPTL	 CSPDCL	 GED	 MSEDCL	 ED, D&D	 DNHPDCL	 GUVNL
 HPSEBL	 BSES-YPL	 BSES-RPL	 PDD, J&K	 NDMC	 TPDDL	 HPPC
 UPCL	 MPPMCL	 EWED-UTC	 PSPCL	 UPPCL	 RUPCL	 RUVNL



भारत सरकार Government of India
विद्युत मंत्रालय Ministry of Power
केंद्रीय विद्युत प्राधिकरण Central Electricity Authority
क्षेत्रीय निरीक्षण संगठन (उत्तर) Regional Inspectorial Organization(North)
कमरा सं 328 उपक्षेत्रीय भवन Room No.328, NRPC Building,
18-ए सहैद जीत सिंह मार्ग 18-A Sahced Jeet Singh Marg
कटवारिया सराय ,नई दिल्ली -110016 Katwaria Sarai New Delhi - 110016
website:www.cea.nic.in, टेली फेस: 011- 26510249

NRIO/PGCIL-362/765kV DC/Vindhyachal-Varanasi line /2021/1226 Dated:28-07-2021

To,
Sh. S.K.Rai,
M/s Power Grid Corporation of India Ltd.(PGCIL),
765/400kV Varanasi GIS Substation,
1 km from Varanasi –Allahabad Highway on Jhaua-Pilkhini road,
Near Kachhwa Road, Thathra, Varanasi (U.P.)

APPROVAL FOR ENERGISATION

(Under Regulation 43 of CEA (Measures relating to safety and Electric Supply) Regulations, 2010(as amended))

Subject: Approval for Energisation of 765 kV D/C Vindhyachal -Varanasi Transmission Line (associated with New WR-NR 765kV Inter-regional Corridor) of PGCIL (Length 189.421 km) from 765/400kV Vindhyachal PS, Village-Khamahriya, Teh.-Mada , Distt.-Singrauli (M.P.) of PGCIL to 765/400kV Varanasi GIS Substation, 1 km from Varanasi –Allahabad Highway on Jhaua-Pilkhini road, Near Kachhwa Road, Thathra, Varanasi (U.P.) under Regulation 43 of Central Electricity Authority (Measures relating to Safety and Electrical Supply) Regulations, 2010 (as amended).

Reference:

1. Online Application no.-B/2021/00751 dated 16-02-2021
2. Our letter No.: NRIO/PGCIL-362/765kV DC/Vindhyachal-Varanasi line /2021/1177 Dated:05-07-2021 (Inspection Report)
3. Your letter uploaded on <https://ceaclearance.gov.in/> (Compliance Report-I)
4. Your letter No.:NR-III/PVTSI/VIND-VNS TL/27 dated- 11-07-2021 (Request letter for Anti Theft Charging)
5. Our letter No.: NRIO/PGCIL-362/765kV DC/Vindhyachal-Varanasi line /2021/1190 Dated:05-07-2021 (Anti theft charging)
6. Your letter uploaded on <https://ceaclearance.gov.in/> (Compliance Report-II & Request for regular charging)

Whereas the Inspection of 765 kV D/C Vindhyachal-Varanasi Transmission Line (associated with New WR-NR 765kV Inter-regional Corridor) of PGCIL (Length 189.421 km) from 765/400kV Vindhyachal PS, Village-Khamahriya, Teh.-Mada , Distt.-Singrauli (M.P.) of PGCIL to 765/400kV Varanasi GIS Substation, 1 km from Varanasi –Allahabad Highway on Jhaua-Pilkhini road, Near Kachhwa Road, Thathra, Varanasi (U.P.) was carried out on 1st to 3rd July 2021 by the undersigned.

The non-compliances of certain provisions/stipulations of the Regulations were conveyed to you vide our letter (Inspection Report) under reference at Sr. No. 2 above and the compliance of the same has since been received vide PGCIL letter cited at Sr. No. 3 & 6 above. The approval for Energisation of 765 kV D/C Vindhyachal -Varanasi Transmission Line (associated with New WR-NR 765kV Inter-regional Corridor) of PGCIL (Length 189.421 km) from 765/400kV Vindhyachal PS, Village-Khamahriya, Teh.-Mada , Distt.-Singrauli (M.P.) of PGCIL to 765/400kV Varanasi GIS Substation, 1 km from Varanasi –Allahabad Highway on Jhaua-Pilkhini road, Near Kachhwa Road, Thathra, Varanasi (U.P.) is hereby accorded subject to the consistent compliance of the relevant provisions of CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended) by the M/s (PGCIL).

The next inspection of this equipment under regulation 30 shall be due after two years from the date of this inspection.

The Date & Time of energisation shall be intimated to this office.

S.K.Rai
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Copy to: Chief Engineer (CEI Div.)

I.K.Mehra
28/7/2021

(I.K.Mehra)
Director/SE &

Electrical Inspector to the Govt. of India

पावर ग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
(100 % अधीनस्थ कम्पनी पावर ग्रिड कारपोरेशन ऑफ इण्डिया लिमिटेड, भारत सरकार का उपक्रम)
POWER GRID VARANASI TRANSMISSION SYSTEM LIMITED
(100 % SUBSIDIARY OF POWER GRID CORPORATION OF INDIA LIMITED, GOVT. OF INDIA ENTERPRISES)



पता :- C-27/210, कैलगढ़ हाउस, हिन्दुस्तान टाइम्स ऑफिस, जगतगंज, वाराणसी - 221002 (उ०प्र०)
Address:- C-27/210, KAILGARH HOUSE, HINDUSTAN TIMES OFFICE, JAGATGANJ VARANASI (UP) - 221002

Ref No.: TBCB/PVTSL/DOCO

Date: 02.08.2021

To,
As per Distribution

Subject: COD under Section 6.2.1 of Transmission Service Agreement (TSA) w.r.t. Transmission System for New WR-NR 765kV Inter-Regional Corridor being implemented by POWERGRID Varanasi Transmission System Limited (PVTSL).

Ref:

1. Transmission Service Agreement (TSA) dated 27.04.2017
2. PVTSL letter ref no.: NR-III/PVTSL/VNS/04/20-22 dated 28.04.2021.

Dear Sir,

The subject Transmission System is being executed by POWERGRID Varanasi Transmission System Limited and is governed by Transmission service Agreement (TSA) signed between SPV and the Long Term Transmission Customers (LTTCS).

In terms of the provisions of the Transmission Service Agreement (TSA) dated 27.04.2017, Vindhyachal Pooling Station – Varanasi 765kV D/c Line under “Transmission System for New WR-NR 765kV Inter-Regional Corridor” has been charged and commissioned by PVTSL as per detail below:

Sl No.	Name of Transmission Element	Details of Charging and completion of trial operation
1	Vindhyachal Pooling Station – Varanasi 765kV D/c Line – Circuit-I	Charged at 18:54 Hrs on 30.07.2021 and trial operation completed at 18:54 Hrs on 31.07.2021
2	Vindhyachal Pooling Station – Varanasi 765kV D/c Line – Circuit-II	Charged at 19:19 Hrs on 30.07.2021 and trial operation completed at 19:19 Hrs on 31.07.2021

It is to be mentioned that as per Schedule-3 of TSA and in terms of provision of clause 5 of the regulation 6.3A of Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulation, 2010, the above elements have completed trial operation by 31.07.2021.

Consequent to successful completion of trial operation of the aforesaid element, the same has been put under commercial operation with effect from 00:00 Hrs. of 1st August, 2021 in terms of provision 6.2.1 of the TSA and clause 6.3 A (5) of the CERC (Indian Electricity Grid Code) Regulation, 2010.

The transmission charges of aforementioned elements are payable w.e.f. 1st August, 2021 and shall be entitled for all benefits envisaged in the TSA.

Thanking you,

(Signature)
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Yours Sincerely,

(Signature)
(S.K. Rai)
Project In-charge (PVTSL)

रजिस्टर्ड ऑफिस/Registered Office

बी-9, कुतब इन्स्टीट्यूशनल एरिया, कटवारिया सराय नई दिल्ली-110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016

पावर ग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

(100 % अधीनस्थ कम्पनी पावर ग्रिड कारपोरेशन ऑफ इण्डिया लिमिटेड, भारत सरकार का उपक्रम)

POWER GRID VARANASI TRANSMISSION SYSTEM LIMITED

(100 % SUBSIDIARY OF POWER GRID CORPORATION OF INDIA LIMITED, GOVT. OF INDIA ENTERPRISES)



पता :- C-27/210, कैलगढ़ हाउस, हिन्दुस्तान टाइम्स ऑफिस, जगतगंज, वाराणसी - 221002 (उ०प्र०)
Address:- C-27/210, KAILGARH HOUSE, HINDUSTAN TIMES OFFICE, JAGATGANJ VARANASI (UP) - 221002

Distribution:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)
2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor,
Vidyut Bhawan, Tiswadi, Goa - 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd
5th Floor, Prakashgad, Bandra (E), Mumbai - 400051
4. The Chairperson, Electricity Department, Daman & Diu,
Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd,
Vidyut Bhawan, Near Secretariat, Amla, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd,
Sardar Patel Vidyut Bhawan, Race Course, Vadodara, Gujarat-390007
7. The Chairperson, M.P. Power Management Company Ltd,
Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place, New Delhi - 110019
9. The Chairperson, BSES Yamuna Power Ltd.
2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi - 110092
10. The Chairperson, New Delhi Municipal Council,
NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd.
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Civil Secretariat, Jammu - 180001
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms)
Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
(i) Ajmer Vidyut Vitran Nigam Ltd,
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004

रजिस्टर्ड ऑफिस/Registered Office

बी-9, कुतब इन्स्टीट्यूशनल एरिया, कटवारिया सराय नई दिल्ली-110062
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110062

S.K. Rai
CEO
Power Grid Varanasi
Transmission System Limited
Varanasi

पावर ग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

(100 % बधीनस्य कम्पनी पावर ग्रिड कारपोरेशन ऑफ इण्डिया लिमिटेड, भारत सरकार का उपक्रम)

POWER GRID VARANASI TRANSMISSION SYSTEM LIMITED

(100 % SUBSIDIARY OF POWER GRID CORPORATION OF INDIA LIMITED, GOVT. OF INDIA ENTERPRISES)



पता :- C-27/210, कैलगढ़ हाउस, हिन्दुस्तान टाइम्स ऑफिस, जगतगंज, वाराणसी - 221002 (उ०प्र०)

Address:- C-27/210, KAILGARH HOUSE, HINDUSTAN TIMES OFFICE, JAGATGANJ VARANASI (UP) - 221002

(ii) Jodhpur Vidyut Vitran Nigam Ltd

New Power House, Industrial Area, Jodhpur 342003

(iii) Jaipur Vidyut Vitran Nigam Ltd

Vidyut Bhawan, Janpath, Jaipur 302005

14. The Chairperson, Uttarakhand Power Corporation Ltd.

Victoria Cross Vijeyta Gabar Singh Urja Bhawan,

Kanwali Road, Balliwala Chowk, Dehradun 248001

15. The Chairman, Uttar Pradesh Power Corporation Ltd.

7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow 226001

16. The Chairperson, Electricity Wing of Engineering Department

Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh 160009

17. The Chairperson, Himachal Pradesh State Electricity Board Ltd,

Vidyut Bhawan, Shimla 171004

18. The Chairperson, Haryana Power Purchase Centre

Shakti Bhawan, Sector 6, Panchkula 134109

19. The Chairperson, Punjab State Power Corporation Ltd

Thermal Sheds, T1-A, Patiala -147001

Copy for kind information:

COO, CTU Planning, POWERGRID

ED (CMG), CC, POWERGRID

ED (TBCB & Engg.), CC, POWERGRID

ED, NR-III, POWERGRID

ED, WR-II, POWERGRID

CGM I/C (Commercial), CC, POWERGRID

S.K. Rai
C.E.O./Project in-Charge
P.V.T.S.L.
VARANASI

S.K. Rai
CEO

रजिस्टर्ड ऑफिस/Registered Office

बी-9, कुतब इन्स्टीट्यूशनल एरिया, कटवारिया सराय नई
B-9, Qutab Institutional Area, Katwaria Sarai, New Varanasi-110016

Powergrid Varanasi
Transmission System Limited
Varanasi-110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Copy for kind information (NIO):

CMD, POWERGRID, Gurgaon
 Director (Finance) / (Projects) / (Operation), POWERGRID, Gurgaon
 Executive Director (AM/ Fin), POWERGRID
 Executive Director (NR-III), POWERGRID, Lucknow
 Executive Director (WR-II), POWERGRID, Vadodra
 CGM I/C (Commercial), CC, POWERGRID
 Company Secretary, POWERGRID, Gurgaon
 CGM (Projects / AM), NR-III, POWERGRID, Lucknow
 Sr. GM (F&A / Comml.), NR-III, POWERGRID, Lucknow
 GM (PESM / AM), NR-III, POWERGRID, Lucknow

[Handwritten Signature]
 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016



पावर सिस्टम ऑपरेशन कॉर्पोरेशन लिमिटेड
(भारत सरकार उद्यम)
POWER SYSTEM OPERATION CORPORATION LIMITED
(A Government of India Enterprise)



केन्द्रीय कार्यालय : 61, आई एफ सी आई टावर, 8 एवं 9वीं मंजिल, नेहरू प्लेस, नई दिल्ली-110019
Corporate Office : 61, IFCI Tower, 8 & 9th Floor, Nehru Place, New Delhi - 110019
CIN : U40105DL2009GOI188682, Website : www.posoco.in, E-mail : posococc@posoco.in, Tel.: 011-40234672

Reference Number: POSOCO/NLDC/SO/FTC/63

Date: 23rd Aug 2021

Certificate for completion of Trial Operation of 765 kV Vindhyachal PS – Varanasi D/C

References:

- Pre charging documents received from Vindhyachal end, dated 15th, 20th, 22nd, 26th & 28th July 2021
- Pre charging documents received from Varanasi end, dated 29th and 30th July 2021
- Provisional Approval for charging and trial run in Format-IV, dated 30th July 2021 issued by NLDC
- Post charging documents received from Vindhyachal end, dated 06th and 08th Aug, 2021
- Post charging documents received from Varanasi end, dated 09th Aug, 2021

Based on the above references, it is hereby certified that the following transmission elements have successfully completed the trial operation:

Name of the Transmission Asset:	765 kV Vindhyachal PS - Varanasi ckt-1	765 kV Vindhyachal PS - Varanasi ckt-2
Owner of the Transmission Asset:	POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED	
Date/Time of energization for commencement of successful trial run operation	30.07.2021/18:55 hrs	30.07.2021/20:10 hrs
Date/time of completion of successful trial run operation	31.07.2021/18:55 hrs	31.07.2021/20:10 hrs

This certificate is being issued in accordance with IEGC regulation 6.3(A) (5), to certify successful completion of trial operation of the transmission element(s). Usage of this certificate for any other purpose is prohibited.

Handwritten signature

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Place: New Delhi

Copy to:

- Executive Director, NRTS-III/WRTS-II, POWERGRID
- Chief General Manager (In-charge), NRLDC/WRLDC
- Member Secretary, NRPC/WRPC

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23/08/21

Executive Director, NLDC

हिंदीभाषी सचिवता, संसदीय
सचिवालय में सचिव
HEERALAL SAMANTYA, I.A.S.
Secretary to Govt. of India



MINISTRY OF LABOUR & EMPLOYMENT
SHREEM SHAKTI BHAVAN
NEW DELHI - 110001

सम एवं संसदीय सचिवता
सम सचिवता भवन
सचिवालय-110001
Toll: 01-11-23 71 07 05
Fax: 01-11-23 35 05 79
E-mail: secp@labour.gov.in

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Chief Secretaries,

The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext ~~or the~~ employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination ~~to~~ by not terminating their employees, particularly casual or contractual workers from ~~job or~~ reduce their wages. If any worker takes leave, ~~he~~ should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,

(Heeralal Samantya)

Chief Secretaries of States/UTs
(As per list attached)

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C.E.O./Project In-Charge
P.V.T.S.L
VARANASI

No. 40-3/2020 DM-I.A
 Government of India
 Ministry of Home Affairs

North Block, New Delhi-110001
 Dated 24th March, 2020

ORDER

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an Order no. 1-29/2020-PP (P:II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effect from 25.03.2020.


 24/3/2020
 Home Secretary

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
 (As per list attached)

Copy to

- i. All members of the National Executive Committee
- ii. Member Secretary, National Disaster Management Authority


 C.E. Project In-Charge
 P.V.T.S.L.
 VARANASI

No. 40/3/2020 DM (A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
Dated 25 March 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee has issued an Order of even number dated 24.03.2020, followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministers/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country.

Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance;

Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/ Union Territory Authorities to take necessary action and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police, to take following additional measures:

- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters, and provision of food etc. for the poor and needy people, including migrant labourers, stranded due to lockdown measures in their respective areas.
- ii. The migrant people, who have moved out to reach their home states/ home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;

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- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month
- v. If any landlord is forcing labourers and students to vacate their premises, they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government shall take necessary action under the Act. The District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.

Home Secretary 29/03/2020

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority



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No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
 Dated: 15th April, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act 2005, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order dated 14th April, 2020 that the lockdown measures stipulated in the Consolidated Guidelines of Ministry of Home Affairs (MHA) for containment of COVID-19 epidemic in the country, will continue to remain in force upto 3rd May, 2020 to contain the spread of COVID-19 in the country;

Whereas, to mitigate hardship to the public, select additional activities will be allowed, which will come into effect from 20th April, 2020. However, these additional activities will be operationalized by States/ Union Territories (UTs)/ District Administrations based on strict compliance to the existing guidelines on lockdown measures. Before operating these relaxations, States/ UTs/ District Administrations shall ensure that all preparatory arrangements with regard to social distancing in offices, workplaces, factories and establishments, as also other sectoral requirements are in place. The consolidated revised guidelines incorporating these relaxations are enclosed;

Whereas, the consolidated revised guidelines will not apply in containment zones, as demarcated by States/ UTs/ District administrations. If any new area is included in the category of a containment zone, the activities allowed in that area till the time of its categorization as a containment zone, will be suspended except for those activities as are specifically permitted under the guidelines of Ministry of Health and Family Welfare (MoHFW), Government of India;

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues directions to all the all Ministries/ Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities for the strict implementation of enclosed consolidated revised guidelines.


 Union Home Secretary

Sd/-
 C.E.O./Project In-Charge
 P.V.T.S.E.
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The Secretaries of Ministries/ Departments of Government of India
 The Chief Secretaries/Administrators of States/Union Territories
 (As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.



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Consolidated Revised Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ UT Governments and State/ UT authorities for containment of COVID-19 in the country

[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020 DM-1 (A) dated 15th April, 2020]

1. **With the extension of the lockdown period, the following activities will continue to remain prohibited across the country until 3rd May, 2020:**
 - i. All domestic and international air travel of passengers, except for purposes enumerated in para 4 (ix), and for security purposes.
 - ii. All passenger movement by trains, except for security purposes.
 - iii. Buses for public transport.
 - iv. Metro rail services.
 - v. Inter-district and inter-State movement of individuals except for medical reasons or for activities permitted under these guidelines.
 - vi. All educational, training, coaching institutions etc. shall remain closed.
 - vii. All industrial and commercial activities other than those specifically permitted under these guidelines.
 - viii. Hospitality services other than those specifically permitted under these guidelines.
 - ix. Taxis (including auto rickshaws and cycle rickshaws) and services of cab aggregators.
 - x. All cinema halls, malls, shopping complexes, gymnasiums, sports complexes, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
 - xi. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions/ other gatherings.
 - xii. All religious places/ places of worship shall be closed for public. Religious congregations are strictly prohibited.
 - xiii. In case of funerals, congregation of more than twenty persons will not be permitted.
2. **Operation of guidelines in Hotspots and containment zones**
 - i. 'Hotspots', i.e., areas of large COVID-19 outbreaks, or clusters with significant spread of COVID-19, will be determined as per the guidelines issued by Ministry of Health and Family Welfare (MoHFW) Government of India (GoI).
 - ii. In these hotspots, containment zones will be demarcated by States/ UTs/ District administrations as per the guidelines of MoHFW.
 - iii. In these containment zones, the activities allowed under these guidelines will be permitted. There shall be strict perimeter control in the area of the containment zones to ensure that there is no unchecked inward/ outward movement of population from these zones except for maintaining essential services (including medical emergencies and law and order related duties) and Government business continuity. The guidelines issued in this regard by MoHFW will be strictly implemented by State/ UT Governments and the local district authorities.

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[Signature]


3. **Select permitted activities allowed with effect from 20th May, 2020:**
 - i. To mitigate hardship to the public, select additional activities have been allowed which will come into effect from 20th April, 2020. These limited exemptions will be operationalized by States/ UTs/ district administrations based on strict compliance to the existing guidelines. Also, before allowing these select additional activities, States/ UTs/ district administrations shall ensure that all preparatory arrangements with regard to the Standard Operating Procedures (SOPs) for social distancing in offices, workplaces, factories and establishments, as also other sectoral requirements are in place.
 - ii. The consolidated revised guidelines incorporating these select permitted activities have been enumerated in paras 5-20 below.
4. **Strict enforcement of the lockdown guidelines**
 - i. State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner, and shall strictly enforce the same.
 - ii. State/ UT Governments, may, however, impose stricter measures than these guidelines as per requirement of the local areas.
5. **All health services (including AYUSH) to remain functional, such as:**
 - i. Hospitals, nursing homes, clinics, telemedicine facilities.
 - ii. Dispensaries, chemists, pharmacies, all kinds of medicine shops including *Jan Aushadhi Kendras* and medical equipment shops.
 - iii. Medical laboratories and collection centres.
 - iv. Pharmaceutical and medical research labs, institutions carrying out COVID-19 related research.
 - v. Veterinary Hospitals, dispensaries, clinics, pathology labs, sale and supply of vaccine and medicine.
 - vi. Authorised private establishments, which support the provisioning of essential services, or efforts for containment of COVID-19, including home care providers, diagnostics, supply chain firms serving hospitals.
 - vii. Manufacturing units of drugs, pharmaceuticals, medical devices, medical oxygen, their packaging material, raw material and intermediates.
 - viii. Construction of medical/ health infrastructure including manufacture of ambulances.
 - ix. Movement (inter and intra State, including by air) of all medical and veterinary personnel, scientists, nurses, para-medical staff, lab technicians, mid-wives and other hospital support services, including ambulances.
6. **Agricultural and related activities:**
 - A. All agricultural and horticultural activities to remain fully functional, such as:
 - i. Farming operations by farmers and farm workers in field.
 - ii. Agencies engaged in procurement of agriculture products, including MSF operations.
 - iii. 'Mandis' operated by the Agriculture Produce Market Committee (APMC) or as notified by the State/ UT Government (e.g. satellite mandis). Direct marketing operations by the State/ UT Government or by industry, directly

2
C. L. S. Choudhary, in-Charge
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from farmers/ group of farmers, FPOs' co-operatives etc. States/ UTs may promote decentralized marketing and procurement at village level.

- iv. Shops of agriculture machinery, its spare parts (including its supply chain) and repairs to remain open.
 - v. Custom Hiring Centres (CHC) related to farm machinery.
 - vi. Manufacturing, distribution and retail of fertilizers, pesticides and seeds.
 - vii. Movement (inter and intra State) of harvesting and sowing related machines like combined harvester and other agricultural horticulture implements.
- B. Fisheries - the following activities will be functional:**
- i. Operations of the fishing (marine and inland)/ aquaculture industry, including feeding & maintenance, harvesting, processing, packaging, cold chain, sale and marketing.
 - ii. Hatcheries, feed plants, commercial aquana.
 - iii. Movement of fish/ shrimp and fish products, fish seed/ feed and workers for all these activities.
- C. Plantations- the following activities will be functional:**
- i. Operations of tea, coffee and rubber plantations, with maximum of 50% workers.
 - ii. Processing, packaging, sale and marketing of tea, coffee, rubber and cashew, with maximum of 50% workers.
- D. Animal husbandry - the following activities will be functional:**
- i. Collection, processing, distribution and sale of milk and milk products by milk processing plants, including transport and supply chain.
 - ii. Operation of animal husbandry farms including poultry farms & hatcheries and livestock farming activity.
 - iii. Animal feed manufacturing and feed plants, including supply of raw material, such as maize and soya.
 - iv. Operation of animal shelter homes, including Gaushalas.
- 7. Financial sector: following to remain functional:**
- i. Reserve Bank of India (RBI) and RBI regulated financial markets and entities like NPCI, CCIL, payment system operators and standalone primary dealers.
 - ii. Bank branches and ATMs, IT vendors for banking operations, Banking Correspondents (BCs), ATM operation and cash management agencies.
 - a. Bank branches be allowed to work as per normal working hours till disbursement of DBT cash transfers is complete.
 - b. Local administration to provide adequate security personnel at bank branches and BCs to maintain social distancing, law and order and staggering of account holders.
 - iii. SEBI, and capital and debt market services as notified by the Securities and Exchange Board of India (SEBI).
 - iv. IRDAI and Insurance companies.

- 8. Social sector: following to remain functional:**
- i. Operation of homes for children/ disabled/ mentally challenged/ senior citizens/ destitutes/ women/ widows.
 - ii. Observation homes, after care homes and places of safety for juveniles
 - iii. Disbursement of social security pensions, e.g. old age/ widow/ freedom fighter pensions, pension and provident fund services provided by Employees Provident Fund Organisation (EPFO)
 - iv. Operation of *Anganwadis* – distribution of food items and nutrition once in 15 days at the doorsteps of beneficiaries, e.g., children, women and lactating mothers. Beneficiaries will not attend the *Anganwadis*.
- 9. Online teaching/ distance learning to be encouraged:**
- i. All educational, training, coaching institutions etc. shall remain closed.
 - ii. However, these establishments are expected to maintain the academic schedule through online teaching.
 - iii. Maximum use of *Doodarshan* (DD) and other educational channels may be made for teaching purposes.
- 10. MNREGA works to be allowed:**
- i. MNREGA works are allowed with strict implementation of social distancing and face mask.
 - ii. Priority to be given under MNREGA to irrigation and water conservation works.
 - iii. Other Central and State sector schemes in irrigation and water conservation sectors may also be allowed to be implemented and suitably dovetailed with MNREGA works.
- 11. Public utilities: following to remain functional:**
- i. Operations of Oil and Gas sector, including refining, transportation, distribution, storage and retail of products, e.g., petrol, diesel, kerosene, CNG, LPG, PNG etc.
 - ii. Generation, transmission and distribution of power at Central and State/ UT levels.
 - iii. Postal services, including post offices.
 - iv. Operations of utilities in water, sanitation and waste management sectors, at municipal/ local body levels in States and UTs.
 - v. Operation of utilities providing telecommunications and internet services.
- 12. Movement, loading/ unloading of goods/ cargo (inter and intra State) is allowed, as under:**
- i. All goods traffic will be allowed to ply.
 - ii. Operations of Railways: Transportation of goods and parcel trains.
 - iii. Operations of Airports and related facilities for air transport for cargo movement, relief and evacuation.
 - iv. Operations of Seaports and Inland Container Depots (ICDs) for cargo transport, including authorized custom clearing and forwarding agents.


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 P.V.T.S.L.
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- v. Operations of Land Ports for cross land border transportation of essential goods, including petroleum products and LPG, food products, medical supplies.
- vi. Movement of all trucks and other goods/ carrier vehicles with two drivers and one helper subject to the driver carrying a valid driving license; an empty truck/ vehicle will be allowed to ply after the delivery of goods, or for pick up of goods.
- vii. Shops for truck repairs and dhabas on highways, with a stipulated minimum distance as prescribed by the State/ UT authorities.
- viii. Movement of staff and contractual labour for operations of railways, airports/ air carriers, seaports/ ships/ vessels, landports and ICDs is allowed on passes being issued by the local authority on the basis of authorizations issued by the respective designated authority of the railways, airports, seaports, landports and ICDs.

13. Supply of essential goods is allowed, as under:

- i. All facilities in the supply chain of essential goods, whether involved in manufacturing, wholesale or retail of such goods through local stores, large brick and mortar stores or e-Commerce companies should be allowed to operate, ensuring strict social distancing without any restriction on their timing of opening and closure.
- ii. Shops (including Kirana and single shops selling essential goods) and carts, including ration shops (under PDS) dealing with food and groceries (for daily use), hygiene items, fruits and vegetables, dairy and milk booths, poultry, meat and fish, animal feed and fodder etc, should be allowed to operate, ensuring strict social distancing without any restriction on their timing of opening and closure.
- iii. District authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.

14. Commercial and private establishments, as listed below, will be allowed to operate:

- i. Print and electronic media including broadcasting, DTH and cable services.
 - ii. IT and IT enabled Services, with upto 50% strength.
 - iii. Data and call centres for Government activities only.
 - iv. Government approved Common Service Centres (CSCs) at Gram Panchayat level.
 - v. E-commerce companies. Vehicles used by e-commerce operators will be allowed to ply with necessary permissions.
 - vi. Courier services.
 - vii. Cold storage and warehousing services, including at ports, airports, railway stations, container Depots, individual units and other links in the logistics chain.
- Private security services and facilities management services for maintenance and upkeep of office and residential complexes.

- ix. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
 - x. Establishments used/ earmarked for quarantine facilities.
 - xi. Services provided by self-employed persons, e.g., electrician, IT repairs, plumbers, motor mechanics, and carpenters.
- 15. Industries/ Industrial Establishments (both Government and private), as listed below, will be allowed to operate:**
- i. Industries operating in rural areas, i.e., outside the limits of municipal corporations and municipalities.
 - ii. Manufacturing and other industrial establishments with access control in Special Economic Zones (SEZs) and Export Oriented Units (EOUs), industrial estates, and industrial townships. These establishments shall make arrangements for stay of workers within their premises as far as possible and/ or adjacent buildings and for implementation of the Standard operating protocol (SOP) as referred to in para 21 (ii) below. The transportation of workers to work place shall be arranged by the employers in dedicated transport by ensuring social distancing.
 - iii. Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates.
 - iv. Food processing industries in rural areas, i.e., outside the limits of municipal corporations and municipalities.
 - v. Production units, which require continuous process, and their supply chain.
 - vi. Manufacturing of IT hardware.
 - vii. Coal production, mines and mineral production, their transportation, supply of explosives and activities incidental to mining operations.
 - viii. Manufacturing units of packaging material.
 - ix. Jute industries with staggered shifts and social distancing.
 - x. Oil and gas exploration/ refinery.
 - xi. Brick kilns in rural areas i.e., outside the limits of municipal corporations and municipalities.
- 16. Construction activities, listed as below, will be allowed to operate:**
- i. Construction of roads, irrigation projects, buildings and all kinds of industrial projects, including MSMEs, in rural areas, i.e., outside the limits of municipal corporations and municipalities, and all kinds of projects in industrial estates.
 - ii. Construction of renewable energy projects.
 - iii. Continuation of works in construction projects, within the limits of municipal corporations and municipalities, where workers are available on site and no workers are required to be brought in from outside (in situ construction).
- 17. Movement of persons is allowed in the following cases:**
- i. Private vehicles for emergency services, including medical and veterinary care, and for procuring essential commodities. In such cases, one passenger besides the private vehicle driver can be permitted in the backseat, in case of

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four-wheelers; however, in case of two-wheelers, only the driver of the vehicle is to be permitted.

- ii. All personnel travelling to place of work and back in the exempted categories, as per the instructions of the State/ UT local authority.
18. **Offices of the Government of India, its Autonomous/ Subordinate Offices will remain open, as mentioned below:**
- i. Defence, Central Armed Police Forces, Health and Family Welfare, Disaster management and Early Warning Agencies (IMD, INCOIS, SASE and National Centre of Seismology, CWC), National Informatics Centre (NIC), Food Corporation of India (FCI), NCC, Nehru Yuva Kendras (NYKs) and Customs to function without any restriction.
 - ii. Other Ministries and Departments, and offices under their control, are to function with 100% attendance of Deputy Secretary and levels above that. Remaining officers and staff to attend upto 33% as per requirement.
19. **Offices of the State/ Union Territory Governments, their Autonomous Bodies and Local Governments will remain open, as mentioned below:**
- i. Police, home guards, civil defence, fire and emergency services, disaster management, prisons and municipal services will function without any restrictions.
 - ii. All other Departments of State/ UT Governments to work with restricted staff. Group 'A' and 'B' officers may attend as required. Group 'C' and levels below that may attend upto 33% of strength, as per requirement to ensure social distancing. However, delivery of public services shall be ensured, and necessary staff will be deployed for such purpose.
 - iii. District administration and Treasury (including field offices of the Accountant General) will function with restricted staff. However, delivery of public services shall be ensured, and necessary staff will be deployed for such purpose.
 - iv. Resident Commissioner of States/ UTs, in New Delhi, only to the extent of coordinating COVID-19 related activities and internal kitchen operations.
 - v. Forest offices: staff/ workers required to operate and maintain zoo, nurseries, wildlife, fire-fighting in forests, watering plantations, patrolling and their necessary transport movement.
20. **Persons to remain under mandatory quarantine, as under:**
- i. All such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities.
 - ii. Persons violating quarantine will be liable to legal action under Section 188 of the IPC, 1860.
 - iii. Quarantined persons, who have arrived in India after 15.2.2020, after expiry of their quarantine period and being tested Covid-19 negative, will be released following the protocol prescribed in the SOP issued by MHA.

21. Instructions for enforcement of above lockdown measures:

All the district magistrates shall strictly enforce the National COVID 19 directives as specified in Annexure I. Penalties prescribed shall be levied and collected from all persons and entities violating these directives.

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- ii. **All industrial and commercial establishments, work places, offices etc. shall put in place arrangements for implementation of SOP as in Annexure II before starting their functioning.**
- iii. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
- iv. The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
- v. **Additional activities permitted in these guidelines shall be implemented in a phased manner, after making all arrangements necessary for strict implementation of the guidelines. These will come into force with effect from 20th April, 2020.**

22. Penal provisions

Any person violating these lockdown measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 186 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at Annexure III.


15/04/2020
Union Home Secretary


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Annexure i

National Directives for COVID-19 Management

The National Directives shall be enforced by the District Magistrate through fines and penal action as prescribed in the Disaster Management Act 2005.

PUBLIC SPACES

1. Wearing of face cover is compulsory in all public places, work places.
2. All persons in charge of public places, work places and transport shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare.
3. No organization /manager of public place shall allow gathering of 5 or more persons.
4. Gatherings such as marriages and funerals shall remain regulated by the District Magistrate.
5. Spitting in public spaces shall be punishable with fine.
6. There should be strict ban on sale of liquor, gutka, tobacco etc. and spitting should be strictly prohibited.

WORK SPACES

7. All work places shall have adequate arrangements for temperature screening and provide sanitizers at convenient places.
8. Work places shall have a gap of one hour between shifts and will stagger the lunch breaks of staff, to ensure social distancing.
9. Persons above 65 years of age and persons with co-morbidities and parents of children below the age of 5 may be encouraged to work from home.
10. Use of Arogya setu will be encouraged for all employees both private and public.
11. All organizations shall sanitize their work places between shifts.
12. Large meetings to be prohibited.

MANUFACTURING ESTABLISHMENTS

13. Frequent cleaning of common surfaces and mandatory hand washing shall be mandated.
14. No overlap of shifts and staggered lunch with social distancing in canteens shall be ensured.
15. Intensive communication and training on good hygiene practices shall be taken up.

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Annexure B**Standard Operating Procedure for Social Distancing for Offices, Workplace, Factories and Establishments**

The following measures shall be implemented by all offices, factories and other establishments:

1. All areas in the premises including the following shall be disinfected completely using user friendly disinfectant mediums:
 - a. Entrance Gate of building, office etc.
 - b. Cafeteria and canteens
 - c. Meeting room, Conference halls/ open areas available/ verandah/ entrance gate of site, bunkers, porta cabins, building etc.
 - d. Equipment and lifts.
 - e. Washroom, toilet, sink, water points etc.
 - f. Walls/ all other surfaces
2. For workers coming from outside, special transportation facility will be arranged without any dependency on the public transport system. These vehicles should be allowed to work only with 30-40% passenger capacity.
3. All vehicles and machinery entering the premise should be disinfected by spray mandatorily.
4. Mandatory thermal scanning of everyone entering and exiting the work place to be done.
5. Medical insurance for the workers to be made mandatory.
6. Provision for hand wash & sanitizer preferably with touch free mechanism will be made at all entry and exit points and common areas. Sufficient quantities of all the items should be available.
7. Work places shall have a gap of one hour between shifts and will stagger the lunch breaks of staff, to ensure social distancing.
8. Large gatherings or meetings of 10 or more people to be discouraged. Seating at least 6 feet away from others on job sites and in gatherings, meetings and training sessions.
9. Not more than 2/4 persons (depending on size) will be allowed to travel in lifts or hoists.
10. Use of staircase for climbing should be encouraged.
11. There should be strict ban of gutka, tobacco etc. and spitting should be strictly prohibited.
12. There should be total ban on non-essential visitors at sites.
13. Hospitals/clinics in the nearby areas, which are authorized to treat COVID-19 patients, should be identified and list should be available at work place all the times.


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Annexure II

Offences and Penalties for Violation of Lockdown Measures

A. Section 51 to 60 of the Disaster Management Act, 2005

51. Punishment for obstruction, etc.—Whoever, without reasonable cause

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act, or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section— (a) "company" means any body corporate and includes a firm or other association of individuals, and (b) "director", in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be, or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

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B Section 188 in the Indian Penal Code, 1860

188 Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.



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ज.पा.च.स.प.स.
समीक्षा प्रशासनिक



समाहरणालय पूर्वी चम्पारण, मोतिहारी
(जिला आपदा प्रबंधन शाखा)

क्रमांक - 928/2020
दिनांक - 01/05/2020

फोन नं - 06252 2427000/1, 2428000/1
फैक्स नं - 06252 242900
ई-मेल - Jm.motihari@cham.nic.in

प्रति

जिलाधिकारी,
पूर्वी चम्पारण, मोतिहारी।

सहायक

- पुलिस अधीक्षक, पूर्वी चम्पारण, मोतिहारी।
- अपर समाहारी, पूर्वी चम्पारण, मोतिहारी।
- उप-अधीक्षक (आयुध), पूर्वी चम्पारण, मोतिहारी।
- अपर अधीक्षक (आयुध), पूर्वी चम्पारण, मोतिहारी।
- अपर पुलिस अधीक्षक, सुरक्षालय, पूर्वी चम्पारण, मोतिहारी।
- सिविल सर्जन, पूर्वी चम्पारण, मोतिहारी।
- सर्जरी प्रभारी, पदाधिकारी, समाहरणालय, पूर्वी चम्पारण, मोतिहारी।
- सर्जरी प्रभारी के वरिष्ठ सहायी, पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी कार्यालय अधीक्षक, पूर्वी चम्पारण, मोतिहारी।
- सर्जरी अनुमण्डल पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी मुक्ति कक्षा उप-समाहारी, पूर्वी चम्पारण।
- सर्जरी अनुमण्डल लक शिकारत निवास पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी अनुमण्डल पुलिस पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी अपर अनुमण्डल पदाधिकारी, पूर्वी चम्पारण।
- जिला स्वयंसेवा, युव सभा मोतिहारी, पूर्वी चम्पारण, मोतिहारी।
- अवधी बैंक प्रबंधक, पूर्वी चम्पारण, मोतिहारी।
- जाना उद्दीष्टक, अन्वेषण कार्यालय, मोतिहारी।
- समाहारी, प्रभार जल पर, पूर्वी चम्पारण।
- जिला प्रबंधक, वीजापत्रकारणलय, पूर्वी चम्पारण।
- जिला अधीक्षक, जिला परिषद, पूर्वी चम्पारण।
- जॉन सामन पदाधिकारी, मोतिहारी।
- सर्जरी जल पर, पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी जल पर, पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी कार्यालय पदाधिकारी, जल पर, पदाधिकारी, पूर्वी चम्पारण।
- सर्जरी वरिष्ठ पदाधिकारी, जल पर, पूर्वी चम्पारण।
- सर्जरी पदाधिकारी, पूर्वी चम्पारण।

विषय

ग्रह महालय भारत सरकार के आदेश संख्या 40-3/2020-डीएम-1(ए) दिनांक 01 मई, 2020 के अनुसार कोविड-19 महामारी के नियंत्रण हेतु लागू किये गये आदेश अनुसूचित प्रतिबंधित/अनुमान्य गतिविधियों को सम्बन्ध में दिशा-निर्देश को संलग्न में।

साधन

अनुसूचित विषय को संबंधित क संघ से सहित है कि 2020 में कोरोना वायरस (COVID-19) के नियंत्रण एवं समाधान के उद्देश्य से ग्रह महालय भारत सरकार द्वारा दिनांक 01/05/2020 से लागू किये गये आदेशों को लागू करने के लिए आवश्यक है कि संबंधित क संघ को इन आदेशों को लागू करने के लिए आवश्यक दिशा-निर्देश को संबंधित विभाग के साथ साझा करने के लिए जिला-स्तरीय मार्ग देना है।

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आज का दिन-दिनांक को ही मान्यता दी जायेगी। यदि-यदि दिनांक में परिवर्तन
करने का प्रस्ताव आया तो उसे ही मान्यता दी जायेगी। प्रस्ताव प्रस्तुत करने वाले अधिकारी को आवश्यक प्रमाण प्रस्तुत करना
होगा।

यदि-यदि दिनांक में परिवर्तन की आवश्यकता है तो
अधिकारी को सूचित करना।

दिनांक
[Handwritten Signature]
15/11/20
अधिकारी

[Handwritten Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
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No. 40-312020-DM-IIA)
Government of India
Ministry of Home Affairs

North Block, New Delhi 110001
Dated 1st May 2020

ORDER

Whereas under directions of the National Disaster Management Authority (NDMA), guidelines on lockdown measures to contain the spread of COVID-19 in all parts of the country were issued vide Order of even number dated 24.03.2020 under the Disaster Management Act 2005 for a period of 21 days with effect from 25.03.2020. Under further directions of NDMA, the lockdown period was extended upto 03.05.2020 vide Order of even number dated 14.04.2020 and consolidated revised guidelines were issued vide Order of even number dated 15.04.2020.

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, NDMA has issued an Order number 1-29/2020-PP dated 01.05.2020 directing the Chairperson, NEC that lockdown measures be continued to be implemented in all parts of the Country, for a further period of two weeks with effect from 04.05.2020.

Whereas under directions of the aforesaid Order of NDMA dated 01.05.2020, and in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues directions to all the Ministries/ Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities that the lockdown period is extended for a further period of two weeks with effect from 04.05.2020.

Whereas, in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues new guidelines on lockdown measures, as annexed, which will come into effect from 04.05.2020 for a period of two weeks, for strict implementation.



Union Home Secretary

To:

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary National Disaster Management Authority


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New Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ UT Governments and State/ UT authorities for containment of COVID-19 in the country for the extended period of National Lockdown, for a further period of two weeks with effect from 4th May, 2020.

[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020-DM-I (A) dated 1st May 2020]

1. With the extension of the Lockdown period for a further period of two weeks with effect from 4th May 2020, new guidelines as under will be applicable based on the risk profiling of the districts into Red (Hotspot), Green and Orange zones.
2. **Identification of Red (Hotspots), Green and Orange Zones**
 - i. Based on their risk profile, the criteria for dividing the districts of the country into three zones, viz. green, red and orange, will be as follows:
 - a. **Green Zones:** Green Zones shall be defined as per the following criteria: districts with zero confirmed case till date; or, districts with no confirmed case in the last 21 days.
 - b. **Red Zones or Hotspot Districts:** Districts shall be defined as Red Zones or Hotspot districts, by Ministry of Health and Family Welfare (MoHFW), Government of India (GoI), taking into account total number of active cases, doubling rate of confirmed cases, extent of testing and surveillance feedback.
 - c. **Orange Zones:** Districts which are neither defined as Red nor as Green Zones, shall be Orange Zones.
 - ii. MoHFW will share the list of Red Zone (Hotspot), Orange Zone and Green Zone districts and related information with State/ UTs on a weekly basis or earlier as required. States/ UTs, on review, may consider inclusion of additional districts as Red Zone (Hotspots) and Orange Zone districts depending on the extent of spread of COVID-19 infection. However, States and UTs may not lower the classification of any district, that is included in the list of Red Zone (Hotspots) and Orange Zone districts by MoHFW.
 - iii. Districts classified either as Red or Orange Zones, may have one or more Municipal Corporation (MC) areas. In such cases, States/ UTs and District administrations may make an assessment of the distribution of cases - within the jurisdiction of the MC(s), and the area falling outside the MC(s) boundaries. In such cases, the classification of zones shall be as follows:
 - a. In case the district is classified as a Red Zone, and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as an Orange Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
 - b. In case the district is classified as an Orange Zone and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as a Green Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
 - c. In case in the area of the district outside the limits of the MC (s) does have one or more confirmed case(s) in the last 21 days, this part of the

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district shall continue to be labeled as a Red or Orange Zone, as per the classification of the district.

d. While assessing the classification of a zone, cases should be registered in the zone where the case originated, rather than where it is treated.

3. Identification of Containment Zones

- i. Containment Zones shall be demarcated within Red (Hotspots) and Orange Zones by States/ UTs and District Administrations based on the guidelines of MoHFW. The boundary of the Containment Zone shall be defined by District Administrations taking into account the following factors: mapping of cases and contacts; geographical dispersion of cases and contacts, area with well demarcated perimeter and enforceability.
- ii. The boundary of the Containment Zone will be a residential colony, *mohalla*, municipal ward, municipal zone, Police Station area, towns etc., in case of urban areas, and, a village, cluster of villages, Gram Panchayat, group of Police Stations, blocks etc., in case of rural areas.

Protocol within Containment Zones

- iii. Intensive surveillance mechanism as outlined in the Standard Operating Protocol (SOP) issued by MoHFW is to be established within the Containment Zone. The local authority shall ensure 100% coverage of *Aarogya Setu* app among the residents of Containment Zones.
 - iv. In the Containment Zone, following activities shall be undertaken by the local authorities.
 - a. Contact Tracing
 - b. Home or institutional quarantining of individuals based on risk assessment by medical officers. This risk assessment will be based on symptoms, contact with confirmed cases, and travel history.
 - c. Testing of all cases with Severe Acute Respiratory Infection (SARI), Influenza Like Illness (ILI) and other symptoms specified by MoHFW.
 - d. House to house surveillance by special teams constituted for this purpose.
 - e. Clinical management of all cases as per protocol.
 - f. Counselling and educating people; and establishing effective communication strategies.
 - v. In these Containment Zones, within Red (Hotspots) and Orange Zones, where maximum precaution is required, there shall be strict perimeter control to ensure that there is no movement of population in or out of these zones except for medical emergencies and for maintaining supply of essential goods and services. The guidelines issued in this regard by MoHFW will be strictly implemented by State/ UT Governments and the local district authorities.
- ### 4. The following activities will continue to remain prohibited across the country, irrespective of the Zone, for a period of two weeks with effect from 4th May, 2020:
- i. All domestic and international air travel of passengers, except for medical services, air ambulance and for security purposes or for purposes as permitted by MHA.
 - ii. All passenger movement by trains, except for security purposes or for purposes as permitted by MHA.


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- iii. Inter State Buses for public transport, except as permitted by MHA.
 - iv. Metro rail services.
 - v. Inter State movement of individuals except for medical reasons or for activities as permitted by MHA.
 - vi. All schools, colleges, educational/training/ coaching institutions etc. However, online/distance learning shall be permitted.
 - vii. Hospitality services other than those used for housing health/ police/ Government officials/ healthcare workers/ stranded persons including tourists, and those used for quarantine facilities.
 - viii. All cinema halls, shopping malls, gymnasiums, sports complexes, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
 - ix. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions/ other gatherings.
 - x. All religious places/ places of worship shall be closed for public. Religious congregations are strictly prohibited.
5. **Measures for well being and safety of persons**
- i. The movement of individuals, for all non-essential activities, shall remain strictly prohibited between 7 pm to 7 am. Local authorities shall issue orders under appropriate provisions of law, such as prohibitory orders (curfew) under Section 144 of CrPC, for this purpose, and ensure strict compliance.
 - ii. In all zones, persons above 85 years of age, persons with co-morbidities, pregnant women, and children below the age of 10 years, shall stay at home, except for meeting essential requirements and for health purposes, as per the National Directives.
 - iii. In Containment Zones, Out-Patient Departments (OPDs) and Medical clinics shall not be permitted to operate. However, these may be permitted to operate in Red, Orange and Green Zones, with social distancing norms and other safety precautions.
6. **Activities in Containment Zones**
- i. Strict perimeter control.
 - ii. Establishment of clear entry and exit points.
 - iii. Movement of persons only for maintaining supply of goods and services, and for medical emergencies.
 - iv. No unchecked influx of people and transport.
 - v. Recording of details of people moving in and out of perimeter.
7. **Activities in Red Zones (Hotspots) [Outside Containment Zones]**
- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall not be permitted.
 - a. Cycle rickshaws and auto rickshaws.
 - b. Taxis and cab aggregators
 - c. Intra district and inter-district plying of buses
 - d. Barber shops, spas and salons
- The following activities shall be permitted with restrictions as specified:
- a. Movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the vehicle driver. For two wheelers, pillion rider is not allowed.

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- b. Industrial establishments in urban areas: Only Special Economic Zones (SEZs), Export Oriented Units (EOUs), industrial estates and industrial townships with access control, Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates, Production units, which require continuous process, and their supply chain, Manufacturing of IT hardware, Jute industry with staggered shifts and social distancing and, Manufacturing units of packaging material are permitted.

All industrial activities are permitted in rural areas.

- c. Construction activities in urban areas: Only in situ construction (where workers are available on site and no workers are required to be brought in from outside) and construction of renewable energy projects are permitted.

All construction activities are permitted in rural areas.

- d. All malls, market complexes and markets shall remain closed in urban areas, i.e., areas within the limits of municipal corporations and municipalities. However, shops selling essential goods in markets and market complexes are permitted.

All standalone (single) shops, neighborhood (colony) shops and shops in residential complexes are permitted to remain open in urban areas, without any distinction of essential and non-essential.

All shops in rural areas, except in malls, are permitted to remain open, without any distinction of essential and non-essential.

Social distancing (2 Gaz ki door) will be maintained in all cases.

- e. E-commerce activities will be permitted only in respect of essential goods.
- f. Private offices can operate with upto 33% strength as per requirement, with the remaining persons working from home.
- g. All Government offices shall function with officers of the level of Deputy Secretary and above to the extent of 100% strength. The remaining staff will attend upto 33% as per requirement. However, Defense and Security services, Health and Family Welfare, Police, Prisons, Home Guards, Civil Defence, Fire and Emergency Services, Disaster management and related services, NIC, Customs, FCI, NCC, NYK and Municipal services shall function without any restrictions, delivery of public services shall be ensured and necessary staff will be deployed for such purpose.

8. **Activities in Orange Zones (Outside Containment Zones)**

- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall not be permitted:
- Inter-district and Intra-district plying of buses.
- ii. The following activities shall be permitted with restrictions as are specified:
- Taxis and cab aggregators with 1 driver and 2 passengers only.
 - Inter-district movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the driver.

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9. **Activities in Green Zones**
- i. All activities are permitted in Green Zones, except those activities that are prohibited under Para 4.
 - ii. Buses can operate with upto 50% seating capacity.
 - iii. Bus depots can operate with upto 50% capacity.
10. **All other activities will be permitted activities, which are not specifically prohibited/ permitted with restrictions in the various Zones, under these guidelines. However, States/ UTs, based on their assessment of the situation, and with the primary objective of keeping the spread of COVID-19 in check, may allow only select activities from out of the permitted activities, with such restrictions as felt necessary.**
11. **All States/ UTs shall allow inter-state movement of goods/ cargo, including empty trucks.**
12. **No State/ UT shall stop the movement of cargo for cross land-border trade under Treaties with neighbouring countries.**
13. **No separate/ fresh permissions are required from authorities for activities already permitted to operate under the guidelines on Lockdown measures up to May 3, 2020. The following Standard Operating Protocols (SOPs) issued by MHA will continue to operate:**
- i. **SOP on transit arrangement for foreign national(s) in India and release of quarantine persons, issued vide Order dated April 02, 2020.**
 - ii. **SOP on movement of stranded labour within States/ UTs, issued vide Order dated April 19, 2020.**
 - iii. **SOP on sign-on and sign-off of Indian seafarers, issued vide Order dated April 21, 2020.**
 - iv. **SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons, issued vide Order dated April 29, 2020.**
 - v. **SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons by train, issued vide Order dated May 01, 2020.**
14. **Strict enforcement of the lockdown guidelines**
 State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner, and shall strictly enforce the same.
15. **Instructions for enforcement of above lockdown measures:**
- i. **All the district magistrates shall strictly enforce the above lockdown measures and the National Directives for COVID-19 Management, for public and work places, as specified in Annexure I.**
 - ii. **In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such Incident Commander. The Incident Commander will issue passes for enabling essential movements as explained.**
The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.

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16 **Penal provisions**

Any person violating these lockdown measures and the National Directives for COVID-19 Management will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at Annexure II


15/5/2020
Union Home Secretary


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Annexure I

National Directives for COVID-19 Management

PUBLIC PLACES

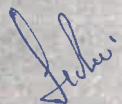
1. Wearing of face cover is compulsory in all public places.
2. All persons in charge of public places and transport shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare.
3. No organization/ manager of public place shall allow gathering of 5 or more persons.
4. Marriage related gatherings shall ensure social distancing, and the maximum number of guests allowed shall not be more than 50.
5. Funeral/ last rites related gatherings shall ensure social distancing, and the maximum numbers allowed shall not be more than 20.
6. Spitting in public places shall be punishable with fine, as may be prescribed by the State/ UT local authority.
7. Consumption of liquor, pan, gutka, tobacco etc in public places is not allowed.
8. Shops selling liquor, pan, gutka, tobacco etc. will ensure minimum six feet distance (2 gaz ki doori) from each other, and also ensure that not more than 5 persons are present at one time at the shop.

WORK PLACES

9. Wearing of face cover is compulsory in all work places and adequate stock of such face covers shall be made available.
10. All persons in charge of work places shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare, both within the work places and in company transport.
11. Social distancing at work places shall be ensured through adequate gaps between shifts, staggering the lunch breaks of staff, etc.
12. Provision for thermal scanning, hand wash and sanitizer preferably with touch free mechanism will be made at all entry and exit points and common areas. In addition, sufficient quantities of handwash and sanitizer shall be made available in the work places.
13. Frequent sanitization of entire workplace, common facilities and all points which come into human contact e.g. door handles etc. shall be ensured including between shifts.
14. Persons above 65 years of age, persons with co-morbidities, pregnant women and children below the age of 10 years shall stay at home, except for meeting essential requirements and for health purposes.
15. Use of Arogya Setu app shall be made mandatory for all employees, both private and public. It shall be the responsibility of the Head of the respective Organizations to ensure 100% coverage of this app among the employees.
16. Large physical meetings to be avoided.
17. Hospitals/ clinics in the nearby areas, which are authorized to treat COVID-19 patients, should be identified and list should be available at work place all the times. Employees showing any symptom of COVID-19 should be immediately sent for check up to such facilities. Quarantine areas should be earmarked for isolating employees showing symptoms till they are safely moved to the medical facilities.

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- 16. Arrangements for transport facilities shall be provided with social distancing, wherever personal public transport is not feasible.
- 17. Intensive communication and training on good hygiene practices shall be taken up.


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Annexure II

Offences and Penalties for Violation of Lockdown Measures

A. Section 51 to 60 of the Disaster Management Act, 2005

51. Punishment for obstruction, etc.—Whoever, without reasonable cause

- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act, or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to

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be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 55, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purpose of this section—

- i. 'company' means any body corporate and includes a firm or other association of individuals; and
- ii. 'director' in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by—

- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
- (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

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B. Section 188 In the Indian Penal Code, 1860

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both, and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

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Government of West Bengal
NABANNA, Howrah

Memo NO 177 -CS/ 2020/

Dated 18/ 05/2020

ORDER

Whereas, in terms of Order NO 40-3/2020-DM-I (A) dated 17/ 05/2020 of Government of India in the Ministry of Home Affairs, the lock down measures to contain the spread of COVID-19 stands extended up to 31/ 05/2020;

Whereas, certain guidelines have been issued under such aforesaid order in respect of implementation of lockdown measures;

Whereas, zoning into Red, Orange and Green zones shall be carried out by Health and Family Welfare Department in consultation with Home Department taking into consideration the prescribed parameters. This will be a dynamic exercise. Ward in urban areas and Gram Panchayat in rural areas will be the basic unit for zoning. Polling Station (Booth) in each ward and gram panchayat will be the unit for containment planning. Each Red and Orange Zone will be classified into three categories as follows:

Category A: Affected Area (containment zone)

Category B: Buffer Area

Category C: Clean Area

Now therefore, in pursuance to aforesaid order and guidelines thereof, following directives and clarifications in respect of restrictions and relaxations are hereby issued which shall come into effect from 21/05/2020:

1) The following activities shall remain closed /prohibited throughout the state:

- i All schools, colleges, technical institutions, ICDS centres to remain closed till the second week of June 2020.
- ii Metro rail services
- iii All cinema halls, shopping malls, gymnasiums, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls, and spas.
- iv All social, cultural, religious and political gatherings.

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2) General Advisory:

- i Wearing of mask is compulsory.
- ii Strict social distancing of 2 metres for all.
- iii All public places, streets, housing complexes, residential areas and work places to be cleaned and sanitized at regular intervals.
- iv Person above 65 years, persons with co-morbidities, pregnant women, and children below 10 years, should stay at home, except for essential and health purposes.
- v Spitting in public places prohibited.
- vi Restriction in movement of people and non-essential items between 7PM to 7AM. However, there shall be no restriction in movement of essential commodities including agricultural produce.
- vii Consumption of liquor, pan, gutka, tobacco etc in public places is not allowed.
- viii No separate permission / license / pass required for starting permissible activities or for movement of people/workers related to permissible activities.
- ix Provision for thermal scanning, hand wash and sanitizer should be made at all entry and exit points and common areas.
- x Maximum guests allowed for marriage shall not exceed 15 (fifteen).
- xi Maximum number of people allowed for funeral/ last rites shall not be more than 15 (fifteen).

3) Restrictions / interventions in the Affected Area (Category-A)

- i No socio-economic activities permitted.
- ii Complete access control. Cordoning of the entire unit with complete restriction on ingress and egress. Measures like appropriate barricade, CCTV surveillance, drone/mobile app based tracking and monitoring of restrictions imposed etc.
- iii Regular sanitisation/cleaning by respective local bodies.
- iv Dedicated suitably equipped task force for conducting outreach fever mapping and enforcement of restrictions imposed. Intensive testing and contact tracing.
- v Organizing home delivery of essential commodities, medicines and health services.
- vi Appropriately equipped with protective cover e.g. PPE's, masks front line workers.

4) Relaxations in Buffer Area (Category-B)

- i) All activities as permitted in Clean Area (Category -C) with 25% strength only.

5) Relaxations in Clean Area (Category-C)

Following activities are permitted:

- i. Industries (micro, small, medium & heavy) including tea industry, Jute Mills and Brick Kilns with alternating 50% workers each day.
- ii. Activities under MNREGS and other identified government programmes with full strength with strict protocol.
- iii. E-commerce and Courier services of both essential and non essential products.
- iv. Regular health services with full strength.
- v. Markets. Shop owners to ensure not more than 5 persons at one time and distance of at least 6 feet between customers. Shop Keepers to use Masks, gloves and Sanitiser.
- vi. Salons and parlors with proper maintenance of hygiene protocol including disinfection and sterilization of instruments used.
- vii. Hotels with strict health and hygiene protocol in allowed circumstances.
- viii. Household maintenance services like plumbing, electrician, carpenter, and domestic help with consent of Resident Welfare Association as applicable.
- ix. Building construction activities with alternating 50% strength of workers.
- x. Agriculture & agriculture marketing, floriculture, apiculture and horticulture and associated activities.
- xi. Restaurants for home delivery only.
- xii. Government infrastructure development activities- PWD, Irrigation, PHE etc.
- xiii. Movement of essential & nonessential goods and construction materials.
- xiv. Intra-state bus and taxi / cab services with not more than 20 passengers or 50% of seating capacity whichever is higher in each bus and not more than 2 passengers in each taxi/ cab.
- xv. Outdoor film and television shooting activities and allied activities.
- xvi. Petrol / Diesel pumps, auto repairing shops and garages.

- XVII. Inter-state movement of passenger vehicles and buses with mutual consent of states. Online entry and exit pass system has been introduced which will continue to facilitate inter-state movement of people.
- XVIII. Movement of cargo goods trucks carrying both essential and non-essential commodities.
- XIX. Central and State Government offices with reduced manpower. Work from home to be encouraged.
- XX. Private offices including those located in market complexes/shopping malls with 50 % strength. Work from home to be encouraged.
- XXI. Sports Complexes and stadia without spectators.
- XXII. Sports and Games activities in Clubs following social distancing norms.

6) Institutional Arrangements

- i District Magistrates and Commissioner of Kolkata Municipal Corporation shall be responsible for delineation of containment categories viz Affected Area, Buffer Area and Clean Area in their respective jurisdictions in consultation with local police and health authorities.
- ii Block Development Officers, Sub divisional Officers, Municipal Commissioners shall be responsible for all enforcement measures in Blocks, Municipal Towns and Corporations respectively.
- iii District Magistrates/ Commissioner KMC shall appoint Incidence Commanders / Officer -in- Charge for each or a group of containment zones. Each Incidence Commander shall form a multidisciplinary team involving representatives of H&FW Department, local police, private health practitioners of the area, public representatives and influential people of the area. The team shall ensure intensive lockdown, surveillance, contact tracing and testing in Containment Zones. The team shall also ensure home delivery of essential commodities in the Affected Area.
- iv Close surveillance shall continue outside the containment zones, to ensure that any instance of contagion is attended immediately and spread is prevented by way of contact tracing and quarantine.
Any deviation from the restrictions and relaxations or of compulsorily wearing of mask, sanitization and maintaining social distancing shall immediately result in withdrawal of relaxation granted or activities permitted.
Any violation of this order shall attract penal action under the provisions of Disaster Management Act 2005.

J. S. Chatterjee

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Chief Secretary

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No. F. 18/4/2020-PPD
 Government of India
 Ministry of Finance
 Department of Expenditure
 Procurement Policy Division

North Block, New Delhi
 New Delhi dated the 13th May, 2020

OFFICE MEMORANDUM

Subject: Force Majeure Clause (FMC)

Attention is invited to Department of Expenditure's O.M. No. 18/4/2020-PPD dated 19th February, 2020 on the invocation of Force Majeure Clause (FMC). Vide the O.M., it was clarified that disruption of supply chains due to spread of Coronavirus will be covered under FMC which could be invoked, wherever considered appropriate, following the due procedure as stated in para 9.7.7. of the Manual on Procurement of Goods.

2. Subsequent to issuance of the above referred O.M., further disruptions have affected transportation, manufacturing and distribution of goods and services in the country. Limitations placed on the movement of men and material as per the guidelines issued by the Ministry of Home Affairs (MHA) under the Disaster Management Act, 2005 (DM Act 2005) and the respective State and UT governments from time to time have severely impaired the fulfilment of contractual obligations for supply of goods, works and consultancy services (including other services), and affected the volume of vehicular traffic.

3. Attention in this regard is invited to para 9.7.7 of the "Manual for Procurement of Goods 2017", Para 6.4.2 of the "Manual for Procurement of Works 2019" and para 8.14.1 of the "Manual for Procurement of Consultancy and other Services 2017" issued by the Department of Expenditure. The above referred three Manuals recognize extraordinary events or circumstances beyond human control leading to delays in or non-fulfilment of contractual obligations. In a situation of such events happening, and after following due procedure, parties to the contract are allowed flexibility to invoke FMC following prescribed due procedure.


4. It is recognised that in view of the restrictions placed on the movement of goods, services and manpower on account of the lockdown situation prevailing overseas and in the country in terms of the guidelines issued by the MHA under the DM Act 2005 and the respective State and UT Governments, it may not be possible for the parties to the contract to fulfil contractual obligations. In respect of Public-private Partnership (PPP) concession contracts, a period of the contract may have become unremunerative. Therefore, after fulfilling due procedure and wherever applicable, parties to the contract may invoke FMC for all construction/works contracts, goods and services contracts and PPP contracts with Government Agencies and in such event, date for completion of contractual obligations which had to be completed on or after 20th February 2020 shall stand extended for a period not less than

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three months and not more than six months without imposition of any cost or penalty on the contractor/concessionaire. Concession period in PPP contracts ending on or after 20th February 2020 shall be extended by not less than three and not more than six months. The period of extension (between three and six months) may be decided based on the specific circumstances of the case and the period for which performance was affected by the *force majeure* events.

5. It is clarified that invocation of FMC would be held valid only in a situation where the parties to the contract were not in default of the contractual obligations as on 19th February, 2020. It is further clarified that invocation of FMC does not absolve all non-performances of a party to the contract, but only in respect of such non-performance as is attributable to a lockdown situation or restrictions imposed under any Act or executive order of the Government/s on account of COVID-19 global pandemic. It may be noted that, subject to above stated, all contractual obligations shall revive on completion of the period.


(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel.No. : 24621305
Email: kn.reddy@gov.in

To,
Secretaries of all Central Government Ministries/Departments


C.E.O./Project In-Charge
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No. F. 18/4/2020-PPD
 Government of India
 Ministry of Finance
 Department of Expenditure
 Procurement Policy Division

North Block, New Delhi
 New Delhi dated the 13th May, 2020

OFFICE MEMORANDUM

Subject: Force Majeure Clause (FMC)

Attention is invited to Department of Expenditure's O.M. No. 18/4/2020-PPD dated 19th February, 2020 on the invocation of Force Majeure Clause (FMC). Vide the O.M., it was clarified that disruption of supply chains due to spread of Coronavirus will be covered under FMC which could be invoked, wherever considered appropriate, following the due procedure as stated in para 9.7.7. of the Manual on Procurement of Goods.

2. Subsequent to issuance of the above referred O.M., further disruptions have affected transportation, manufacturing and distribution of goods and services in the country. Limitations placed on the movement of men and material as per the guidelines issued by the Ministry of Home Affairs (MHA) under the Disaster Management Act, 2005 (DM Act 2005) and the respective State and UT governments from time to time have severely impaired the fulfilment of contractual obligations for supply of goods, works and consultancy services (including other services), and affected the volume of vehicular traffic.


3. Attention in this regard is invited to para 9.7.7 of the "Manual for Procurement of Goods 2017", Para 6.4.2 of the "Manual for Procurement of Works 2019" and para 8.14.1 of the "Manual for Procurement of Consultancy and other Services 2017" issued by the Department of Expenditure. The above referred three Manuals recognize extraordinary events or circumstances beyond human control leading to delays in or non-fulfilment of contractual obligations. In a situation of such events happening, and after following due procedure, parties to the contract are allowed flexibility to invoke FMC following prescribed due procedure.

4. It is recognised that in view of the restrictions placed on the movement of goods, services and manpower on account of the lockdown situation prevailing overseas and in the country in terms of the guidelines issued by the MHA under the DM Act 2005 and the respective State and UT Governments, it may not be possible for the parties to the contract to fulfil contractual obligations. In respect of Public-private Partnership (PPP) concession contracts, a period of the contract may have become unremunerative. Therefore, after fulfilling due procedure and wherever applicable, parties to the contract may invoke FMC for all construction/works contracts, goods and services contracts and PPP contracts with Government Agencies and in such event, date for completion of contractual obligations which had to be completed on or after 20th February 2020 shall stand extended for a period not less than


[Signature]
 C.E.O./Project In-Charge
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three months and not more than six months without imposition of any cost or penalty on the contractor/concessionaire. Concession period in PPP contracts ending on or after 20th February 2020 shall be extended by not less than three and not more than six months. The period of extension (between three and six months) may be decided based on the specific circumstances of the case and the period for which performance was affected by the *force majeure* events.

5. It is clarified that invocation of FMC would be held valid only in a situation where the parties to the contract were not in default of the contractual obligations as on 19th February, 2020. It is further clarified that invocation of FMC does not absolve all non-performances of a party to the contract, but only in respect of such non-performance as is attributable to a lockdown situation or restrictions imposed under any Act or executive order of the Government/s on account of COVID-19 global pandemic. It may be noted that, subject to above stated, all contractual obligations shall revive on completion of the period.


(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel No. : 24621305
Email: kn.reddy@gov.in

To,
Secretaries of all Central Government Ministries/Departments


C.E.O./Project in-Charge
P.V.T.S.L.
VARANASI

No. 3/1/2020-Trans
Government of India
Ministry of Power
Shram Shakti Bhawan, Rafi Marg,

New Delhi- 110001, Dated: 27th July, 2020

To

1. Chairperson, Central Electricity Authority, New Delhi
2. COO, CTU-Pig, POWERGRID, Gurugram

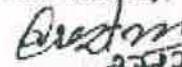
Sub: Extension to TSP/ Transmission Licensees for completion of under construction inter-state transmission projects

Sir,

I am directed to state that transmission utilities have pointed out that construction activities at various transmission project sites have been severely affected by the nationwide lockdown measures announced since 25th March, 2020 to contain outbreak of COVID-19 and have requested for extension of Scheduled Commercial Operation Date (SCOD) to mitigate the issues of disruption in supply chains and man power, caused due to outbreak of COVID-19 pandemic.

2. It has been, therefore, decided that:
 - i. All inter-state transmission projects, which were under construction as on date of lock-down i.e. 25th March 2020, shall get an extension of five months in respect of SCOD
 - ii. This order shall not apply to those projects, whose SCOD date was prior to 25th March 2020
 - iii. Start date of Long Term Access granted to a generator by CTU based on completion of a transmission line, whose SCOD is extended by 5 months due to COVID-19 as mentioned above at point (i), shall also be extended by 5 months.
3. This issues with the approval of Competent Authority.

Yours faithfully,


(Bihari Lal)

Under Secretary (Trans)
Tele Fax: 011-23325242
E-mail: transdesk-mop@nic.in

Copy to:

- (1) Secretary, M/o New and Renewable Energy --- with a request to consider granting similar 5 months extension of SCOD for RE projects in order to synchronise commissioning of transmission projects with RE generators
- (2) CMD, POWERGRID, Gurugram, Haryana.


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

No. 3/1/2020-Trans
Government of India
Ministry of Power
Shram Shakti Bhawan, Rafi Marg,

New Delhi- 110001, Dated: 27th July, 2020

To

1. Chairperson, Central Electricity Authority, New Delhi.
2. COO, CTU-Pig, POWERGRID, Gurugram


Sub: Extension to TSP/ Transmission Licensees for completion of under construction inter-state transmission projects

Sir,

I am directed to state that transmission utilities have pointed out that construction activities at various transmission project sites have been severely affected by the nationwide lockdown measures announced since 25th March, 2020 to contain outbreak of COVID-19 and have requested for extension of Scheduled Commercial Operation Date (SCOD) to mitigate the issues of disruption in supply chains and man power, caused due to outbreak of COVID-19 pandemic.

2. It has been, therefore, decided that;
 - i. All inter-state transmission projects, which were under construction as on date of lock-down i.e. 25th March 2020, shall get an extension of five months in respect of SCOD
 - ii. This order shall not apply to those projects, whose SCOD date was prior to 25th March 2020
 - iii. Start date of Long Term Access granted to a generator by CTU based on completion of a transmission line, whose SCOD is extended by 5 months due to COVID-19 as mentioned above at point (i), shall also be extended by 5 months.
3. This issues with the approval of Competent Authority.

Yours faithfully,


(Bihari Lal)

Under Secretary (Trans)
Tele Fax: 011-23325242
E-mail: transdesk-mop@nic.in


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Copy to:

- (1) Secretary, M/o New and Renewable Energy — with a request to consider granting similar 5 months extension of SCOD for RE projects in order to synchronise commissioning of transmission projects with RE generators
- (2) CMD, POWERGRID, Gurugram, Haryana.

F. No. 3/1/2020-Trans
 भारत सरकार / Government of India
 विद्युत मंत्रालय / Ministry of Power
 (पारेषण प्रभाग / Transmission Division)

श्रम शक्ति भवन, रफी मार्ग, नई दिल्ली- 110001
 Shram Shakti Bhawan, Rafi Marg, New Delhi-110001

दिनांक: 12 जून, 2021

To,

1. Chairperson, Central Electricity Authority, New Delhi
2. COO, CTU, POWERGRID, Gurugram. Haryana.

Subject: Extension to TSP / Transmission Licensees for completion of under construction inter-state transmission projects - reg.

Sir,

I am directed to state that transmission utilities have approached this Ministry stating that construction activity at various transmission projects sites have been severely affected by the current second wave of COVID-19 pandemic and various measures taken by State/UT Governments to contain the pandemic; such as night curfew, imposition of Section 144, weekend lockdown and complete lockdown. In this regard they have requested for extension of Scheduled Commercial Operation Date (SCOD) for the undergoing Transmission projects to mitigate the issues of disruption in supply chains and manpower, caused due to COVID-19 pandemic.

2. The matter has been examined in the Ministry and it has been noted that unlike last year complete lock-down in the entire Country, this time different States/UTs have ordered lock-down in their States/UTs as per their own assessments. Therefore, after due consideration, it has been decided that;

- i. All inter-state transmission projects which are under construction with SCOD coming after 01 April, 2021 shall get an extension of three (3) months in respect of their SCOD;
 - ii. The commencement date of Long Term Access (LTA) to a generator by CTU based on completion of a transmission line, whose SCOD is extended by three (3) months due to COVID-19 as mentioned above at point (i), shall also be automatically extended by three (3) months.
3. This issues with the approval of the Competent Authority.

Yours faithfully,

(Signature)
 (बिहारी लाल) 12/6/2021

अवर सचिव, भारत सरकार
 टेलीफैक्स: 2332 5242

ई-मेल: transdesk-mop@nic.in

(Signature)
 C.E.O./Project In-Charge
 P.V. VARANASI

- Copy to:
1. Secretary, M/o New and Renewable Energy – with a request to consider granting similar three (3) months extension of SCOD for RE projects in order to synchronise commissioning of transmission projects with RE generators
 2. CMD, POWERGRID, Gurugram, Haryana

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
 C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref No.: NR-III/PVTSL/Mar'20/Force Majeure/

Date: 31.03.2020

To,

As per Distribution

Subject : 765 kV Vindhyachal Pooling Station-Varanasi D/C Transmission Line associated with Transmission Project "New WR-NR 765 kV Inter -Regional Corridor" under TBCB Route, being implemented by POWERGRID Varanasi Transmission System Limited (PVTSL), a 100% wholly owned subsidiary of POWERGRID - Notice being issued under clause no 11.5 of TSA owing to Outbreak of Coronavirus.

Ref. :

- i. Transmission Service Agreement (TSA) dtd. 23.04.2017 - 765 KV D/C Varanasi-Vindhyachal Transmission Line
- ii. Letter Ref. No. 20086 dated 06/03/2020
- iii.

Dear Sir,

This has reference to the letter Ref. No. 20086 dated 06/03/2020, wherein a notice under Force Majeure was served by us owing to impact on supply and related activities consequent upon outbreak of Corona Virus in different countries.

As you are aware, Corona Virus has already been declared as a Pandemic by WHO. In this regard, your kind attention is drawn to the MoF Notification dated 19.02.2020 wherein the same is to be treated as Force Majeure.

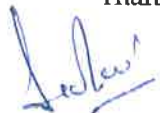
Consequent to above, owing to the Corona virus threat, all activities have come to standstill in our country also from 20.03.2020 and eventually on 24.03.2020, the Ministry of Home Affairs, invoked the National Disaster Management Act and declared a lockdown of the entire country for a period of 21 days.

In view of foregoing, Force Majeure notice is being served as per Clause 11.5 of TSA owing to Corona Virus threat and complete lockdown in the Country as notified by Government of India. The impact on cost and time overrun shall be informed later on.

Thanking You,

Yours faithfully,


 (Naveen Srivastava)
 CEO, PVTSL


 C.E.C./Project In-Charge
 PVTSL
 VARANASI

As per distribution list (overleaf) :

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref No.: NR-III/PVTSL/Mar'20/Force Majeure dated 31.03.2020

Distribution List

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)
2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor,
Vidyut Bhawan, Tiswadi, Goa - 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd
5th Floor, Prakashgad, Bandra (E), Mumbai - 400051
4. The Chairperson, Electricity Department, Daman & Diu,
Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd,
Vidyut Bhawan, Near Secretariat, Amla, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd,
Sardar Patel Vidyut Bhawan, Race Course, Vadodara 390007, Gujarat
7. The Chairperson, M.P. Power Management Company Ltd,
Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place, New Delhi - 110019
9. The Chairperson, BSES Yamuna Power Ltd.
2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi - 110092
10. The Chairperson, New Delhi Municipal Council,
NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd.
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Jammu & Kashmir
Govt. of Jammu & Kashmir, SLDC Building, 1st Floor, Gladani Power House
Narwal, Jammu.
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms)
Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
 - (i) Ajmer Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004

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C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
 C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref No.: NR-III/PVTSL/Mar'20/Force Majeure dated 31.03.2020

- (ii) Jodhpur Vidyut Vitran Nigam Ltd
 New Power House, Industrial Area, Jodhpur 342003
- (iii) Jaipur Vidyut Vitran Nigam Ltd
 Vidyut Bhawan, Janpath, Jaipur 302005
14. The Chairperson, Uttarakhand Power Corporation Ltd.
 Victoria Cross Vijeyta Gabar Singh Urja Bhawan,
 Kanwali Road, Balliwala Chowk, Dehradun 248001
15. The Chairman, Uttar Pradesh Power Corporation Ltd.
 7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow
16. The Chairperson, Electricity Wing of Engineering Department
 Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh
17. The Chairperson, Himachal Pradesh State Electricity Board Ltd,
 Vidyut Bhawan, Shimla 171004
18. The Chairperson, Haryana Power Purchase Centre
 Shakti Bhawan, Sector 6, Panchkula 134109
19. The Chairperson, Punjab State Power Corporation Ltd
 Thermal Sheds, T1-A, Patiala

Copy :

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

Selaw

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड  **पावरग्रिड**
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED **POWERGRID**

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
 C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref No.: NR-III/PVTL/VNS/ 03/20 - 22

Date: 28.04.2021

To,

As per Distribution

Subject: Construction of 765 KV D/C Varanasi-Vindhyachal Transmission Line:
Notice being issued under clause No. 11.5 of TSA for Force Majeure event due to 2nd wave of Covid-19 in India.

Ref.: 1. Transmission Service Agreement (TSA) dtd. 23.04.2017

Dear Sir,

Sudden spurt and rapid spread of Covid-19 all over the country in April 2021 and announcement of partial/ full lockdown/ restriction by various States has impacted the progress of works and supplies for the subject project.

While all efforts are being made to mitigate the impact by ensuring all safety measures including maintaining of social distancing, providing PPE kits, sanitizers etc., however, with the rapid flare-up of COVID cases, some of the labour gangs have already demobilized from the construction site(s) and existing gangs are also incapacitated as some of their members have been afflicted with COVID. Further, new gangs are reluctant to join site in the current situation.

In view of the foregoing, we hereby serve the notice under Force Majeure under Clause 11.5 of TSA owing to COVID spread/ impact w.e.f. 19th April, 2021 and seek all reliefs as applicable under the TSA.

Meanwhile, we are however putting in all efforts and expediting the work to achieve completion of the project with minimum impact on the project schedule.

The impact on time and cost over run on the project owing to above shall be informed later.

Thanking You,

[Handwritten Signature]

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Yours faithfully,

[Handwritten Signature]

(S K Rai)

Project-In-Charge, PVTSL

Cc: As per distribution list below:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
 4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor, Vidyut Bhawan, Tiswadi, Goa – 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd 5th Floor, Prakashgad, Bandra (E), Mumbai – 400051
4. The Chairperson, Electricity Department, Daman & Diu, Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd, Vidyut Bhawan, Near Secretariat, Amla, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd, Sardar Patel Vidyut Bhawan, Race Course, Vadodara 390007, Gujarat
7. The Chairperson, M.P. Power Management Company Ltd, Shakti Bhawan, MPSEB colony. Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd BSES Bhawan, Nehru Place, New Delhi – 110019
9. The Chairperson, BSES Yamuna Power Ltd. 2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi – 110092
10. The Chairperson, New Delhi Municipal Council, NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd. NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Jammu & Kashmir Govt. of Jammu & Kashmir, SLDC Building, 1st Floor, Gladani Power House Narwal, Jammu.
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms) Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
 - (i) Ajmer Vidyut Vitran Nigam Ltd Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004
 - (ii) Jodhpur Vidyut Vitran Nigam Ltd New Power House, Industrial Area, Jodhpur 342003
 - (iii) Jaipur Vidyut Vitran Nigam Ltd Vidyut Bhawan, Janpath, Jaipur 302005
14. The Chairperson, Uttarakhand Power Corporation Ltd. Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road, Balliwala Chowk, Dehradun 248001

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

C.E.O./Project in-Charge

P.V.T.S.L.
VARANASI

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड  **पावरग्रिड**
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED **POWERGRID**

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

15. The Chairman, Uttar Pradesh Power Corporation Ltd.
7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow
16. The Chairperson, Electricity Wing of Engineering Department
Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh
17. The Chairperson, Himachal Pradesh State Electricity Board Ltd,
Vidyut Bhawan, Shimla 171004
18. The Chairperson, Haryana Power Purchase Centre
Shakti Bhawan, Sector 6, Panchkula 134109
19. The Chairperson, Punjab State Power Corporation Ltd
Thermal Sheds, T1-A, Patiala

Copy to: (Not in original)

1. ED (NR-III)
2. ED (TBCB)
3. ED (CMG)


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड  **पावरग्रिड**
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED **POWERGRID**

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
 C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref:
 Date:28.04.2021

NR-III/PVTSL/VNS/04/
 20-22

To,
 As per distribution

Subject: Regarding intimation of anticipated commissioning of 765 KV D/C Vindyanchal- Varanasi Transmission Line associated with Transmission system " New WR-NR 765 kV Inter – Regional Corridor" under TCB route under clause 6.1.1 of Article 6 of the TSA.

Dear Sir,

POWERGRID Varanasi Transmission System Limited (PVTSL) (a 100% wholly owned subsidiary of POWERGRID) has been entrusted to "Establish 765 KV D/C Vindyanchal-Varanasi Transmission Line associated with Transmission system "New WR-NR 765 kV Inter – Regional Corridor" through Tariff based Competitive Bidding Process. Transmission Service Agreement (TSA) for the subject scheme was signed on dated 27.04.2017.

The under construction transmission lines are presently under advance stage of completion, and following commissioning schedule is anticipated against SCOD as per TSA:-

Sl. No.	Name of Element	SCOD as per TSA (Schedule 3)	Anticipated COD
LOT-1			
1	765 KV D/C Vindyanchal- Varanasi Transmission Line associated with Transmission system "New WR-NR 765 kV Inter – Regional Corridor"	22 nd July, 2021	22 nd July, 2021

Accordingly, in line with clause 6.1.1 of Article 6 of the TSA, intimation of anticipated commissioning schedule as above is being intimated herewith, please.

Thanking You,


 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

Yours Sincerely,


 (S. K. Rai)

(CEO/PVTSL, Varanasi)

For Powergrid Varanasi Transmission System Limited

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
 B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Cc: As per distribution list below:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)
2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor,
Vidyut Bhawan, Tiswadi, Goa - 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd
5th Floor, Prakashgad, Bandra (E), Mumbai - 400051
4. The Chairperson, Electricity Department, Daman & Diu,
Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd,
Vidyut Bhawan, Near Secretariat, Amli, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd,
Sardar Patel Vidyut Bhawan, Race Course, Vadodara 390007, Gujarat
7. The Chairperson, M.P. Power Management Company Ltd,
Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place, New Delhi - 110019
9. The Chairperson, BSES Yamuna Power Ltd.
2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi - 110092
10. The Chairperson, New Delhi Municipal Council,
NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd.
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Jammu & Kashmir
Govt. of Jammu & Kashmir, SLDC Building, 1st Floor, Gladani Power House
Narwal, Jammu.
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms)
Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
 - (i) Ajmer Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004
 - (ii) Jodhpur Vidyut Vitran Nigam Ltd
New Power House, Industrial Area, Jodhpur 342003
 - (iii) Jaipur Vidyut Vitran Nigam Ltd

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

[Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Vidyut Bhawan, Janpath, Jaipur 302005

14. The Chairperson, Uttarakhand Power Corporation Ltd.
Victoria Cross Vijeya Gabar Singh Urja Bhawan,
Kanwali Road, Balliwala Chowk, Dehradun 248001
15. The Chairman, Uttar Pradesh Power Corporation Ltd.
7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow
16. The Chairperson, Electricity Wing of Engineering Department
Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh
17. The Chairperson, Himachal Pradesh State Electricity Board Ltd,
Vidyut Bhawan, Shimla 171004
18. The Chairperson, Haryana Power Purchase Centre
Shakti Bhawan, Sector 6, Panchkula 134109
19. The Chairperson, Punjab State Power Corporation Ltd
Thermal Sheds, T1-A, Patiala

Copy to: (Not in original)

1. ED (NR-III)
2. ED (TBCB).
3. ED (CMG)

[Handwritten Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
C/o पावरग्रिड, सी-27/210, कैलाश हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref No.: TBCB/PVTSL/Time Extension/26601

Date: 29.09.2021

To,

As per Distribution

Subject: Request for grant of Time Extension of scheduled commissioning date (SCOD) of Vindhyaachal Pooling Station - Varanasi 765kV D/c line under "Transmission System for New WR-NR 765kV Inter Regional Corridor" up to 01.08.2021.

Dear Sir,

This is further to our letter ref no. TBCB/PVTSL/DOCO dated 02.08.2021 communicating commissioning of the subject transmission line w.e.f. 01.08.2021. As per TSA Schedule-3, schedule COD of Vindhyaachal Pooling Station - Varanasi 765kV D/c line is 40 months from the transfer of SPV i.e. by 26th July, 2021 (Share Purchase Agreement was signed on 27th March, 2018). Accordingly, aforesaid element has been put under commercial operation w.e.f. 1st August, 2021 with a gap of 05 days w.r.t. scheduled commissioning on account of disruption in execution of work due to Covid-19 pandemic.

In this regard, various communication has been made to LTTCs through our letters and Monthly Progress Reports as stated below:

1. Notice issued under clause 11.5 of TSA owing to Outbreak of Covid-19 pandemic vide letter ref no. NR-III/PVTSL/Mar'20/20086 dated 06.03.2020 .
2. Notice issued under clause 11.5 of TSA owing to Outbreak of Covid-19 pandemic vide letter ref no. NR-III/PVTSL/Mar'20/Force Majeure dated 31.03.2020 -
3. Notice issued under clause 11.5 of TSA owing to Outbreak of Coronavirus vide letter ref no. NR-III/PVTSL/VNS/20956 dated 12.06.2020 .
4. Monthly Progress Report of July'2020 dated 06.08.2020 stating notification of Ministry of Power vide OM No. 3/1/2020-Trans dated 27.07.2020 regarding impact of Covid-19 pandemic & national lockdown on construction activities at various transmission project sites and consequent extension of project commissioning schedule.
5. Notice issued under clause 11.5 of TSA for Force Majeure event due to 2nd wave of Covid-19 vide letter ref no. NR-III/PVTSL/VNS/03/20-22 dated 28.04.2021

Further, vide OM No. 3/1/2020-Trans dated 12.06.2021, MOP has stated that all inter-state transmission projects, which are under construction with SCOD coming after 01.04.2021 shall get an extension of three months in respect of their SCOD on account of outbreak of second Covid-19 pandemic.

In spite of above constraints / force majeure conditions, in the interest of timely completion of the project, Powergrid Varanasi Transmission Limited (PVTSL) has put its best effort and commissioned the aforesaid inter-state transmission project on 01st August'2021 with a gap of 05 days w.r.t. SCOD of 26th July'2021. Thus, impact of force majeure conditions may be considered for above gap of 05 days, and cessation of force majeure clause 11.5 accordingly.

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

In view of the above, it is requested that the extension of SCOD of Vindhyaachal Pooling Station - Varanasi 765kV D/c line under "Transmission System for New WR-NR 765kV Inter Regional Corridor" may be granted up to 01.08.2021.

Thanking you,

Yours Sincerely,

(S.K. Rai)

Project In-charge (PVTSL)

Distribution:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)
2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor,
Vidyut Bhawan, Tiswadi, Goa - 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd
5th Floor, Prakashgad, Bandra (E), Mumbai - 400051
4. The Chairperson, Electricity Department, Daman & Diu,
Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd,
Vidyut Bhawan, Near Secretariat, Amla, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd,
Sardar Patel Vidyut Bhawan, Race Course, Vadodara, Gujarat-390007
7. The Chairperson, M.P. Power Management Company Ltd,
Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place, New Delhi - 110019
9. The Chairperson, BSES Yamuna Power Ltd.
2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi - 110092
10. The Chairperson, New Delhi Municipal Council, NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd.
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Civil Secretariat, Jammu - 180001
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms)
Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

ANNEXURE-6



MP POWER MANAGEMENT COMPANY LIMITED

CIN: U40109MP2006SGC018637(A GOVT. OF M.P. UNDERTAKING)

Regd. Office: Shakti Bhawan, Rampur, Jabalpur, Madhya Pradesh, INDIA-482008

Tel: 0761 2661111, 2660500. Fax 0761 2661696, Website: www.mppmcl.com, email: md@mppmcl.com,

No.05-01/BG/PVTCL/415

Jabalpur, Date: 9 SEP 2021

To.

Chief Engineer (PPA),
Utter Pradesh Power Corporation Limited,
14th Floor, Shakti Bhawan Extension,
14- Ashok Marg, Lucknow

Sub.: Request of M/s Powergrid Varanasi Transmission System Ltd. to release Performance Bank Guarantee.

Ref: - M/s PVTSL Letter Dated 09.08.2021

Sir.

M/s Powergrid Varanasi Transmission System Ltd. (PVTSL) vide letter dated 02.08.2021 (Copy attached) addressed to All LTTC's has conveyed that COD of the 765 KV Vindhyanchal Pooling Station- Varanasi D/C line -Circuit -I and 765 KV Vindhyanchal Pooling Station- Varanasi D/C line -Circuit -II has been declared under commercial operation with effect from 00:00 hrs of 01.08.2021. It is pertinent to mention that as per TSA dated 27.04.2017, the SCOD of the project was on 26.07.2021, resulting a delay of 5 days and accordingly, Clause 6.4 of TSA relating to Liquidated damages(LD) gets attracted.

Further, PVTCL vide letter dated 09.08.2021 Referring to clause no.6.5.2 of the Transmission Service Agreement dated 27.04.2017, has requested to release the Performance Bank Guarantee (PBG) at the earliest. (PVTCL Letter attached).

In this regard, UPPCL being Lead LTTC, is requested to kindly convey further course of action as per provision of TSA.

Thanking you.

Encl: - As above

Yours faithfully,


Chief General Manager (Commercial-1)
MP Power Management Co Ltd. Jabalpur


C.E.O./Project In-Charge
PVTSL
VARANASI

Copy to: -Powergrid Varanasi Transmission System Limited, C/o Powergrid. C-27/210, Kailgarh House, Jagatganj, Hindustan Times Campous, Varanasi-221002



**Office of The Superintending Engineer
Special Power Agreement & Tariff Circle**

U.P. Power Corporation Limited

10th Floor, Shakti Bhawan Extn.

14-Ashok Marg, Lucknow-226001

Email: sespatcupcl@yahoo.com/spatcircle2010@gmail.com

CIN: U32201UP19995GC024928

No. SPATC-458-/PVTSL/539

Dated: 25-10-2021

Sub : Release and return of Contract Performance Guarantee (CPG) consequent to COD of the Project established by Power Grid Varanasi Transmission System Ltd. (PVTSL).

**Shree S.K.Rai,
Project in Charge
M/s Power Grid Varanasi Transmission System Limited
C/o Power Grid, C-27/210, Kailgarh House,
Jagat Ganj, Hindustan Times Campus,
Varanasi-221002**

Dear Sir,

Please refer your office letter No. PVTSL/CPG-return/44-1 dt. 09-08-2021 vide which it was requested to release and return the CPBG as per clause 6.5.2 submitted for the project established by M/s PVTSL.

M/s REC Transmission Projects Company Ltd. vide its letter no. RECTPCL/P-29/WR-NR/TSA/2018-19 dt. 03-04-2018 had provided CPG in original, submitted by M/s PVTSL, in form of Bank Guarantee of requisite value and validity as detailed below:-

Bank Guarantee No	: 076271118000056
Date of Issue	: 27-03-2018
Amount	: Rs. 5,16,00,000.00
Date of Validity	: 27-10-2021
Date of Claim	: 26-11-2021

The above Contract Performance Bank Guarantee in original is being released and returned to M/s PVTSL as according to clause 6.5.2 of TSA.

Thanking you,

Encl:- As above.

Yours faithfully,


(S. C. Joshi)

Superintending Engineer

CC:

1. Chief Engineer, PPA-II, UPPCL, 14th Floor, Shakti Bhawan Extn, Lucknow.
2. Indian Overseas Bank, Parliament Street Branch, 10 Jeevan Deep Building, New Delhi-110001



**C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI**



इण्डियन ओवरसीज बैंक

Indian Overseas Bank

Telephone: 23341421
 Telefax: 23348928
 email: iob0762@iob.in
 Place: Delhi
 Sr. No: 423

Date: 27.03.2018

Branch Name
 Indian Overseas Bank
 Parliament Street Branch
 10 Jeevan Deep Building
 New Delhi 110001

This covering letter is issued to be annexed to the Letter of Guarantee

No. 076271118000056 Dated 27.03.2018 for amount of
Rs. 51600000.00 valid till 26.11.2021 issued by this office under

joint signature of

- (1) Mr./Ms. Ravindra Verma - Manager and
 Name and Designation
 (2) Mr./Ms. Mayank Chugh-Manager-CA
 Name and Designation

2. confirmation of this guarantee, if the same is desired, should be obtained from the controlling office named below.

Date 27.03.2018

For Indian Overseas Bank


 Signature

Sig no.
R 2156


 Signature

Sig No.
M 1662

Beneficiary's Name and Address

Uttar Pradesh Power Corporation Limited

Controlling office address

Indian Overseas Bank
 Regional office, 3rd floor Rachana Bldg
 Rejendra Place New Delhi 110008
 Phone: 25713554 | Fax: 25757265
 Mail id: adv@delsco.iobnet.co.in




 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL05896786623686Q
Certificate Issued Date : 27-Mar-2018 01:17 PM
Account Reference : IMPACC (IV)/ dl782903/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL78290315370693163225Q
Purchased by : INDIAN OVERSEAS BANK
Description of Document : Article Others
Property Description : Not Applicable
Consideration Price (Rs.) : 0
 (Zero)
First Party : INDIAN OVERSEAS BANK
Second Party : Not Applicable
Stamp Duty Paid By : INDIAN OVERSEAS BANK
Stamp Duty Amount(Rs.) : 100
 (One Hundred only)



Please write or type below this line

BANK GUARANTEE

To,
 Uttar Pradesh Power Corporation Limited
 14th Floor, Shakti Bhawan Extension,
 14 - Ashok Marg, Lucknow

LG No	076271118000056
Amount	Rs.5,16,00,000/-
Date	27.03.2018

in consideration of the Power Grid Corporation of India Limited having its registered office at B-9, Qutab Institutional Area, KatwariaSarai, New Delhi - 110 016 agreeing to undertake the obligations under the TSA dated 27th April 2017 and the other RFP Project Documents and REC Transmission

सत्यमेव जयते Indian Overseas Bank.

सहायक प्रबंधक/असिस्टेंट मैनेजर/असिस्टेंट प्रबंधक
 Assistant Manager/Manager/Sr. Manager
 33, Connaught Place, New Delhi - 110 004
 Statutory Alert.

1. The authenticity of the Stamp Certificate should be verified at www.shclrestamp.com. Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

LG No	076271118000056
Amount	Rs.5,16,00,000/-
Date	27.03.2018

Projects Co. Ltd. ("BPC"), agreeing to execute the Share Purchase Agreement with the Selected Bidder, regarding setting up the Project, the **Indian Overseas Bank, 10 Jeevan Deep Building, Parliament Street, New Delhi-110001** (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to Uttar Pradesh Power Corporation Limited (Long Term Transmission Customer) at Lucknow forthwith on demand in writing from Uttar Pradesh Power Corporation Limited or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees Five Crore Sixteen Lakhs (Rs. 5.16Crore) only on behalf of M/s. Power Grid Corporation of India Limited.

This guarantee shall be valid and binding on the Guarantor Bank up to and including 27th October 2021 and shall not be terminable by notice or any change in the constitution of the Bank or the term of the ISA or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. Five Crore Sixteen Lakhs (Rs. 5.16Crore) only. Our Guarantee shall remain in force until 27th October 2021. The Long Term Transmission Customer shall be entitled to invoke this Guarantee up to thirty (30) days of the last date of the validity of this Guarantee.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from the Long Term Transmission Customer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Long Term Transmission Customer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by WR-NR Power Transmission Limited, Power Grid Corporation of India Limited and/or any other person. The Guarantor Bank shall not require the Long Term Transmission Customer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Long Term Transmission Customer in respect of any payment made hereunder.

THIS BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

THIS BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank.

THIS BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the Long Term Transmission Customer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, to make any claim against or any demand on WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, or to give any notice to WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be, or to enforce any

[Signature]
 21/3/18



[Signature]
 27/3/18

[Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

LG No	076271118000056
Amount	Rs.5,16,00,000/-
Date	27.03.2018

security held by the Long Term Transmission Customer or to exercise, levy or enforce any distress, diligence or other process against WR-NR Power Transmission Limited or the Selected Bidder or TSP, as the case may be.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Long Term Transmission Customer and may be assigned, in whole or in part, (whether absolutely or by way of security) by Long Term Transmission Customer to any entity to whom the Lead Long Term Transmission Customer is entitled to assign its rights and obligations under the TSA.

The Guarantor Bank hereby agrees and acknowledges that the Long Term Transmission Customer shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs.Five Crore Sixteen Lakhs (Rs. 5.16Crore) only and it shall remain in force until 27th October 2021, with an additional claim period of thirty (30) days thereafter,i.e. 26th November 2021. This BANK GUARANTEE shall be extended from time to time for such period, as may be desired by Power Grid Corporation of India Limited. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the Long Term Transmission Customer serves upon us a written claim or demand.

Signed and Delivered by

The Authorized representative
For and on behalf of the Bank

Date: 27.03.2018
Place: New Delhi

Official address
Indian Overseas Bank
Parliament Street Branch, 10 Jeevan Deep Building
Sansad Marg New Delhi 110 001 Email id -iob0762@iob.in
Phone: 011-23742830

भारतीय अंतर्राष्ट्रीय बैंक For Indian Overseas Bank
27.03.2018
22.07
27.03.2018
27.03.2018
27.03.2018

भारतीय अंतर्राष्ट्रीय बैंक For Indian Overseas Bank
27.03.2018
27.03.2018
27.03.2018
27.03.2018
27.03.2018

Shri
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



B.Vamsi Rama Mohan {बी.वी.आर. मोहन}

From: Amit Garg {अमित गर्ग}
Sent: 15-Jun-2017 12:20
To: B.Vamsi Rama Mohan {बी.वी.आर. मोहन}; Mani Kumar {मणि कुमार}
Subject: FW: RECTPCL: Acquisition Price & other details regarding WR-NR transmission project through TBCB

From: ankit kumar [ankitkumar.1@gmail.com]
Sent: Thursday, June 15, 2017 12:09 PM
Cc: Bhupender Gupta; Jatin Nayak
Subject: RECTPCL: Acquisition Price & other details regarding WR-NR transmission project through TBCB

Dear Sir,

This has reference to the RFP dated 27th February, 2017 for selection of developer as Transmission Service Provider to establish New WR- NR 765 kV Inter-regional corridor through tariff based competitive bidding process.

As per the requirement of Clause 1.4 of RFP, we would like to intimate you that the Acquisition Price payable by the Selected Bidder to the BPC for the acquisition of one hundred percent (100%) of the equity shareholding of WR-NR Power Transmission Limited, along with all its related assets and liabilities is **Rs. 1402.43 Lakh (Rupees Fourteen Crore Two Lakh Forty-Three Thousand Only)**. This Acquisition Price shall be subject to adjustment based on the audited accounts of WR-NR Power Transmission Limited as on the Closing date as per Share Purchase Agreement.

It may please be noted that:

- (i) As on date, there are no contractual obligations undertaken by BPC on behalf of WR-NR Power Transmission Limited which are to be fulfilled by the TSP; and
- (ii) The Bid Bond is to be issued in the name of 'REC Transmission Projects Company Limited' payable at New Delhi.

PS: The hard copy of the letter dated 14.06.2017 has already been couriered.

Regards,

Ankit Kumar,
 Assistant Manager,

REC Transmission Projects Company Limited
 ECE House, 3rd Floor, Annexe - II,
 28 A, KG Marg, New Delhi - 110001
 Phone: 91 11 47964796 (4 Lines)
 Fax: 91 11 47964747
 Website : www.rectpcl.in

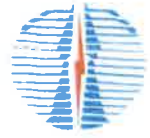
[Handwritten Signature]
 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड

(भारत सरकार का उद्यम)

POWER GRID CORPORATION OF INDIA LIMITED

(A Government of India Enterprise)



पावरग्रिड

केन्द्रीय कार्यालय "सौदामिनी" प्लॉट नं. 2, सेक्टर-29, गुडगाँव-122 001, (हरियाणा) दूरभाष 0124-2571700-719, फ़ैक्स 0124-2571762
 "Saudamini" Plot No. 2, Sector-29, Gurgaon-122 001 (Haryana) Tel: 0124-2571700-719, Fax: 0124-2571762, Web: www.powergridindia.com

CIN : L40101DL1989GOI038121

Ref.: TBCB/ New WR-NR/LoI/01

Date: 21.03.2018

To,
 Chief Executive Officer
 REC Transmission Projects Company Ltd.
 (a wholly owned subsidiary of Rural Electrification Corporation Ltd.)
 ECE House, 3rd Floor, Annexe - II,
 28 A, KG Marg, New Delhi - 110001, India

Subject: Acquisition related activities with respect to establishment of transmission system for New WR-NR 765 kV Inter-Regional Corridor under the Tariff Based Competitive Bidding Process.

This has reference to the LoI issued vide RECTPCL/P-29/WR-NR/RFP/2017-18/1090 dated 01.03.2018 for the subject project and subsequent visit on 20.03.2018 by our Team to your office.

The following documents / clarifications may be furnished by RECTPCL to enable us to proceed further:

- 1) The signed TSA (not furnished till date).
 - As already informed, it is requested to kindly ensure that all Amendments issued till date are incorporated in the signed TSA.
 - As you are aware, the details of TSA are also required for processing the CPGs
- 2) Approval from GoI for Transfer of the SPV
- 3) Confirmation regarding contractual obligations of the SPV

Clarifications as provided by the BPC "The details of the contractual obligations (if any) of BPC to be fulfilled by the TSP shall be provided to the bidders shortly along with the details of Acquisition price of SPV."

[Handwritten Signature]

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

श्री. वसुधै प्राम मोहन/B. VAMSI RAMA MOHAN

उप महाप्रबंधक/Dy. General Manager

पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड

Power Grid Corporation of India Limited

केन्द्रीय कार्यालय "सौदामिनी" प्लॉट नं. 2, सेक्टर-29, गुडगाँव-122 001, (हरियाणा) दूरभाष 0124-2571700-719, फ़ैक्स 0124-2571762, वेब: www.powergridindia.com

पंजीकृत कार्यालय: बी-9, कुतब इन्स्टीट्यूशनल एरिया, कतवाला सारा, न्यू दिल्ली-110016, दूरभाष: 011-26580112, 26580121, 26580122, 26580123, 26580124, 26580125, 26580126, 26580127, 26580128, 26580129, 26580130, 26580131, 26580132, 26580133, 26580134, 26580135, 26580136, 26580137, 26580138, 26580139, 26580140, 26580141, 26580142, 26580143, 26580144, 26580145, 26580146, 26580147, 26580148, 26580149, 26580150, 26580151, 26580152, 26580153, 26580154, 26580155, 26580156, 26580157, 26580158, 26580159, 26580160, 26580161, 26580162, 26580163, 26580164, 26580165, 26580166, 26580167, 26580168, 26580169, 26580170, 26580171, 26580172, 26580173, 26580174, 26580175, 26580176, 26580177, 26580178, 26580179, 26580180, 26580181, 26580182, 26580183, 26580184, 26580185, 26580186, 26580187, 26580188, 26580189, 26580190, 26580191, 26580192, 26580193, 26580194, 26580195, 26580196, 26580197, 26580198, 26580199, 26580200

Regd. Office: B-9, Qutab Institutional Area, Katwala Sara, New Delhi-110016, दूरभाष: 011-26580112, 26580121, 26580122, 26580123, 26580124, 26580125, 26580126, 26580127, 26580128, 26580129, 26580130, 26580131, 26580132, 26580133, 26580134, 26580135, 26580136, 26580137, 26580138, 26580139, 26580140, 26580141, 26580142, 26580143, 26580144, 26580145, 26580146, 26580147, 26580148, 26580149, 26580150, 26580151, 26580152, 26580153, 26580154, 26580155, 26580156, 26580157, 26580158, 26580159, 26580160, 26580161, 26580162, 26580163, 26580164, 26580165, 26580166, 26580167, 26580168, 26580169, 26580170, 26580171, 26580172, 26580173, 26580174, 26580175, 26580176, 26580177, 26580178, 26580179, 26580180, 26580181, 26580182, 26580183, 26580184, 26580185, 26580186, 26580187, 26580188, 26580189, 26580190, 26580191, 26580192, 26580193, 26580194, 26580195, 26580196, 26580197, 26580198, 26580199, 26580200

स्वहित एवं राष्ट्रहित में ऊर्जा बचाएँ

Save Energy for Benefit of Self and Nation

- 4) Details for unprecedented increase in the Acquisition price from which was intimated before bidding and after bidding. The Acquisition Price intimated earlier was Rs. 1402.43 Lakh (Rupees Fourteen Crore Two Lakh Forty-Three Thousand Only). Although subject to change during the closing date, the Acquisition price now being intimated is Rs.15,12,49,571 Cr which is unprecedentedly higher. The increase is more than **86% of reimbursement cost & interest cost between bidding date and acquisition date** which may be clarified.. The details of the same are tabulated and placed as **Annexure-1**.

Further, please inform a date before acquisition, to enable our Team to visit your office for review of the documents on their readiness. It is requested to kindly expedite the same so as to facilitate acquisition of the SPV.

Keeping in view that the applications for Transmission license and adoption of Transmission charges can be prepared and filed before CERC only after handing over of the SPV by BPC and that the entire documentation is being given only on the date of acquisition, it is requested to provide a communication that the completion of various activities as per Clause 2.4 (e), provision 1, shall be atleast 5 working days after the date of acquisition.

Thanking you,

Yours sincerely,



(B Vamsi Rama Mohan)

Dy. General Manager

Encl. : Annexure I giving details of Increase in Acquisition price from Bidding date to Acquisition date

श्री. वप्सी राम मोहन / B. VAMSI RAMA MOHAN
 Dy. General Manager
 Power Grid Corporation ऑफ इंडिया लिमिटेड
 (भारत सरकार का उद्यम / A Govt. of India Enterprise)
 प्लॉट सं-2, सेक्टर-29, मुहम्मदपुर-122 001 (वाराणसी)



C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

Annexure-1
Page 1 of 1

**Increase in Acquisition price from Bidding date to Acquisition date
(WR-NR Power Transmission Limited)**

Sl.No	Particulars	Amount (Rs.)	Remarks
A	Acquisition price intimated before bidding	14,02,43,000	Intimated before bidding
B1	Professional fee of BPC (inc. GST)	12,69,92,780	Fixed in nature before bidding and after bidding
B2	Share capital	5,00,000	Fixed in nature before bidding and after bidding
B	Sub-Total (B1 +B2)	12,74,92,780	Fixed in nature before bidding and after bidding
C	Balance....(A) – (B) Towards the Reimbursement cost and Interest cost	1,27,50,220	Majority costs are also fixed in nature and known before bidding
D	New Acquisition price	15,12,49,571	Intimated after bidding and before acquisition
E	New Acquisition price less the costs which are fixed in nature.....(D) - (B) Revised amount towards the Reimbursement cost and Interest cost	2,37,56,791	Increase in reimbursement cost from Rs.1.27 cr to Rs.2.37 cr
F	Increase in reimbursement cost and Interest cost (E) – (C) F = 86% of C despite majority of Costs at C being fixed in nature and known at the time of bidding.	1,10,06,571	Unprecedented increase by more than 86% of reimbursement cost & interest cost between bidding date and acquisition date which may be clarified..

J. K.
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

B. Vamsi Rama Mohan
श्री. वंशी राम मोहन / B. VAMSI RAMA MOHAN
उप महाप्रबन्धक / Dy. General Manager
पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया लिमिटेड
Power Grid Corporation of India Limited
(एन.ए.सी.ए.ए.ई. संस्था का अंग) (N.A.C.E.E.I. Institute of India Limited)
एन.ए.सी.ए.ए.ई. संस्था का अंग (N.A.C.E.E.I. Institute of India Limited)
Plot No. 1, Sector 2, Gurgaon, Haryana (India)



आरईसी ट्रांसमिशन प्रोजेक्ट्स कंपनी लिमिटेड
(आरईसी लि. के पूर्ण स्वामित्व की कंपनी)
REC Transmission Projects Company Limited
(A wholly owned subsidiary of Rural Electrification Corporation Limited)

ईसीई भवन, तीसरा तल, एनक्स-II, 28ए, कजी मार्ग, नई दिल्ली-110001 टेली: 011-47964738 (4 लाइनें) फैक्स: 011-47964738 ईमेल: contactus@rectpcl.in वेबसाइट: www.rectpcl.in
ECE House, 3rd Floor, Annex-II, 28A, KJ Marg, New Delhi-110001 Tel. 011-47964738 (4 lines) Fax: 011-47964738 Email: contactus@rectpcl.in Website: www.rectpcl.in

Ref No.: REC TPCL/FIN/WR-NR Power TL/17-18/

Dated: 19.03.2018

M/s. Power Grid Corporation of India Limited,
Saudamini, Plot No.2,
Sec-29, Gurugram, Haryana-122001

Kind Attn: Sh. B Vamsi Rama Mohan, DGM

Subject: Payment of Acquisition Price towards handing over of SPV WR-NR Power Transmission Limited.

Sir,

It may be intimated that the acquisition price of WR-NR Power Transmission Limited is Rs. **15,12,49,571/-** (Fifteen Crore Twelve Lakh Forty Nine Thousand Five Hundred and Seventy One Rupees Only) as per the breakup given below :

S No	Particulars	Amount (INR)
1	Professional Fee of BPC (RECTPCL.)#	12,69,92,780
2	Reimbursement of cost incurred by BPC #	2,21,70,015
3	Interest Cost	15,86,776
4	Share Capital of WR-NR Power Transmission Limited	5,00,000
Total		15,12,49,571


including GST

Original invoices against item no 1, 2 and 3 will be provided during the transfer of the company.

The acquisition price may be credited to our account through RTGS as per the following:

Bank Name: ICICI Bank, New Delhi Branch, 9A, Phelps, Connaught Place, New Delhi
IFSC Code: ICIC0000007
Account No: 000705041872
Beneficiary: REC Transmission Projects Company Limited

Thanking You,


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI


(B.K. Johar)
Chief Financial Officer
Email: bkjohar@recl.nic.in



आरईसी ट्रांसमिशन प्रोजेक्ट्स कंपनी लिमिटेड
(आरईसी लि. के पूर्ण स्वामित्व की कंपनी)
REC Transmission Projects Company Limited
(A wholly owned subsidiary of Rural Electrification Corporation Limited)

ईसीई भवन, तीसरा तल, एनेक्स-II, 28ए, केजी मार्ग, नई दिल्ली-110001 टेली.: 011-47964796 (4 लाइनें) फ़ैक्स: 011-47964738 ईमेल: contactus@rectpcl.in वेबसाइट: www.rectpcl.in
ECE House, 3rd Floor, Annex-II, 28A, KG Marg, New Delhi-110001 Tel.: 011-47964796 (4 lines) Fax: 011-47964738 Email: contactus@rectpcl.in Website: www.rectpcl.in

Ref: RECTPCL/WR-NR/2017-18/

date: 23-03-2018

To,
Dy. General Manager,
Power Grid Corporation of India Limited,
Saudamini, Plot Nu-2,
Sec-29 Gurugram, Haryana

Sub: Acquisition related activities with respect to establishment of transmission system for New WR-NR 765 Inter Regional corridor under the Tariff Based Competitive Bidding Process.

This is in reference to your letter No.-TBCB/New WR-NR/LoI/01 Dated: 21-03-2018 on the above subject matter. The Clarification for the query at point No.4 is as follows:

The Tentative Acquisition Price was intimated in the month of June 2017 and the Final Acquisition Price was intimated in the month of March 2018. It is to inform that Tentative Acquisition Price was intimated in the month of June, 2017 was under Service Tax regime which attracts tax @ 15% whereas now it has come in the ambit of GST @ 18%. Moreover the administrative and other cost has also increased due to extension of completion of bidding process.


Detailed comparison of variation between Tentative Acquisition Price and Final Acquisition Price is enclosed at Annexure -1.

Thanking You

Yours Sincerely

(B.K. Johar)
Chief Financial Officer

Encl:Annexure-1 Detailed comparison of variation between tentative and final acquisition price


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Comparative of Final and Tentative Acquisition Price of WR-NR Power Transmission Limited

Annexure-1

Sl.No		Tentative Acquisition Price	Final Acquisition Price	Difference
1	Professional Fee	107421000	107421000	0
	Indirect Tax on Prof.Fee	16143150	19371780	3228630
2	Interest Cost	617000	1586776	969776
3	Reimbursement			
	Rent	3047361	4402843	
	Manpower	8466756	10965977	
	Survey	220000	420720	
	Consultancy	1210000	1287500	
	Advertisement	2266199	2301558	
	Administrative & Establishment Exp.	3127814	4389550	
	Total (a)	18338130	23768148	
	Less:Reimbursement (b)	-4980000	-4980000	
	Total (c= a-b)	13358130	18788148	5430018
	Tax @ c above	2003720	3381867	1378147
	Total of 1+2+3	139743000	150749571	
	Add: Share Capital	500000	500000	
	Total Acquisition Price	140243000	151249571	11006571

*Total Tentative Acquisition Price includes Service tax @15% whereas on Final Acquisition Price GST @ 18% is charged

↓
File

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI


REC Transm
New Delhi-110019

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 13/MP/2021

Coram:

Shri P. K. Pujari, Chairperson

Shri I.S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 7th May, 2022

In the matter of

Petition under Section 63 and Section 79 of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for relief under Force Majeure, (Article 11) and Change in Law, (Article 12) of Transmission Service Agreement dated 31.08.2015, related to Strengthening of Transmission System beyond Vemagiri.

And

In the matter of

POWERGRID Southern Interconnector Transmission System Limited (PSITSL),
(Formerly known as Vemagiri II Transmission Limited)
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi – 110016

....Petitioner

Vs

- 1) Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL),
(Through its Managing Director)
Srinivasapuram, Thiruchanoor Road,
Tirupati-517503, Andhra Pradesh
- 2) Eastern Power Distribution Company of Andhra Pradesh Limited (APSPDCL),
(Through its Managing Director)
P&T Colony, Seethammadhara,
Visakhapatnam- 530 013, Andhra Pradesh
- 3) Bangalore Electricity Supply Company Limited,
(Through its Managing Director)
Krishna Rajendra Circle,
Bangalore-560001



- 4) Gulbarga Electricity Supply Company Limited,
(Through its Managing Director)
Main Road,
Gulbarga-585102
- 5) Hubli Electricity Supply Company Limited,
(Through its Managing Director)
Corporate Office, P.B. Road, Navanagar,
Hubli- 580025
- 6) Mangalore Electricity Supply Company Limited,
(Through its Managing Director)
Paradigm Plaza, A.B. Shetty Circle, Pandeshwar,
Mangalore - 575001
- 7) Chamundeshwari Electricity Supply Corporation Limited,
(Through its Managing Director)
No.29, CESC Corporate Office,
Hinkal, Vijaynagar 2nd Stage,
Mysuru - 570017
- 8) Tamil Nadu Generation & Distribution Corporation Limited,
(Through its Chairman cum Managing Director)
NPKRR Malligai, 144 Anna Salai,
Chennai – 600 002
- 9) Kerala State Electricity Board,
(Through its Chairman cum Managing Director Limited)
Vaidyuthi Bhawanam, Pattom,
Thiruvananthapuram – 695004
- 10) Southern Power Distribution Company of Telangana Limited,
(Through its Managing Director)
6-1-50, Mint Compound,
Hyderabad – 500 063, Telangana
- 11) Northern Power Distribution Company of Telangana Limited,
(Through its Managing Director)
2-5-31/2, Vidyut Bhawan, Nakkalgutta, Hanamkonda,
Warangal – 506 001
- 12) Electricity Department,
(Through its Superintending Engineer Cum Head of Department)
Government of Puducherry (PED),
137, Nethaji Subhash Chandra Bose Salai,
Puducherry – 605 001

- 13) Chief Electrical Engineer,
Electricity Department, Government of Goa,
Vidhyut Bhawan, Panaji,
Goa - 403001
- 14) Chief Executive Officer,
REC Power Development and Consultancy Limited,
(Formerly REC Power Distribution Company Limited)
REC Corporate Head Quarters,
D Block, Plot No. I – 4, Sec – 29,
Gurugram – 122 001
- 15) Chief Engineer (PSPM),
Central Electricity Authority,
PSPM Division, Sewa Bhawan, Rama Krishna Puram,
New Delhi-110 066
- 16) Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector -29,
Gurgaon 122001

....Respondents

The following were present:

Shri M. G. Ramachandran, Sr. Advocate, PSITSL
Shri Shubham Arya, Advocate, PSITSL
Ms. Poorva Saigal, Advocate, PSITSL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Burra Vamsi Rama Mohan, PSITSL
Shri V. C. Sekhar, PSITSL
Shri Prashant Kumar, PSITSL
Shri Arjun Malhotra, PSITSL
Shri Venkatapathi Raju Nadimpalli, PSITSL
Dr. R. Kathiravan, TANGEDCO
Ms. R. Ramalakshmi, TANGEDCO
Shri R. Srinivasan, TANGEDCO

ORDER

The present Petition has been filed by the Petitioner, Power Grid Southern Interconnector Transmission System Limited ('PSITSL'), (earlier known as Vemagiri II Transmission Limited,) under Section 63 and Section 79 of the Electricity Act, 2003

(hereinafter referred to as 'the Act') seeking extension of time and compensation under Article 11 (Force Majeure) and Article 12 (Change in Law) of the Transmission Service Agreement dated 31.8.2015 (in short 'TSA'), which has adversely affected the construction of the 'Transmission System Strengthening of Transmission System beyond Vemagiri' (in short, 'the Project'). The Petitioner has made the following prayers:

"(i) Admit and entertain the present petition under Section 63 read with Section 79 of the Electricity Act, 2003 for claim of the Project being affected by Force Majeure events and Change in Law events and for providing relief under Article 11 and Article 12 respectively of Transmission Service Agreement dated 31.08.2015 as set out in the petition.

(ii) Hold that the Petitioner is entitled for time extension of 289 days on account of Force Majeure conditions.

(iii) Hold that the Petitioner shall be entitled to get the increase in cost of Project amounting to Rs 488.40 crore during execution and completion of the transmission project.

(iv) Hold that the Petitioner shall be entitled to increase in adopted annual non-escalable charges by 7.75% on account increase in aforementioned cost of project due to Change in Law.

(v) Allow recovery of filing fees and legal expenses in regard to the present Petition."

Background

2. The Petitioner is a fully owned subsidiary of Power Grid Corporation of India Limited (in short 'PGCIL'), which was selected as a successful bidder through the tariff based competitive bidding under Section 63 of the Act to establish the Project on Build, Own, Operate and Maintain (BOOM) basis. The Petitioner is required to provide transmission service to the LTTCs (arrayed as Respondent No.1 to Respondent No.13) of the Project which requires establishing the transmission system comprising of the following transmission elements:

Sr. No.	Project Element	Scheduled Commercial Operation Date (SCOD)	Actual Commercial Operation Date (COD)	Difference in days
1.	Element 1 (a) Srikakulam Pooling Station - Garividi 400 (Quad) D/C Line (b) 2 number of 400 line bays at Garividi 400 kV S/s of APTRANSCO	February 2019	6.8.2018	Completion before SCOD
2.	Element 2 Cuddapah - Madhugiri 400 (quad) D/c line with 50 MVAR switchable line reactors at both ends of each circuit.	February 2019	28.2.2019	As per schedule
3.	Element 3 (a) Chilakaluripeta-Narasaraopeta (Sattenapalli) 400 D/C (Quad) line (b) 2 number 400 line bays at Narsaraopeta (Sattenapalli) 400 sub-station of APTRANSCO	4.4.2019	Completed and CEA approval for energisation letter dated 15.10.2018 Charged on 29/30.3.2019 and Trial Operation completed on 30.7.2019 However, Actual COD achieved on 31.7.2019 after power flow from Cuddapah - C'Peta line	Completion as per schedule However, delay of 118 days in achieving actual COD after power flow from Cuddapah - C'Peta line
4.	Element 4 Establishment of 765/400 sub-stations at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each	4.4.2019	Completed and CEA approval for energisation letter dated 15.10.2018, 11.3.2019 and 28.3.2019 Charged on 29/30.3.2019 Trial Operation completed on 30.7.2019 However, Actual COD achieved on 18.1.2020 due to non-readiness of	Completion as per schedule However, delay of 289 days in achieving actual COD due to non-readiness of Vemagiri - C'Peta line owing to Force Majeure and Change in Law conditions

			Vemagiri – C’Peta line owing to Force Majeure and Change in Law conditions	
5.	Element 5 Chilakaluripeta-Cuddapah 765 D/C line with 2x240 MVAR switchable line reactor at both ends	4.4.2019	Completed and ready for charging (CEA approval for energisation letter dated 28.03.2019) However, actual COD achieved on 18.01.2020 due to non-readiness of Vemagiri – C’Peta line owing to Force Majeure and Change in Law conditions	Completion as per schedule However, delay of 289 days in achieving actual COD due to non-readiness of Vemagiri – C’Peta line owing to Force Majeure and Change in Law conditions
6.	Element 6 Vemagiri II-Chilakaluripeta 765 KV D/C Line with 2x240 MVAR switchable line reactors at both ends	4.4.2019	18.1.2020	Delay of 289 days due to Force Majeure and Change in Law conditions

3. The Petitioner was incorporated as a Special Purpose Vehicle ('SPV') by Bid Process Coordinator (in short, 'BPC'), namely, REC Transmission Projects Company Limited (Now known as 'REC Power Development and Consultancy Limited') (in short 'RECTPCL') for the purpose of developing and implementing the Project under the Tariff Based Competitive Bidding route. In the bid process conducted by RECTPCL, PGCIL participated and emerged as the 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. Under the TSA, Tamil Nadu Generation & Distribution Corporation Limited ('TANGEDCO') has been appointed as the lead LTTC to represent all the LTTCs for discharging the rights and obligations

specified therein. 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 and vide order dated 9.2.2016 in Petition No. 299/ADP/2015 adopted the transmission tariff of the Petitioner.

4. As per the TSA, the Project was to be completed and commissioned by February 2019/April 2019. However, the Petitioner has claimed that implementation of the Project was affected due to various Force Majeure and Change in Law events encountered during construction of the Project and its elements and led to certain delay in achieving the Commercial Operation Date (in short 'COD').

Submissions of the Petitioner

5. The Petitioner has mainly submitted as under:

(a) Element 1 and Element 2 were commissioned within the Scheduled Commercial Operation Date (hereinafter referred to as 'SCOD') as per the TSA. The Element 3, although completed in all aspects within the prescribed time schedule, achieved COD only after power flow in Cuddapah-C'peta line. The Element 4 and Element 5, even though completed in all respects within the prescribed time schedule, could not be commissioned as the pre-requisite Element 6 could not be completed owing to Force Majeure and Change in Law events. The Element 6 got delayed due to Force Majeure and Change in Law events encountered during the construction of the said element and could only achieve commercial operation only on 18.1.2020. Simultaneously, Element 4 and Element 5 were also declared for commercial operation on the same date. This

establishes that commercial operation of Element 4 and Element 5 were deferred only on account of delay affecting Element 6.

(b) The complete Project including all elements had been completed within the prescribed time schedule of the TSA, except for a 40 km stretch in Vemagiri-C'Peta 765kV D/C transmission line which held up the commissioning of the Project. The 40 km stretch in Vemagiri-C'Peta 765kV D/C transmission line was held up owing to Force Majeure and Change in Law conditions which could not have been anticipated and were beyond the control of the Petitioner.

(c) The Force Majeure and Change of Law events that had occurred during the construction stage and during implementation of the Project and prevented the Petitioner from discharging its obligations as per TSA with respect to commissioning of transmission element in line with Project's SCOD are detailed below.

Sr. No.	Force Majeure/ Change in law Event	Time Period	Delay with overlap	Delay without overlap
1	Delays and Severe Right of Way issues due to the change in Policy regarding land compensation in the State of Andhra Pradesh	1.4.2017 to 1.8.2019	853 days	853 days
2	General Elections	11.3.2019 to 23.5.2019	74 days (overlap with S.No.1)	0 days
3	Heavy Rainfall	August to October, 2019 (Heavy Rain fall in August, September & October 2019 were 20days, 20 days & 17 days, respectively)	57 days	57 days
4	Demonetization	8.11.2016 to 31.1.2017	85 days	0 days

5	Wildlife clearance obtained from National Tiger Conservation Authority (NTCA)	14.5.2018 to 15.11.2018	186 days	0 days
6	Delay due to promulgation of Goods and Services Taxes (GST) Act, 2017	1.7.2017 to 28.9.2017	90 days	0 days
Total Impact			1345 days	910 days

(d) The Force Majeure/ Change in Law events affecting the implementation of the elements and Project were beyond the reasonable control of the Petitioner and despite all efforts put in by the Petitioner could not be avoided. Due to continuous and prudent efforts and by employing industry's best prudent utility practices, implementation of the elements and Project was expedited in such a manner that the impact on the Project in terms of delay was minimized and the Project was completed with a delay of merely 289 days.

(e) The following Change in Law events occurred during the implementation of the Project leading to increase in the cost of Project:

- (i) Increase in Acquisition price of SPV by BPC.
- (ii) Notification of Goods and Service Tax Act, 2017 (hereinafter referred to as 'GST Laws') by Government of India.
- (iii) Notification of payment of Land compensation for tower base as well as corridor of transmission line by State Governments of Andhra Pradesh and Karnataka.
- (iv) Additional payment towards Wild life clearance from NTCA.
- (v) Cost Overrun on account of increase in the Project cost including funding cost and overhead cost due to Change in Law.

(f) Prior to bid submission, BPC vide its letter Ref No: RECTPCL/P-20/Vemagiri/RFP/2015-16/1704 dated 17.9.2015 had intimated to the bidders that the acquisition price payable by the selected bidder for acquisition of 100%

equity shareholding of Vemagiri-II Transmission Limited along with all its related assets and liabilities as Rs.18,14,41,000/-. Subsequent to bidding, BPC vide letter dated 1.12.2015 intimated the successful bidder the final acquisition price as Rs.18,26,64,718/-. This increase in acquisition price by Rs.12,23,718/- (From Rs.18,14,41,000/- to Rs.18,26,64,718/-) constitutes a Change in Law event covered under Article 12.1.1 of the TSA as it has occurred after cut-off date which is seven days prior to the bid deadline. The increase in the cost of the Project due to increase in acquisition price by BPC is Rs.0.20 crore which includes funding cost of Rs.0.07 crore and overheads of Rs.0.01 crore.

(g) Introduction of GST Laws by the Parliament after the cut-off date (7 days prior to the bid deadline) i.e. 2.10.2015 qualifies to be a Change in Law. The Petitioner has further submitted that the Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018, *inter-alia*, has already held that introduction of GST and subsuming/ abolition of specific taxes and duties, etc. in the GST constitute Change in Law. The claim of the Petitioner on account of introduction of GST Laws is Rs.61.24 crore up to March 2020 and Rs.0.20 crore is anticipated keeping in view the balance payments of the capital expenditure.

(h) As per the auditor certified calculation, net increase in cost of the Project due to revision in tax rates and introduction of GST after cut-off date is Rs.78.15 crore (including funding cost of Rs.13.35 crore and overheads of Rs.3.36 crore).

(i) Notifications/Orders were issued by the Governments of Andhra Pradesh and Karnataka with regard to payment of land compensation for transmission

lines in the States of Andhra Pradesh and Karnataka respectively. Since these Notifications/Orders issued by the Governments of Andhra Pradesh and Karnataka were issued after cut-off date i.e. 2.10.2015 (7 days prior to bid deadline), these qualify as Change in Law event in terms of Article 12.1.1 of the TSA. The additional expenditure incurred towards land compensation is Rs.171.64 crore.

(j) As per the auditor certificate, net increase in cost of the Project during the period of delay consequent upon the Change in Law event from April 2019 to CoD (January, 2020) is as under:

Sl. No	Description	Amount (Rs. crore)
(a) Payment towards land compensation		
a	Payment towards land compensation	171.64
b	Overheads towards (a)	10.11
c	Funding cost towards (a), (b)	23.42
(b) Increase in cost of equipment / services during the period April 2019 to CoD		
d	Payment towards cost of equipment / services	10.08
e	Overheads towards (d)	0.59
(c) Cost towards the un-commissioned elements from April 2019 to CoD		
f	Funding cost	174.87
g	Overheads	0.53
Total (a) + (b) + (c)		391.24

(k) A new requirement of obtaining National Tiger Conservation Authority ('NTCA') clearance due to notification of the Tiger Reserve subsequent to the bidding of the Project constitutes as a Change in Law event. The additional cost implication owing to the above new requirement is Rs.15.47 crore which was paid by the Petitioner to the Forest Department as per their invoices raised towards wild-life clearance and the Petitioner is entitled for relief in this regard as

per Article 12 of the TSA.

(l) The increase in cost of the Project due to payment under wild life clearance demanded by Government authorities after the cut-off date is Rs.18.81 crore (inclusive of funding cost of Rs.2.43 crore and overheads cost of Rs.0.91 crore).

(m) In terms of Article 12.2 (Relief for Change in Law) of the TSA, the impact of Change in Law for the construction period is to be given as an increase in the cost of the Project. The cost of the Project or the Project cost refers to and encompasses within its scope all costs in regard to establishment of the Project incurred by the entity i.e. not only the hard cost of the capital assets (i.e. plant, machinery and equipment, etc.) installed in the Project but also the interest cost, finance charges during construction and other soft costs related to establishment of the Project.

(n) The Petitioner has submitted that as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short, 'the 2014 Tariff Regulations'), Interest During Construction (IDC), which essentially comprises of the interest payable on debt part, is allowed to be capitalized along with other hard costs. The total expenditure incurred towards the Project including on account of time overrun is capitalized along with IDC as an additional cost. It has been submitted that for competitively bid transmission projects, increase in Project cost on account of Change in Law events need to be fully serviced. The increase in the Project cost as such comprises of (a)

additional cost on account of Change in Law events, (b) incidental expenditure associated with such Change in Law, and (c) funding of such additional cost during the construction period. The entire increase in the Project cost (100%) on account of capital expenditure incurred by the Petitioner on account of Change in Law as well as the funding and financing cost of such capital expenditure in full during the construction period and the incidental expenditure incurred owing to Change in Law need to be serviced by increased transmission charges payable over and above the quoted transmission tariff during the entire period of the TSA in order to compensate the Petitioner of the impact of Change in Law events. Therefore, the compensation/ relief should not be restricted to only the capital expenditure incurred but should also include funding and financing cost as well as the overheads cost.

(o) As to overhead cost, the Petitioner has entered into a Consultancy Agreement with Power Grid Corporation of India Limited to establish the Project with Consultancy Charges @ 5% + applicable taxes on the Project cost. In lieu of IEDC which is incurred as an overhead on the Project cost, the overheads have been claimed owing to the increase in the Project cost on account of Change in Law.

6. The Petitioner has summarized the increase in the cost of Project on account of Change in Law events along with funding cost and overhead cost as under:



C.E.O./Project In-Charge

P.V.T.S.L.
VARANASI

(Rs. in crore)					
Sr. No.	Change in Law Event	Basic Amount	Associated increase in Overhead costs	Associated increase in Funding costs	Increase in project cost on account of Change in Law
1.	Increase in Acquisition Price of SPV by BPC	0.12	0.01	0.07	0.20
2.	Notification of GST Laws by Government of India	61.44	3.36	13.35	78.15
3.	Notification of payment of Land compensation for tower base as well as corridor of transmission line by State Governments of Andhra Pradesh and Karnataka.	181.72	11.23	198.29	391.24
4.	Additional payment towards Wild life clearance from NTCA	15.47	0.91	2.43	18.81
	Total impact of Project Cost	258.75	15.51	214.14	488.40

Hearing dated 22.04.2021

7. The Petition was admitted on 22.04.2021 and notices were issued to the Respondents to file their reply. The Respondent, TANGEDCO has filed its reply and the Petitioner has filed rejoinder to the same.

Reply of TANGEDCO

8. TANGEDCO, in its reply dated 13.8.2021, has mainly submitted as under:

(a) The Petitioner has declared COD of Srikakulam Pooling Station-Garividi 400 kV (Quad) D/c line in advance i.e. prior to its SCOD without consent of the beneficiaries. The Petitioner has deliberately avoided discussing the advancement of COD of the above asset with the LTTCs and failed to obtain the concurrence of the Lead LTTC/beneficiaries. In the absence of the concurrence of the Lead LTTC/ beneficiaries / SRPC forum, the Petitioner is eligible to avail tariff from the SCOD of the asset as per TSA. Hence, the Petitioner may be directed to recover the transmission charges from SCOD till the COD declared unilaterally by the Petitioner and refund the amount recovered from the beneficiaries if it has been included in the PoC pool.

(b) According to the Petitioner, Element 3 was completed in all respect within the SCOD and achieved COD on 31.7.2019 only after power flow in Cuddappah-Chilakaluripettah line was established. Similarly, Element 4 & Element 5 were completed within the SCOD and could not be commissioned due to prerequisite of commissioning of Element 6, which was delayed due to Force Majeure and Change in Law events. Since the Project is implemented as a system strengthening scheme, any of the elements added to the system would have been beneficially utilized as and when it was ready for commissioning. For instance, the Chilakaluripettah-Cuddappah 765 kV D/c lines, Chilakaluripettah 765/ 400 kV substation and the downstream 400 kV lines from Chilakaluripettah could have been brought to beneficial use independent of the Chilakaluripettah-Vemagiri 765 kV line. The Petitioner and the planning agencies are well aware of this technical feasibility. There were number of options available before the Petitioner to bring the assets into beneficial use independently. Also, Schedule 3 of the TSA provides element-wise tariff. If there was any technical / commercial constraint in commissioning the other Elements independent of the Element 6, then the Petitioner should have approached SRPC or the Commission for redressal. Without acting diligently, the Petitioner had kept the transmission elements idle for 171 days i.e. from the date of completion of the trial operation till the COD i.e.17.1.2020. This is total laxity on the part of the Petitioner and the delay is fully attributable to the Petitioner. Had it been brought to the knowledge of the Commission, the assets would have been put into beneficial use. Without bringing the assets into beneficial use, the Petitioner is not entitled to any reliefs and hence, the prayer of the Petitioner to extend the SCOD of the Element 3, Element 4 and Element 5 are liable to be rejected.

(c) The Petitioner should have been aware of the route of the transmission lines, land acquisition issues, seasonal rains, wildlife clearance and other issues which are actually factored in the timeline for completion of the Project. The Petitioner is responsible for timely completion of the Project and no time

extension or cost extension is allowed as per the RfP. The Petitioner's Force Majeure claims like RoW issues, general elections, heavy rainfall, demonetization, wildlife clearance and promulgation of GST Act, 2017 are not covered under Natural/Non-Natural Force Majeure conditions stipulated in the TSA. The Petitioner is duty bound to foresee such eventualities and act accordingly, rather than passing the burden of such eventualities on the beneficiaries.

(d) The Petitioner has submitted that route Survey Report furnished for Chilakaluripeta-Cuddapah 765 kV D/C line furnished by BPC did not indicate requirement of wildlife clearance and only on inquiry and pursuing with DFO, the Petitioner was confirmed that wildlife clearance is required to be obtained even for the route proposed by BPC. However, the Petitioner is duty bound to visit the route of lines associated with the Project and the surrounding areas and obtain/verify all information which they deem fit and necessary for the preparation of their bid. In addition, the Petitioner should have adhered to the provisions under Clause 2.14.2.4 of the RfP wherein it is provided that bidders in their own interest should carry out required survey and field investigation for submission of their bids. The Petitioner's fault in not surveying the route and the delay in getting the clearance cannot be factored into the cost escalation.

(e) As regards the increase in the Project cost due to notification of payment of land compensation by Governments of Andhra Pradesh and Karnataka, the Petitioner should have sought legal remedies to restrict the additional land compensation in line with the MoP Guidelines instead of settling down with the land compensation set by the State Governments. For instance, the heavy/excess land compensation to that of MoP Guidelines levied on PGCIL for erection of Edamon-Cochin 400 KV corridor under Kudankulam scheme was borne by the Government of Kerala. The Petitioner has failed to seek legal remedies against the land compensation levied by the State Governments or otherwise would have insisted the same approach in paying land compensation as that of Edamon-Cochin 400 KV corridor, since the States of Andhra Pradesh

Tariff Regulations under the ambit of Section 62 of the Act with the tariff determination process for TBCB projects under Section 63 of the Act, which otherwise would defeat the objective of competitive bidding.

(i) As per Article 11.5 of the TSA, the Petitioner is bound to give notice for any Force Majeure event and to seek extension of time. Extension of time is allowable on 'day for day' basis as per Article 4.4 of the TSA up to a maximum of 180 days. Since the Petitioner has not sought and obtained any consent from LTTCS for extension in line with Article 4.4.1 of the TSA, the Petitioner is not entitled for any relief under the provisions of TSA.

(j) There is a total delay of about 289 days from SCOD up to actual CoD of Element 3, Element 4, Element 5 and Element 6. As per Article 6.4.1 of the TSA, the liquidated damages are applicable for delay in declaring the CoD of the Elements of the Project. Accordingly, the LTTCS may be permitted to recover the liquidated damages for the delayed period as per the provisions of TSA.

Rejoinder of Petitioner to the Reply of TANGEDCO

9. The Petitioner in its rejoinder dated 30.0.2021 to the reply filed by TANGEDCO has submitted as under:

(a) Element 1 being Srikakulam Pooling Station-Garividi 400 kV (Quad) D/c line was put into early commissioning in terms of the Meeting held on 1.11.2017 in the Central Electricity Authority (CEA) to discuss the early commissioning of 'Strengthening of Transmission System beyond Vemagiri' being implemented by the Petitioner. Pursuant to the above, on 10.4.2018, the Petitioner wrote a letter giving Notice under Article 6.1 of the TSA to SRLDC, NLDC, CEA, CTU, lead LTTC, TANGEDCO and other LTTCs intimating its intention to declare the commercial operation of Srikakulam Pooling Station-Garividi 400 kV (Quad) D/C line and 2 number 400 kV line bays at Garividi 400 kV S/s of APTRANSCO. Thereafter, on 6.8.2018, in terms of the provisions of the TSA, the Petitioner declared the Commercial Operation of 400 kV D/C Srikakulam Pooling Station-

and Karnataka are also benefited by the transmission Elements of the Project. The Petitioner may be directed to furnish the split-up details of payment of land compensation for individual assets that may include details of asset-wise land compensation levied by the State Governments of Karnataka and Andhra Pradesh that were in excess of that of MoP Guidelines along with notified dates and payment made with respect of each Element.

(f) The Petitioner has tabulated and claimed the increase in Project cost during the period of delay consequent to Change in Law events from April 2019 to CoD of the Project which includes (i) payment towards land compensation, (ii) increase in cost of equipment/services during the period from April, 2019 to CoD, and (iii) cost towards un-commissioned Elements from April, 2019 to CoD. However, the said claim of the Petitioner is irrational. The Petitioner has not furnished Element-wise details of compensation paid and justification for claiming such a huge overhead and funding costs towards dispersal of the compensation. The Petitioner has stated that except for 40 km stretch of Vemagiri-C'peta 765 kV line, all other elements were completed prior to SCOD and thus, the material for entire Project would have been supplied by the Contractors prior to April, 2019. Under such circumstances, it is not appropriate to claim the material/equipment cost escalation beyond SCOD.

(g) Also, the delay in declaring CoD of the other Elements is totally attributable to the Petitioner and hence, the funding cost on account of un-commissioned elements from April, 2019 to COD is unjust and will only enrich the Petitioner at the cost of the end consumers. Accordingly, the prayers for increase in cost of equipment and funding cost on account of non-commissioning of the other Elements ought to be rejected.

(h) As per Article 12.2 of the TSA, it is clear that increase in cost of the Project can be availed only till the SCOD of the Project. Further, the relief is applicable only to the hard cost of the Project excluding the financing charges/ interest and other overheads. It is irrelevant to compare the provisions under

Garividi line along with associated bay equipment at Garividi sub-station. On the same date, the Petitioner sent a letter to this Commission, CEA, SRPC, POSOCO, TANGEDCO, the Lead LTTC, other LTTCs informing about early commissioning of the above Element 1 on 6.8.2018. There has been no objection from TANGEDCO to early commissioning of the above Element. Further, as recorded in the meeting, TANGENDCO had in fact provided "No Objection" to the early commlssloning of the above Element. In fact, the transmission charges of the asset were considered under PoC mechanism after discussion in Validation Committee meeting dated 12.3.2019. Therefore, TANGEDCO's contentions regarding recovery of tariff of the subject asset is mischievous and wrong.

(b) In terms of Schedule III of the TSA, the Elements could be declared under commercial operation only after the Element which is prerequisite for declaring the commercial operation of such element is also declared under commercial operation. The details of pre-requisite Elements on which the commercial operation of the asset was dependent are as under:

- I. Chilakaluripeta-Narasaraopeta Sattenapalli) 400 D/C (Quad) line and 2 no.400 line bays at Narsaraopeta (Sattenapalli) 400 sub-station of APTRANSCO could only be declared successfully declared under commercial operation after power flow at "Establishment of 765/400 sub-stations at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each".
 - i. The above asset was completed in all respects and CEA approval for energisation was received by letter dated 15.10.2018
 - ii. The trial operation was successfully completed on 30.7.2019.
 - iii. The actual COD was achieved on 31.7.2019 after the power flow from 765/400 kV sub-station at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each through Cuddapah - Chilakaluripeta 765 kV D/C line.
- II. 765/400 sub-station at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each could only be declared under commercial

operation with CoD of Vemagiri II-Chilakluripeta 765 kV D/C line with 2x240 MVAR switchable line reactors at both ends

- i. The trial operation was successfully completed on 30.7.2019.
- ii. The above asset was in use since completion of trial operation and the actual COD was achieved on 18.1.2020 as per TSA provision related to prerequisite Elements i.e. after the commercial operation of Vemagiri II-Chilakluripeta 765 kV D/C line with 2x240 MVAR switchable line reactors at both ends

III. Chilakaluripeta-Cuddapah 765 D/C line with 2x240 MVAR switchable line reactor at both ends could only be declared under commercial operation with CoD of Vemagiri II-Chilakluripeta 765 kV D/C line with 2x240 MVAR switchable line reactors at both ends

- i. The above element was completed and ready for charging on 28.3.2019.

- ii. The above asset was in use since completion of trial operation and the actual COD was achieved on 18.1.2020 as per TSA provision related to prerequisite elements i.e. after the commercial operation of Vemagiri II-Chilakluripeta 765 kV D/C line with 2x240 MVAR switchable line reactors at both ends.

(c) The above Elements were declared under commercial operation on a later date in terms of Schedule-III of the TSA. However, the Elements were put into use and the power flow on the above Elements commenced as soon as the trial operation of the above Elements was completed. It is wrong on the part of TANGEDCO to suggest that the Petitioner had kept the transmission Elements idle. In fact, the Petitioner brought the Elements into beneficial use as soon as practicable and had not claimed any tariff for use of such Elements before declaration of commercial operation.

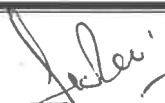
(d) Alternatively, if this Commission deems it fit to consider TANGEDCO's submission to provide Element-wise tariff as provided in the TSA, the Commission may grant tariff to the Petitioner from the date of utilisation of the Elements of the Project irrespective of the actual COD of the Elements.

(e) TANGEDCO has denied that the Force Majeure events raised by the

the route proposed by RECTPCL. The same was completely beyond the control of the Petitioner. In fact, the application for forest clearance was approved by Principal Chief Conservator of Forests (PCCF), Guntur and District Forest Officer, Nellore. In case of the forest clearance from Proddatur division, it was informed by the DFO that the wildlife clearance is required since the area falls under the Tiger corridor. However, the DFO Proddatur division could not provide the requisite notification declaring the areas as Tiger corridor. Since there was no notification of the area as Tiger corridor, PCCF, Guntur approached National Tiger Conservation Authority (NTCA), New Delhi seeking applicability of wildlife clearance in absence of any notification. Thus, there being no notification declaring the area as a Tiger corridor before the bidding and the same being imposed as a condition only after the cut-off date, it could not have been possible for the Petitioner to envisage the same on the cut-off date or even while applying for forest clearance.

(i) The Petitioner when faced with the Force Majeure/Change in Law event of change in policy regarding land compensation took various steps and wrote various letters to LTTCs, including the lead LTTC, seeking support of the LTTCs in completing of Element 6. At the relevant time, TANGEDCO, lead LTTC did not intervene or support the Petitioner in resolving the said issue nor advised the Petitioner to challenge the orders issued by the Government of Andhra Pradesh regarding payment of land compensation. However, in the reply, TANGEDCO has contended that the Petitioner ought to have challenged the Notifications issued by the Governments of Andhra Pradesh and Karnataka. The Change in Law and Force Majeure cannot be denied on the basis that the person should have challenged the law. The correctness or validity of the Notification cannot be subject matter of this Petition.

(j) The example of Edamon-Cochin 400 kV corridor cited by TANGEDCO to claim that as Government of Kerala had paid land compensation and therefore, the same course ought to have been adopted in the present case. The said case is distinguishable for the various reasons as detailed in the rejoinder. Moreover,



Petitioner are covered under natural/non-natural Force Majeure conditions, without giving reasons or justifications for such denials.

(f) Considering the importance of the transmission system, the Petitioner made all efforts to resolve the impasse including holding numerous meetings with the local administration which included the MRO (Executive Magistrate), RDO (Sub- Divisional Magistrate), Joint Collectors and District Collector, etc. The Petitioner also undertook joint meetings with the land owners in the presence of Government Officials and continuously exchanged correspondences with the concerned officials in order to resolve the issues of Right of Way. The matter was taken up at the level of Principal Secretary, and Chief Secretary, of the State of Andhra Pradesh to resolve the issue.

(g) The Petitioner, encountering a substantial delay on account of Force Majeure events, had also taken up the above Force Majeure events i.e. forest clearance and Right of Way issues through PRAGATI, which is a platform for monitoring and reviewing important programs and projects under the chairmanship of Hon'ble Prime Minister. In addition, the Petitioner also pursued the matter in SRPC forums for early resolution. The Petitioner was unable to lay down the transmission line due to stiff resistance by local population and consequent law and order problems caused by them which effectively is non-availability consent / clearance as headway in obstruction-free corridor was unavailable. The LTTCs were also requested to intervene and resolve the above issues in 40 km stretch faced by the Petitioner in terms of Article 4.2.1 of TSA. The LTTCs were fully aware of the realities being faced on the ground in the implementation of the Project.

(h) With regard to delay in obtaining wildlife clearance, it is pertinent to note that the route in the Survey Report for Chilakaluripeta–Cuddapah 765kV D/C line furnished by RECTPCL (BPC for the Project) does not indicate requirement of wild life clearance. However, on inquiry and pursuing with the DFO, it was confirmed by the DFO that wild life clearance is required to be obtained even for

4.4.2020. Thereafter, on 10.7.2020, a meeting was held between the Petitioner and LTTCs regarding extension of SCOD of the Project and TANGEDCO issued letter enclosing minutes of meeting wherein it was concluded that "Since there was no consensus between PSITSL and the LTTCs for extending the SCOD, LTTCs opined that PSITSL may approach the CERC for resolution".

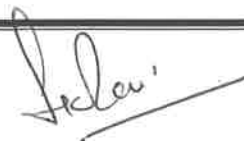
Hearing dated 9.11.2021

10. The matter was heard at length on 9.11.2021. During the course of hearing, the learned senior counsel for the Petitioner circulated note of arguments and advanced detailed submissions in the matter. The learned counsel for the Respondent, TANGEDCO also advanced detailed submissions by referring to the reply. The matter was thereafter reserved for order.

11. However, consequent upon issuance of Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules') dated 22.10.2021 by the Ministry of Power, Government of India requiring a change in procedure dealing with the Change in Law cases, the matter had been re-listed on 11.1.2022.

Hearing dated 11.1.2022

12. The parties were heard on the applicability of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules') on the present Petition. After hearing the learned senior counsel for the Petitioner and the learned counsel for Respondent, TANGEDCO, the matter was once again reserved for order. The Petitioner was also directed to file (a) CEA clearance certificates for all elements as mentioned in the Petition; and (b) break-up and proof of payment made for wild-life clearance for Element 5, which were filed by the Petitioner via affidavit dated 28.1.2022.



the compensation was shared between PGCIL and Government of Kerala as one time special dispensation. This does not mean or necessitate that every Government in every case has to share the compensation and neither the Petitioner nor TANGEDCO can dictate such terms to the Government. The Government Notifications do not make any such provision for sharing of the compensation by the Government and the Petitioner is bound by such Notifications. In the order dated 25.1.2021 passed in Petition No. 265/MP/2020 (Powergrid Warora Transmission Limited) and order dated 29.1.2021 in Petition No. 264/MP/2021 (Powergrid Parli Transmission Limited), the Commission has already dealt with the above issue and has allowed the relief on account of above Change in Law/Force Majeure events.

(k) Contention of TANGEDCO that the relief claimed in the Petition is only applicable to hard cost excluding funding cost and IDC, etc. is wrong and misplaced. The issue relating to IDC and carrying cost on account of Change in Law events has been settled by the APTEL in its judgment dated 20.10.2020 in Appeal No. 208 of 2019 in the case of Bhopal Dhule Transmission Company v. Central Electricity Regulatory Commission and Ors.

(l) The Petitioner had notified the LTTCs, including the Lead LTTC, TANGEDCO on each and every occasion when the progress of the Project was impacted by the Force Majeure/Change in Law events and copy of the same have already been furnished along with the Petition. Thus, the Petitioner has complied with the provisions of the TSA in letter and spirit.

(m) The contention of TANGEDCO that the Petitioner has not sought and obtained consent from the LTTCs for extension in line in terms of Article 4.4 of the TSA, is baseless and contrary to the documents available on record. In this regard, vide letter dated 4.3.2020, TANGEDCO sought certain details from the Petitioner and stated that the issue of extension of SCOD will be examined by lead LTTC in consultation with other LTTCs and till a final decision is taken in this regard, the validity of the BG be extended for a further period of six month from

Analysis and Decision

13. As regards the applicability of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules'), the Appellate Tribunal for Electricity (APTEL) vide its judgment dated 5.4.2022 has, *inter alia*, held that the Change in Law Rules apply only prospectively and cannot be retrospectively applied to the proceedings pending for adjudication before the Commission particularly where the cause of action had already arisen before the rules were brought into existence and accordingly, the Commission has been directed to consider each such case on merit and adjudicate the matter in exercise of its jurisdiction under Section 79 of the Act. In view of the aforesaid judgment of the APTEL, since the present Petition had already been filed prior to the notification of the Change in Law Rules and was pending for adjudication under Section 79 of the Act read with Article 12 of the TSA, the Commission proceeds to consider the claims of the Petitioner on the merits under exercise of jurisdiction under Section 79 of the Act.

14. We have considered the submissions of the Petitioner and TANGEDCO and perused the documents on record. The following issues arise for our consideration:

Issue No. 1: Whether the Petitioner has complied with the provisions of the TSA before approaching the Commission for claiming relief under Force Majeure and Change in Law?

Issue No. 2: Whether the Petitioner is entitled for time extension under Force Majeure?

Issue No. 3: What shall be the SCOD and COD of the elements in Petitioner's Project?

Issue No. 4: Whether the claims of the Petitioner are covered under Change in Law in terms of the TSA?

Issue No. 5: What reliefs, if any, should be granted to the Petitioner in the light of the answers to the above issues?

The above issues have been dealt with in succeeding paragraphs.

Issue No. 1: Whether the Petitioner has complied with the provisions of the TSA before approaching the Commission for claiming relief under Force Majeure and Change in Law?

15. The Petitioner has claimed relief under Article 11 (Force Majeure) of the TSA.

Article 11.5.1 of the TSA provides as under:

"11.5 Notification of Force Majeure Event

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

11.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations."

16. Under Article 11.5.1 of the TSA, an affected party shall give notice to the other party of any event of Force Majeure as soon as reasonably practicable, but not later than seven days after the date on which the party knew or should have reasonably known of the commencement of the event of Force Majeure. It further provides that such notice shall be a pre-condition to the affected party's entitlement to claim relief

under the TSA.

17. The Petitioner has further claimed relief under Article 12 (Change in Law) of the TSA. Article 12.3.1 of the TSA provides as under:

“12.3 Notification of Change in Law Event

12.3.1 If the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Lead Long Term Transmission Customer of such Change in Law as soon as reasonably practicable after becoming aware of the same.

12.3.2 The TSP shall also be obliged to serve a notice to Lead Long Term Transmission Customer even when it is beneficially affected by a Change in Law.

12.3.3 Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its effect on the TSP.”

18. Article 12.3 of the TSA provides that if the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law, it shall give notice to the lead LTTC as soon as reasonably practicable after being aware of the same. It further provides that any notice served pursuant to Article 12.3.1 and Article 12.3.2 of the TSA shall provide amongst other things, precise details of Change in Law and its effect on the TSP.

19. The Petitioner has placed on record the various notices issued to the LTTCs intimating the occurrence as well as the cessation of the Force Majeure events. For delay and Right of Way issues due to change in Policy regarding land compensation in the State of Andhra Pradesh, the notices were issued on 7.7.2017, 29.12.2018, 12.3.2019, and 6.11.2019. For general elections, notice was issued on 16.3.2019. For heavy rainfall, the notice was issued on 6.11.2019. However, we observe that for the events such as demonetization and promulgation of Goods and Services Taxes (GST)

Act, 2017, no separate notice for Force Majeure as issued by the Petitioner has been placed on record and for such events the Petitioner, has only placed on record the Change in Law notices issued on 5.1.2017 & 10.2.2017 and 7.7.2020 respectively. For the delay due to wildlife clearance obtained from National Tiger Conservation Authority (NTCA) also the Petitioner has only placed on record the notice on 31.1.2018 issued under the Change in Law, albeit, the Petitioner had mentioned therein that in the event NTCA wildlife clearance is required to be obtained, the Project is likely to get delayed beyond the SCOD. As per Article 11.5.1 of the TSA, it is clear that issuance of notice about the Force Majeure event is a pre-condition to the affected Party's entitlement to claim relief under Force Majeure. In our view, before approaching the Commission, the Petitioner has complied with the requirement of TSA regarding prior notice to the LTTCs regarding occurrence of Force Majeure events relating only to (i) Right of Way issues due to change in Policy regarding land compensation in the State of Andhra Pradesh and (ii) general elections. At the same time, in our view, before approaching the Commission, the Petitioner has not complied with the requirement of TSA regarding prior notice to the LTTCs regarding occurrence of Force Majeure events relating to (i) demonetization; (ii) promulgation of Goods and Services Taxes (GST) Act, 2017 and (iii) requirement of wildlife clearance to be obtained from National Tiger Conservation Authority (NTCA).

20. The Petitioner gave notices to the LTTCs dated 23.9.2016, 19.5.2017 and 7.7.2017 under Change in Law events regarding payment of compensation for transmission lines due to introduction of land compensation for transmission lines in the States of Andhra Pradesh and Karnataka, dated 7.7.2017 regarding introduction of GST

with effect from 1.7.2017, and dated 31.1.2018 regarding requirement of obtaining wildlife clearance from NTCA and the additional financial impact thereof. However, no response was received from the lead LTTC/ LTTCs. As regards increase in the acquisition price of SPV, while the Petitioner has not placed any notice intimating the LTTCs about the aforesaid Change in Law, it has been pointed out that all the LTTCs were duly informed by the Petitioner regarding increase in the acquisition price of SPV by BPC in Petition No. 299/ADP/2015 filed by the Petitioner under Section 63 of the Act for adoption of tariff and it also served copies of the Petition *inter-alia* stating reimbursement of increased acquisition price of SPV, on the LTTCs including the BPC. Perusal of the records reveals that the Petitioner had intimated the LTTCs about increase in the acquisition price of SPV in the aforesaid Petition filed by the Petitioner after the selected bidder (PGCIL) acquired the SPV as per the bid process, which in our view suffices the requirement of notice to LTTCs. Notice is a legal concept describing a requirement that a party be aware of legal process affecting their rights, obligations or duties. We have considered that through Petition No. 299/ADP/2015, LTTCs were made aware about increase in acquisition price by BPC. Accordingly, in our view, the Petitioner has complied with the requirement of TSA regarding prior notice to the LTTCs regarding occurrence of Change in Law before approaching the Commission.

21. This issue is answered accordingly.

Issue No.2: Whether the Petitioner is entitled for time extension under Force Majeure?

22. The Petitioner has sought time extension under Article 11.7 (Force Majeure) of the TSA on account of the occurrence of Force Majeure events during the construction/

implementation of the Project, which have led to the delays in achieving the commercial operation of the Project.

23. The provisions of the TSA with regard to "Force Majeure" are extracted hereunder:

"11.3 Force Majeure

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) Natural Force Majeure Events:

Act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years,

(b) Non-Natural Force Majeure Events:

i. Direct Non-Natural Force Majeure Events:

• Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the TSP; or

• the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consents, Clearances and Permits required by the TSP to perform their obligations under the RFP Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other Consents, Clearances and Permits required for the development/ operation of the Project, provided that a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or

• any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality which is directed against the Project, provided that a Competent Court of Law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down.

ii. Indirect Non - Natural Force Majeure Events.

• act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or

• radioactive contamination or ionising radiation originating from a source in India or resulting from any other Indirect Non-Natural Force Majeure Event mentioned above,

excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Site by the Affected Party or those employed or engaged by the Affected Party; or

- industry wide strikes and labour disturbances, having a nationwide impact in India.

11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

(a) Unavailability, late delivery, or changes in cost of the machinery, equipment, materials, spare parts etc. for the Project;

(b) Delay in the performance of any contractors or their agents;

(c) Non-performance resulting from normal wear and tear typically experienced in transmission materials and equipment;

(d) Strikes or labour disturbance at the facilities of the Affected Party;

(e) Insufficiency of finances or funds or the agreement becoming onerous to perform; and

(f) Non-performance caused by, or connected with, the Affected Party's:

i. negligent or intentional acts, errors or omissions;

ii. failure to comply with an Indian Law; or

iii. breach of, or default under this agreement or any Project Documents.

.....

11.6 Duty to perform and duty to mitigate

To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

24. In the light of the provisions of Force Majeure, the claims of the Petitioner have been examined. The Petitioner has submitted that construction of Project was delayed for the reasons beyond its control on account of (a) ROW and law and order problem on account of change in policy regarding land compensation in the State of Andhra Pradesh; (b) general elections; (c) heavy rainfall; (d) demonetization; (e) Notification of Goods and Service Tax Act, 2017); and (f) requirement of wildlife clearance to be

obtained from National Tiger Conservation Authority.

(a) Delay due to ROW and law and order problem on account of change in policy regarding land compensation in the State of Andhra Pradesh

25. The Petitioner has submitted that pursuant to issuance of Guidelines by Ministry of Power, Government of India dated 15.10.2015 and the Order dated 20.6.2017 of the Government of Andhra Pradesh, it has been required to make payment of compensation towards tower base area and towards diminution of land value in the width of transmission line corridor. Prior to the above, the transmission licensees were required to pay compensation towards normal crop and tree damages in terms of Section 67 and Section 68 of the Act read with Section 10 and Section 16 of the Indian Telegraph Act, 1885. However, the above Guidelines and the consequent Orders/Notifications issued by State Authorities led to an impact on the time-line of the Project as there was now a requirement of determination and payment of compensation which did not exist prior to the bid cutoff date. The process of determination and payment of compensation to be undertaken after the introduction of these Policies/Orders involved (a) marking of the entire land in the line corridor where transmission line is passing through and identification of individual land pieces and their area; (b) identifying land owners with the help of land records officials of the Governments of Andhra Pradesh and Karnataka; (c) calculating area coming under each owner and verification of the same by land records officials; and (d) certification by revenue authorities of the area & ownership of land and amounts payable; and (e) processing the proposals for compensation disbursement owner-wise. These conditions made the entire process very time consuming and cumbersome. The Petitioner, through prudent practices and constant efforts managed to complete all the works in the Project


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as on April 2019 except for about 40 km of stretch in Vemagiri-II-Chilakaluripeta 765 D/C line (Element 6) falling in the Krishna district of Andhra Pradesh comprising of three Mandals viz. Veerulapadu, Nandigama, and Chandarlapadu. The balance construction works were obstructed by the local population in the above three Mandals. Despite seeking support from the local administration, the local population was not ready to allow construction of work and caused serious law and order problems. The State Government and the local administration were unable to provide any support for completion of the 40 km stretch.

26. The Petitioner has further submitted that considering the importance of the transmission system, the Petitioner made all efforts to resolve the impasse including holding numerous meetings with the local administration which included the MRO (Executive Magistrate), RDO (Sub-Divisional Magistrate), Joint Collectors and District Collector, etc. The Petitioner also undertook joint meetings with the land owners in the presence of Government Officials and continuously exchanged correspondences with the concerned officials in order to resolve the issues of ROW (Right of Way). The matter was taken up at the level of Principal Secretary and Chief Secretary of the State of Andhra Pradesh to resolve the issue. The Petitioner even sought the assistance from the LTTCs for resolving the issues in the 40 km stretch that was affecting the progress of the line / Project. The Petitioner took up the matter with the Southern Regional Power Committee besides taking up with highest authority at PRAGATI (Pro-Active Governance and Timely Implementation) which is a three-tier system (PMO, Union Government Secretaries, and Chief Secretaries of the States) to *inter-alia* monitor /review projects and to resolve issues. The Petitioner has contended that Article 4.2.1 of

TSA places an obligation on LTTCs of the transmission system to assist Transmission Service Provider (TSP) (Petitioner in this case) in obtaining clearances and consent for timely completion of the Project. In the instant scenario, the Petitioner was unable to lay down the transmission line due to stiff resistance by local population and consequent law and order problems, which effectively is non-availability of consent / clearance as headway in obstruction-free corridor was unavailable. The LTTCs were fully aware of the realities being faced on the ground in implementation of the Project. Since these factors were beyond the control of the Petitioner, it could not have implemented the Project in time.

27. We have considered the submissions of the Petitioner. The Petitioner has submitted that the issuance of the Guidelines dated 15.10.2015 by the Ministry of Power and consequent Order/Notification by the State Authorities led to a new process and requirement of determination and payment of compensation which did not exist prior to the cut-off date. However, we observe that even prior to the issuance of the Guidelines of Ministry of Power dated 15.10.2015 and Order of Government of Andhra Pradesh dated 20.6.2017, the concerned State/District Authorities were awarding the land compensation after following the prescribed process. Therefore, in our view the Petitioner ought to have factored in and taken into account the time required in the process and various activities.

28. The Petitioner has submitted that for the 40 km stretch of Element 6 passing through Krishna District, Andhra Pradesh, it faced numerous ROW and severe law and order issues created by owners of land and local population, thereby delaying the

construction of the said element. In order to substantiate its plea, the Petitioner has placed heavy reliance on various correspondences exchanged between the Petitioner with the concerned authorities/officials to resolve the RoW issues.

29. We have perused the documents placed on record by the Petitioner. We observe that the representations made by the Petitioner to the various authorities clearly indicate that ROW and law & order issues as stated by the Petitioner mainly emerged on account of the failure in settling the land compensation to the land owners. In this regard, the relevant extracts of the certain correspondences and the minutes of meeting taken by the Chief Secretary are reproduced as under:

Letter dated 22.1.2018 to Collector and District Magistrate, Krishna, Andhra Pradesh

".....During the construction, the work was stopped by the land owners stopped the work on 24.02.2017, stating that land compensation orders from District collector, Krishna. Accordingly District administration issued land compensation order vide ref no: RT10MIS(PG)/3/2016-JA(H6)-KCO DT 01.04.2017.

After resuming the works on 13.05.2017, again the landowners are stopped the works demanding payment for the corridor and revision of compensation order issued by the District Collector. Govt of AP issued orders vide Go. RT No:83 dt 20.06.2017 towards corridor compensation.

Again we have tried to resume the work, but the land owners are not allowing and demanding more compensation.

Total 111 (107 in Land + 4 in River) locations are situated in the Mylavaram, Veerulpadu, Nandigama & Chandrelapadu Mandals of Krishna District. Out of 111 loc we have completed 76 Locations Foundations and 46 towers erected with smoothly and we have paid crop and tree compensation for the damages for 70 foundations & 42 erected locations. Now we are facing major resistance from the balance 31 loc land owners since March'17. We have tried to convince the land owners but they are reluctant to allow for carrying work.

Hence, it is kindly requested to advise/oblige with necessary orders to the concerned Revenue and Police Authorities to cooperate for resolving ROW and to provide security for our men, materials during execution of the above important and critical project as the project has to be completed by May'18."

Letter dated 23.1.2018 to Sub-Collector, Vijaywada, Andhra Pradesh

"Subsequent to the directions of your good offices, Tahasildars of the respective Mandals have conducted meetings with the land owners on various occasions and appealed the land owners for allowing the construction works of the above line. However, the land owners are insisting to enhance the valuation considered for tower base compensation. However we could complete the foundation at Loc. 80/0, near Peddapuram village, Veerulapadu Mandal by taking the protection from police in the month of December'17. Barring the above work, we could not advance any progress further.

It is further to inform that the work is progressing well in the other areas of the above line and to enable the commissioning of the line as scheduled to ensure the availability of adequate power in around Amaravathi area, it is necessary to resolve the Right of way issue of the above locations immediately.

In view of the above submissions, we earnestly request you to please arrange to resolve the Right of way issue in the above Mandals to enable us to effectively utilize the ensuing season for completing the line as scheduled."

Letter dated 6.2.2018 to Collector & District Magistrate, Krishna District, Andhra Pradesh

"...During the construction, the work was stopped by the land owners stopped the work on 24.2.2017, stating that land compensation orders from District Collector, Krishna. Accordingly, the District administration issued land compensation order vide ref. no. RT10MIS(PG)/3/2016-JA(H6)-KCO DT 01.04.2017. Subsequent to the above order, work has progressed without any much obstruction except in Veerulapadu, Nandigama and Chandralapadu Mandals, POWERGRID is making compensation payments on priority as per the above orders.

After resuming the works in above Mandals, again the landowners are stopped the works demanding payment for the corridor and revision of compensation. Further, Govt. of AP looking into issues has Go. RT. No. 83 dt 20.06.2017 towards corridor compensation.

Again we have tried to resume the work, but the land owners are not allowing and demanding more compensation and threatening with dire consequence if the work started.

At present we are not having any work front in the above Mandals, in view of the tight schedule of completion in May'18 to provide supply to CRDA, it is kindly requested to advise/ oblige with necessary orders to the concerned Revenue and Police authorities to cooperate for resolving ROW and to provide security for our men, materials during execution of the above important and critical project as the project has to be completed by May'18....."

Arjun

Minutes of Meeting held by Chief Secretary, Andhra Pradesh on 23.4.2019

"ii) 765 kv Vemagiri - Chilakaluripeta DC line being taken up by PGCIL

It was informed by CGM, PGCIL that PGCIL has taken up 765 kv Inter Regional High Power Transmission Corridor to facilitate flow of power of 4500 MW from Odisha to the Southern States. The above Transmission Line is passing through the State of Andhra Pradesh in which the entire line has been commissioned except for a distance of 40 KM in which 111 Towers are there in the villages of Nandigama, Chadarlapadu and Veerulapadu. The above work has been stopped by the villagers as they have been demanding higher compensation than what is eligible as per G.O.Ms.No.83. Due to the stoppage of above work, the entire transmission line is unavailable for flow of power from the Eastern region to the Southern region. The issue is being regularly reviewed by the PMG constituted by Gol.

The District Collector, Krishna, has informed that the above land comes under the CRDA region and very close to the national highway as well and the value of the land has gone up abnormally due to the proximity to the national highway and the capital city. As such the farmers are not willing to accept the compensation presently paid by PGCIL. Collector, Krishna, further informed that he, along with Sub Collector, Vijayawada, have conducted a number of meetings with the farmers and they have convinced the farmers for a certain reasonable price for Tower Foundations. Similarly, for transmission corridor the rate would be as per G.O.Rt.No.83 and land value as per proceedings dated 1.4.2017 already approved by Collector. Collector and S.P., Krishna, further informed that it would not be possible to lay the Towers even with police protection as it may lead to severe Law and Order problem. Further, they informed that the rate is negotiated by district administration may kindly be considered by PGCIL so that the work can be taken up immediately without any Law and Order problem and also doing justice to the farmers. After detailed discussions, PGCIL have agreed to put up the proposal for the consent of the management in the interest of completing the Project of national importance at the earliest. To facilitate early start of work, PGCIL requested for a demand letter so that the compensation could be deposited with district Collector, Krishna. Collector, Krishna, has promised to submit the details with the next three days and PGCIL would make the necessary payment to district administration. On receipt of the amount, the district administration would convince the farmers and permit the PGCIL to take up the work at the earliest."

30. Various other letters and correspondence, in addition to the above, furnished by the Petitioner along with the Petition also give the similar indication that the RoW issues arose due to insufficiency of the compensation. We are of the view that the issues of

ROW, resistance by landowners and issue of compensation are well known and the transmission licensees undertaking the implementation of transmission projects are expected and required to anticipate and factor in such issues. The transmission licensees are expected to resolving such issues by exercising prudent utility practices and availing various remedies available.

31. Therefore, the question before us is as to whether prudent utility practices were employed by the Petitioner to resolve the issues. As we have already observed issues relating to ROW and delays in the present case arose on account of failure to settle the land compensation to the land owners. While the Petitioner has submitted that such issues have arisen pursuant to the change in policy regarding land compensation, we do not find any merit in the submission inasmuch as the order of adopting the compensation rates as prescribed under Guidelines issued by Ministry of Power dated 15.10.2015, was issued by the Government of Andhra Pradesh as far back as on 20.6.2017. Thus, the Petitioner had almost 2 years (~21 months) to address the issue of land compensation raised by the landowners. However, the Petitioner instead of timely resolving such issues, sought police protection for completion of the works.

32. We note that transmission licensee, once having been vested the power of authority under Section 164 of the Act, has various remedies under Section 16 of the Indian Telegraph Act, 1885 (Telegraph Act). The relevant extract of the said Section reads as under:



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“16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority

1. *If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.*

2. *If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).*

3. *If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.*

4. *If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.*

5. *Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:*

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.”

33. Thus, in terms of the above quoted provisions, if the exercise of the powers mentioned in Section 10 Telegraph Act in respect of property referred to in Section 10(d) is resisted or obstructed, the District Magistrate may order that the telegraph authority be permitted to exercise them. If any person continues to resist the exercise of power by the authority even after issuance of an order by District Magistrate, he shall be deemed to have committed an offence under Section 188 of the Indian Penal Code. Further, in case of any dispute concerning the sufficiency of the compensation to be

paid under Section 10(d) of the Telegraph Act, either of the disputing party is entitled to approach the District Judge within whose jurisdiction the property is situated for determination of the compensation, which shall be the final. In the present case, despite the continuous resistance and obstruction by landowners and local population and their claims relating to insufficiency of the compensation, nothing has been brought on record by the Petitioner to indicate the efforts undertaken by it as per the aforesaid provisions for resolution of such issues and timely completion of the Project.

34. In our view, in the facts and circumstances of the present case, the resolution of the delays and RoW issues due to change in policy regarding land compensation in the State of Andhra Pradesh could have been timely addressed by the Petitioner had it exercised reasonable care in settling the issues relating to insufficiency of the land compensation as per the remedies available to the licensees under the various statutory provisions including Section 16 of the Indian Telegraph Act. Therefore, the delay due to ROW and law and order problem on account of change in Policy regarding land compensation cannot be condoned under the provisions of the Force Majeure clause.

(b) Delay due to General Election

35. The Petitioner has submitted that from 11.3.2019 i.e. the notification of general elections of Lok Sabha and Legislative Assembly of the State of Andhra Pradesh by the Election Commission of India till the conclusion of general election process on 23.5.2019, the requisite support and assistance of the State authorities was not available to the Petitioner as the Government Officials remained engaged in work relating to the election. The Petitioner has submitted that aforesaid event is Force Majeure event falling within the meaning of Article 11 of the TSA.

36. We have considered the submissions made by the Petitioner. At the outset, we note that the SCOD of the Project was 4.4.2019. Therefore, by the date of notification of the general election of Lok Sabha and Legislative Assembly of the State of Andhra Pradesh, the Petitioner was required to have achieved substantial progress in respect of its Project. Further, we do not find any rational and justification in the submission of the Petitioner that the Petitioner could not proceed with the implementation of the Project in the absence of the requisite support and assistance from the government officials. Thus, the said claim of the Petitioner cannot be held to be covered under the Force Majeure provisions under Article 11 of the TSA.

(c) Delay due to Heavy Rainfall

37. The Petitioner has submitted that unprecedented heavy rainfall during the months of August, September and October in 2019 had severely affected the construction of the transmission line (Element 6). The Petitioner has submitted that the soil strata in Veerulapdu, Nadigama and Chandralapadu Mandals was clay/black cotton in nature and even with small amount of rains, the approaches to the line locations became difficult. The problem was further aggravated due to water logged fields with standing crops adjacent to the alignment of the transmission line. The Petitioner has submitted that high rain fall on a number of days spread over the period of August-October, 2019 was unprecedented and was not witnessed during the same period in the last four years. The Petitioner has submitted that based on the rain fall data obtained from Andhra Pradesh State Disaster Management Authority for the period from August-October, 2019 for the last four years in the three Mandals, it is seen that the number of days with rainfall in the months of August, September and October 2019 were 20 days,

20 days and 17 days respectively; the rainfall ranged in a day between 0.1 mm to 84.7mm; and there was no respite from rains for sufficient time for approaches to dry out. The Petitioner has submitted that persistent rains during the period rendered it difficult for movement of men and material and despite several efforts including use of Porta Deck for making temporary approaches in water logged/slushy area, the progress did not improve. It is only after October 2019 when the rains abated, progress of the work picked up. The Petitioner has submitted that despite these difficulties, the Petitioner took all reasonable steps and made best possible efforts, complying with prudent utility practices and completed the balance work by December 2019. The Petitioner has submitted that the heavy rainfall is a Force Majeure event within the meaning of Article 11 of the TSA and impact on account of the above is 57 days.

38. We have considered the submissions made by the Petitioner. We note that the time overrun claimed by the Petitioner on account of heavy rainfalls is 57 days, which is the total of number of days with rainfall in August, 2019 (20 days), September, 2019 (20 days) and October, 2019 (17 days). We observe that the period for which the Petitioner is claiming to have been affected by such heavy rainfall falls after the SCOD of the Project i.e. 4.4.2019. Therefore, the event of heavy rainfalls which occurred after the SCOD of the Project cannot come to the aid of the Petitioner under the Force Majeure clause. Further, Article 11.3 of the TSA as quoted in paragraph 23 above defines Natural Force Majeure Events as under:

"11.3 Force Majeure

(a) Natural Force Majeure Events:

Act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide,

flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years, ..."

The Petitioner has not placed on record any documents to show that the rainfall during the period of August-October, 2019 was an exceptionally adverse weather condition which was in excess of the statistical measures for the last hundred (100) years. Therefore, the event of excessive rainfall claimed by the Petitioner is not covered under the provisions of the Force Majeure clause and the delay due to heavy rainfall cannot be condoned

(d) Delay due to Demonetisation

39. The Petitioner has submitted that on 8.11.2016, the Government of India demonetized the High Denomination Bank Notes of Rs.500 and Rs.1000. The Petitioner has submitted that the same affected the execution of the transmission work as the construction workers are paid daily wages and due to restricted cash withdrawal limits imposed by the Government of India, there was delay in payment of wages to the workers. The Petitioner has submitted that the impact on account of the above is 85 days.

40. We have considered the submissions made by the Petitioner. We have already observed in paragraph 19 that the Petitioner has not complied with the requirement of issuance of notice regarding the aforesaid Force Majeure event. Therefore, the Petitioner cannot be entitled for any relief on this account. Nevertheless, in our view, the demonetization of the Notes of Rs.500 and Rs.1000 cannot be considered to be a Force Majeure event within the provisions of the TSA. Besides, as per the Petitioner's own submission, except for Element 6, all the other elements were ready for commissioning

prior to their SCOD, which clearly indicates that the Petitioner did not face any difficulties in execution of these other elements. Therefore, the claim of the Petitioner for condoning the time overrun on account of the demonetisation cannot be considered under Force Majeure and thus, deserves to be rejected.

(e) Delay due to Notification of Goods and Services Taxes (GST) Act, 2017

41. The Petitioner has submitted that pursuant to the notification of GST Laws with effect from 1.7.2017, the Petitioner encountered various unforeseen issues, including and in particular, disruption of the materials/supplies from the vendors, which constitutes Force Majeure event falling within the meaning of Article 11 of the TSA. The Petitioner has submitted that the impact on account of the above is 90 days i.e. from 1.7.2017 to 28.9.2017.

42. We have considered the submissions of the Petitioner. We have already observed in paragraph 19 that the Petitioner has not complied with the requirement of issuance of notice regarding the aforesaid Force Majeure event. Therefore, the Petitioner cannot be entitled to any relief of extension of SCOD on this account. Nevertheless, the Petitioner has submitted that pursuant to introduction of GST Laws, it faced various issues relating to the disruption of the material/supplies from the vendors and therefore, the notification of GST Laws constitutes Force Majeure event. The Petitioner, therefore, has sought condonation of time overrun of 90 days i.e. from 1.7.2017 to 28.9.2017. However, nothing has been brought on record by the Petitioner indicating as to how it has been affected by the aforesaid event in performance of its obligations under the TSA, which could not be avoided by exercising the reasonable care/control or by complying with Prudent Utility Practices. Besides, as already



observed, the Petitioner had been able to complete the work within the stipulated time in respect of all the elements except for Element 6 which clearly demonstrates that the Petitioner was able to successfully overcome the issues relating to introduction of the GST Laws by exercising reasonable care/control and Prudent Utility Practices. Therefore, the claim of the Petitioner for condoning the time overrun on account of the notification of the GST Laws deserves to be rejected.

(f) Delay due to Wildlife Clearance obtained from National Tiger Conservation Authority

43. The Petitioner has submitted that the Element 5, Chilakaluripeta–Cuddapah 765 kV D/C line was traversing through the forest areas in Proddatur and Nellor divisions in the State of Andhra Pradesh. Accordingly, on 18.4.2016, the Petitioner applied for grant of permission to undertake the survey of the forest areas in accordance with the established procedure. The Petitioner, pursuant to the receipt of the permission on 30.4.2016, undertook the Differential Global Position System survey in association with the District Forest Officer (DFO), Proddatur. After the acceptance of the said survey by the Principal Chief Conservator of Forest (PCCF), Guntur on 29.5.2017, the Petitioner submitted the proposal on 31.5.2017 for diversion of forest land measuring 74.486 ha in Proddatur and Nellor divisions, which was then forwarded to the DFO of Proddatur division and DFO of Nellor division respectively on 5.6.2017 for further action. While the DFO of Nellor division proceeded with the approval process, the DFO of Proddatur division informed the Petitioner that wildlife clearance is required since the area falls under the tiger corridor. However, on being requested by the Petitioner the DFO of Proddatur division could not provide any notification declaring the area as a tiger corridor. Accordingly, the Petitioner vide letter dated 19.12.2017 addressed to the

PCCF, Guntur raised the issue that wildlife clearance is required only if it is notified in terms of Clause 3.5.2 of the Guidelines dated 19.12.2012 issued by the Ministry of Environment and Forest. Based upon the aforesaid representation by the Petitioner to PCCF, Guntur, vide letter dated 1.1.2018 the PCCF, Guntur approached the National Tiger Conservation Authority, New Delhi seeking clarification regarding the applicability of wildlife clearance in the absence of any notification. On 12.3.2018, the NTCA confirmed the requirement of wildlife clearance.

44. The Petitioner has submitted that in line with the above confirmation, the proposal of the Petitioner was processed for wildlife clearance and recommendation of NTCA was forwarded to National Board for Wildlife (NBWL) on 12.6.2018. Thereafter, on the basis of the NBWL clearance, Stage-I forest clearance from Regional MoEF was issued on 4.10.2018 and working permission was granted by DFO on 15.11.2018. The Petitioner has submitted that the new requirement of obtaining wildlife clearance impacted the construction and progress of the transmission line and the total impact on account of obtaining the Forest Clearance was 185 days (i.e.14.5.2018 to 15.11.2018). However, with proactive measures and the best utility practices, the Petitioner was able to complete the line work and the line was commissioned within the SCOD. The Petitioner has submitted that the new requirement of obtaining NTCA clearance subsequent to the bidding of the Project constitutes a Force Majeure event.

45. We have considered the submissions made by the Petitioner. We observe that route length of instant transmission line i.e C'Peta-Cuddapah as per BPC survey report is as under:



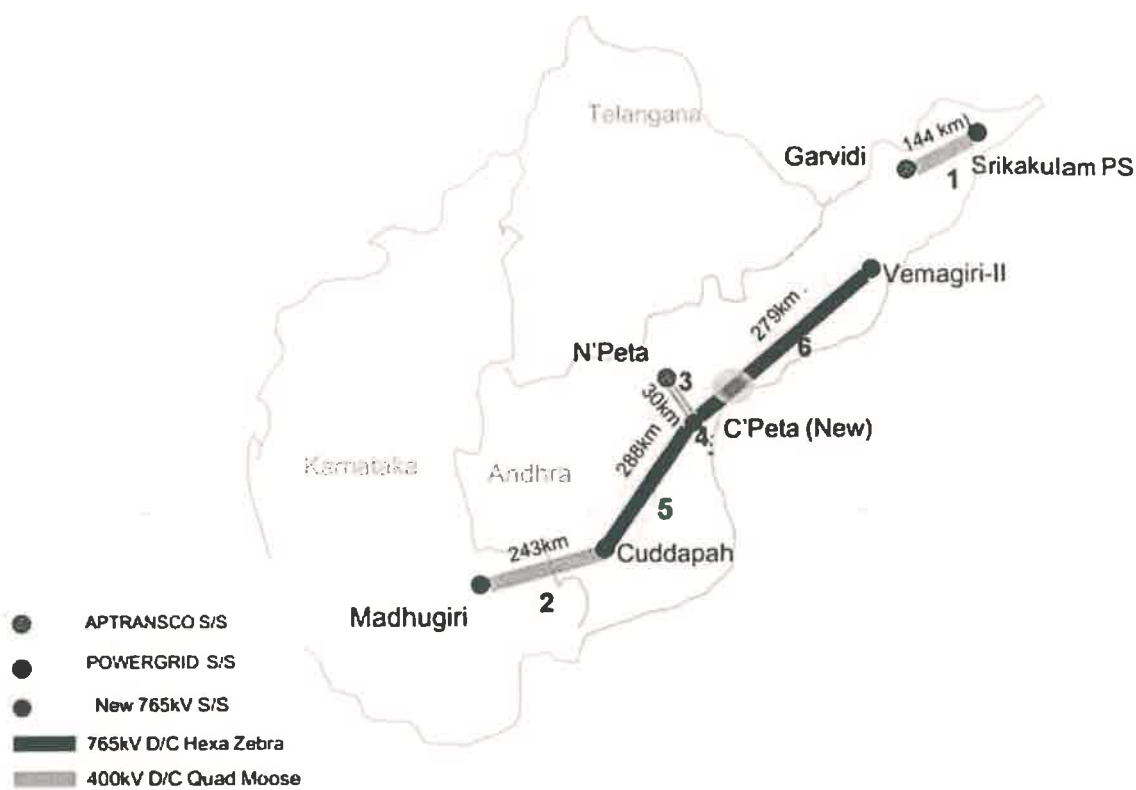
**Chikkaluripeta to Cuddapah 765 kV D/C Transmission Line
Comparative Statement for 3 Alternative Routes**

Sl. No.	Description	Alt-I (Proposed) (Violet)	Alt-II (Green)	Alt-III (Blue)
	Bee line length	229.258 km	237.634 km	237.634 km
1.	Line Length	260.175 km	261.303 km	274.146 km
	a) Plain	235.100 km	230.103 km	240.046 km
	b) Undulated terrain	25.075 km		
2.	a) Angle Points	95		
3.	Forest			
	a) Reserve forest	23.971 km		
	b) Protected forest	NIL		
	c) Social forest	NIL		
	d) Other area	NIL		
4.	Transportation & Maintenance	Available	Available	Available
		15 Nos.	13 Nos.	13 Nos.
5.	Power Line Crossings (132 kV & Above)	AP15-AP16 (220 kV D/C)	AP14-AP15 (220 kV D/C)	AP10-AP11 (132 kV D/C)
		AP16-AP17 (220 kV D/C)	AP16-AP17 (220 kV D/C)	AP14-AP15 (220 kV D/C)
		AP18-AP19 (132 kV D/C)	AP18-AP19 (132 kV D/C)	AP25-AP26 (220 kV D/C)
		AP20-AP21 (220 kV D/C)	AP24-AP25 (400 kV D/C)	AP29-AP30 (132 kV D/C)
		AP23-AP24 (132 kV D/C)	AP27-AP28 (132 kV D/C)	AP31-AP32 (400 kV D/C)
		AP32-AP33 (220 kV D/C)	AP33-AP34 (400 kV D/C)	AP44-AP45 (400 kV D/C)
		AP34-AP35 (400 kV D/C)	AP41-AP42 (132 kV D/C)	AP46-AP47 (400 kV D/C)
		AP36-AP37 (400 kV D/C)	AP59-AP60 (400 kV D/C)	AP50-AP51 (765 kV D/C)
		AP41-AP42 (132 kV D/C)	AP61-AP62 (765 kV D/C)	AP56-AP57 (400 kV D/C)
		AP48-AP49 (765 kV D/C)	AP76-AP77 (132 kV D/C)	AP76-AP77 (132 kV D/C)
		AP51-AP52 (400 kV D/C)	AP90-AP91 (132 kV D/C)	AP88-AP89 (132 kV D/C)

Client:
REC Transmission Projects Company Ltd.
(A Wholly Owned Subsidiary of Rural Electrification
Corporation Limited)
New Delhi

Consultant:
M/s. Prasad Surveyors
Pune

46. The illustrative SLD provided by the Petitioner provides route length is as under:



47. We have already observed in paragraph 19 that the Petitioner has not complied with the requirement of issuance of notice regarding the aforesaid Force Majeure event. We also observe that the Petitioner followed route length as per its own survey which traversed some route not envisaged under the BPC survey. The TSA does not mandate the Petitioner to follow route as provided by the BPC, but provides the Petitioner to carry out its own survey which the Petitioner has carried out and the Petitioner has followed its own route.

48. The Petitioner has submitted that the new requirement of obtaining the wildlife clearance is a Force Majeure event and has claimed the impact of time overrun as 185 days i.e. from 14.5.2018 to 15.11.2018 on account of the same. We have considered

the submissions of the Petitioner. Admittedly, despite the Petitioner having to obtain the wildlife clearance pursuant to the confirmation of its requirement by NTCA on 12.3.2018, the affected Element, namely Element 5 was ready for commissioning within the SCOD. Therefore, the Petitioner cannot contend that the said requirement of having to obtain the wildlife clearance, in any way, wholly or partly, prevented or resulted in delay in completion of the construction of the said Element 5. We observe that the Element 5 could not be commissioned by the Petitioner on account of non-commissioning of Element 6, the commissioning of which was pre-requisite for declaring the CoD of the Element 5. Undeniably, the Element 6 was not in any way affected by the requirement of having to obtain the wildlife clearance. Therefore, the Petitioner's claim for allowing time overrun of 185 days under the Force Majeure clause does not arise and is not allowed, as admittedly, the Element 5 in respect of which the wildlife clearance was required, was ready for commissioning prior to SCOD.

49. The issue is answered accordingly.

Issue No. 3: What shall be the SCOD and COD of the elements in the Petitioner's Project?

Element 1

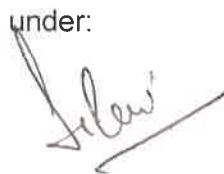
50. The Petitioner has submitted that in terms of the Schedule III of the TSA, the elements could be declared under the commercial operation only after the element which is pre-requisite for declaring the commercial operation of such elements is also declared under the commercial operation.

51. The Respondent, TANGEDCO has submitted that the Petitioner has deliberately avoided discussing advancement of CoD of Element 1 with the LTTCs and failed to

obtain the concurrence of the lead LTTC/beneficiaries. In the absence of concurrence of the lead LTTC/beneficiaries/ SRPC forum, the Petitioner is eligible to avail tariff from the SCOD of the asset as per the TSA. Accordingly, the Petitioner may be directed to recover the transmission charges from SCOD and refund the amount recovered from the beneficiaries from COD declared unilaterally by the Petitioner till its SCOD, if it has been included in the PoC Pool.

52. *Per contra*, the Petitioner has submitted that Element 1 was put into early commissioning in terms of the Meeting held on 1.11.2017 in CEA to discuss the early commissioning of the scheme 'Strengthening of Transmission System beyond Vemagiri' being implemented by the Petitioner. It has further submitted that TANGEDCO had provided No Objection for early commissioning of the above element, as recorded in the minutes of the said meeting. It has been submitted by the Petitioner that pursuant to the aforesaid meeting on 10.4.2018, the Petitioner issued a Notice under Article 6.1 of the TSA to SRLDC, NLDC, CEA, CTU, TANGEDCO and other LTTCs intimating its intention to declare the commercial operation of Element 1 and thereafter, on 6.8.2018, in terms of the provisions of the TSA, the Petitioner declared the commercial operation of Element1.

53. We have considered the submissions made by the parties. We have perused Schedule III of the TSA which is reproduced as under:


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Sr. No	Name of the transmission elements	SCOD in months from Effective Date	Percentage of Quoted Transmission charges recoverable on SCOD of element of the Project	Elements which are pre-required for declaring the COD of the respective Element
1.	(a) Srikakulam Pooling Station-Garividi 400 (Quad) D/C Line (b) 2 numbers of 400 line bays at Garividi 400 kV S/s of APTRANSCO	38	9.05%	Both simultaneously
2.	Cuddapah - Madhugiri 400 (quad) D/c line with 50 MVAR switchable line reactors at both ends of each circuit.	38	14.10%	—
3.	(a) Chilakaluripeta - Narasaraopeta (Sattenapalli) 400 D/C (Quad) line (b) 2 numbers 400 line bays at Narsaraopeta (Sattenapalli) 400 sub-station of APTRANSCO	40	3.10%	Establishment of 765/400 sub-stations at Chilakaluripeta And both element of 3
4.	Establishment of 765/400 sub-stations at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each.	40	14.27%	Chilakaluripeta-Cuddapah 765 D/C line And Vemagiri II-Chilakaluripeta 765 KV D/C Line
5.	Chilakaluripeta - Cuddapah 765 D/C line with 2x240 MVAR switchable line reactor at both ends	40	28.52%	Vemagiri II-Chilakaluripeta 765 KV D/C Line And Establishment of 765/400 sub-stations at Chilakaluripeta
6.	Vemagiri II-Chilakaluripeta 765 KV D/C Line with 2x240 MVAR switchable line reactors at both ends	40	30.96%	Chilakaluripeta - Cuddapah 765 D/C line And Establishment of 765/400 sub-stations at Chilakaluripeta

54. We observe that SCOD of each of the element as claimed and COD as claimed by the Petitioner is as under:

Sr. No.	Project Element	SCOD	COD
1.	Element 1 (a) Srikakulam Pooling Station - Garividi 400 (Quad) D/C Line (b) 2 number of 400 line bays at Garividi 400 kV S/s of APTRANSCO	February 2019	6.8.2018
2.	Element 2 Cuddapah - Madhugiri 400 (quad) D/c line with 50 MVAR switchable line reactors at both ends of each circuit.	February 2019	28.2.2019
3.	Element 3 (a) Chilakaluripeta - Narasaraopeta (Sattenapalli) 400 D/C (Quad) line (b) 2 number 400 line bays at Narasaraopeta (Sattenapalli) 400 sub-station of APTRANSCO	4.4.2019	31.7.2019
4.	Element 4 Establishment of 765/400 sub-stations at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR line reactors each	4.4.2019	18.1.2020
5.	Element 5 Chilakaluripeta-Cuddapah 765 D/C line with 2x240 MVAR switchable line reactor at both ends	4.4.2019	18.01.2020
6.	Element 6 Vemagiri II-Chilakaluripeta 765 KV D/C Line with 2x240 MVAR switchable line reactors at both ends	4.4.2019	18.1.2020

55. We observe that the Petitioner has indicated SCOD of Element 1 and Element 2 as February 2019 instead of a specific date of February, 2019. We observe from TSA that SCOD for Element 1 and Element 2 is 38 months from the date of effectiveness of TSA. Article 2.1 of the TSA is reproduced as under:

"2.1 Effective Date:

This Agreement shall be effective from later of the dates of the following events:

- a. The Agreement is executed and delivered by the Parties; and*
- b. The Selected Bidder has acquired for the Acquisition Price, one hundred percent (100%) of the equity shareholding of RFC Transmission Projects Company Ltd. in Vemagiri II Transmission Limited along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement, and*
- c. The Selected Bidder, on behalf of the TSP, has provided the Contract Performance Guarantee, as per terms of Article 3.1 of this Agreement."*

Thus, the effective date of TSA comes out to be 4.12.2015 as per the Article 2.1

of the TSA, and accordingly, the SCOD of Element 1 & Element 2 comes out to be 4.2.2019. The effective date of TSA has also been corroborated with SCODs of element 4, Element 5 and Element 6 by the Petitioner which is 40 months from the effective date of TSA and has been provided as 4.4.2019 by the Petitioner.

56. The Petitioner has claimed early commissioning of Element 1. Minutes of the Meeting held on 1.11.2017 in the CEA to discuss the early commissioning of the scheme 'Strengthening of Transmission System beyond Vemagiri' have been perused. The relevant portion of the minutes is extracted as under:

6. Representative of CTU proposed that considering critical loading of 765/400 kV, 1500 MVA ICTs at Vemagiri S/s, it is prudent that the transmission scheme "Strengthening of Transmission System beyond Vemagiri" is commissioned at the earliest. It was further informed that TTC between Eastern and Southern Region shall be enhanced in the range of about 1500 MW – 1700 MW progressively with progressive commissioning of above transmission elements.

7. He further stated that early commissioning of above scheme was also discussed and agreed in the 41st Standing Committee Meeting of SR held at Chennai on 22.09.2017, wherein it was agreed to hold a meeting for Early commissioning of scheme "Strengthening of Transmission System beyond Vemagiri" with LTTCs and the Licensee.

8. Representative of POSOCO stated that commissioning of above scheme will remove constraints at Vemagiri area and strengthen ER-SR inter regional transmission corridor.

9. Chief Engineer (PSPA-II) informed that CEA had received a letter from Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the Lead LTTC, intimating no objection to the early commissioning of the transmission scheme.

10. On the issue of inter-dependency of transmission elements in the scheme, it was clarified that Srikaukulam PS-Garividi (APTRANSCO) 400 kV (Quad) D/c line along with terminal bays may be commissioned early so that it would relieve loading on 765/400 kV ICT at Vemagiri-II(PG) to some extent. Similarly, Cuddapah-Madhugiri 400 kV (Quad) D/c line alongwith terminal bays may be commissioned early so that it would relieve loading on Gooty-Nelamangala 400 kV S/c & Gooty-Somanhally 400 kV S/c lines. Further Vemagiri-II (PG)-Chilakaluripeta 765 kV D/c along with Chilakaluripeta-Cuddapah 765 kV D/c are to be commissioned together, so as to ensure effective utilization.

13. After further deliberations, keeping in view the benefit to the system and enhancement of TTC of inter-regional corridor for import of power to Southern Region, it

was agreed that PSITSL and POWERGRID would put their best effort for early commissioning of transmission lines, associated line bays and substation covered under the transmission scheme 'Strengthening of Transmission System beyond Vemagiri' in the matching time frame.

The meeting ended with thanks to the chair."

57. The issue of early commissioning of Element 1 has been discussed in CEA and the minutes of the meeting dated 1.11.2017 records that keeping in view the benefit to the system and enhancement of TTC of inter-regional corridor for import of power to Southern Region, PSITSL would put their best effort for early commissioning of transmission lines, associated line bays and substation covered under the transmission scheme 'Strengthening of Transmission System beyond Vemagiri'. In view the minutes of the meeting in CEA held on 1.11.2017 and No Objection provided by the lead LTTC, TANGEDCO, the COD of Element 1 shall be considered as 6.8.2018 as claimed.

Element 2

58. The Petitioner has submitted that the Element 2 achieved COD on 28.2.2019, which is as per the schedule in the TSA. However, we observe that SCOD of Element 2 is 4.2.2019 and accordingly it is delayed by 24 days. The Petitioner has not furnished any reasons for such delay and accordingly shall be liable as per provisions of TSA for such delay.

Element 3

59. The Petitioner has submitted that Element 3 achieved COD on 31.7.2019 and Element 4, Element 5 and Element 6 achieved COD on 18.1.2020. We have perused Schedule-III of the TSA dated 31.8.2015. The pre-requisite Elements of Element 3 to Element 6 are depicted in tabular form as under:



Transmission Elements	Prerequisite Elements
Element 3	Element 4
Element 4	Element 5 & Element 6
Element 5	Element 4 & Element 6
Element 6	Element 4 & Element 5

60. Perusal of the Schedule III of the TSA clearly reveals that Element 3 could only be declared under commercial operation along with or after commercial operation of its prerequisite element i.e. Element 4. Element 4 was declared commercial operation only on 18.1.2020. Hence, Element 3 could not be declared COD before declaration of COD of Element 4. We observe that the Petitioner has furnished trial run certificate for Element 4 to be completed on 30.7.2019. However, it cannot be considered as completion of prerequisite for Element 3.

61. Accordingly, COD Element 3 shall be considered 18.1.2020 instead of 31.07.2019 as declared by Petitioner.

Element 4, Element 5 and Element 6

62. The Petitioner has submitted that it achieved actual COD of Element 4, Element 5 and Element 6 on 18.1.2020.

63. In view of discussions and findings in the forgoing paragraphs, the COD of the Elements shall be considered as under:

Transmission Elements	Approved COD
Element 1	06.08.2018
Element 2	28.02.2019
Element 3	18.01.2020
Element 4	18.01.2020
Element 5	18.01.2020
Element 6	18.01.2020

64. Thus, the Petitioner is directed to return the transmission charges received from the LTTCs/beneficiary, if any from the date of its declared COD till the COD approved in the instant order. CTU/PGCIL is directed to raise the bills on the Petitioner accordingly and adjust such charges from future bills of the Petitioner.

65. The issue is answered accordingly.

Issue No. 4: Whether the claims of the Petitioner are covered under Change in Law in terms of the TSA?

66. The provisions of the TSA with regard to Change in Law are extracted as under:

“12.1 Change in Law

12.1.1 Change in Law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring/non-recurring expenditure by the TSP or any income to the TSP:

- *The enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;*
- *A change in the interpretation or application of any Law by Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;*
- *The imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;*
- *A change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents Clearances and Permits;*
- *Any change in the licensing regulations of the Appropriate Commission, under which the Transmission License for the Project was granted if made applicable by such Appropriate Commission to the TSP;*
- *any change in the Acquisition Price; or*
- *any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.”*



67. Perusal of the above provisions of Article 12 in the TSA reveals that for an event to be declared as 'Change in Law', its occurrence has to be after seven days prior to the bid deadline and should result into any additional recurring/ non-recurring expenditure by TSP or any income to TSP.

68. The cut-off date for Change in Law events i.e. the date which is seven days prior to the bid deadline was 2.10.2015. In the light of the above provisions of Change in Law, the claims of the Petitioner with regard to Change in Law events, which have occurred after cut-off date during the construction period, have been examined in following paragraphs.

(a) Increase in acquisition price of SPV by BPC

69. The Petitioner has submitted that prior to submission of the bid, BPC vide its letter dated 17.9.2015 had intimated to the bidders the acquisition price payable by the selected bidder for acquisition of 100% equity shareholding of SPV along with all its related assets and liability as Rs.18,14,41,000/-. However, subsequent to bidding, BPC vide its letter dated 1.12.2015 intimated to the successful/ selected bidder the final acquisition price as Rs.18,26,64,718/-. The Petitioner has submitted that increase of Rs.12,23,718/- in the acquisition price of SPV is Change in Law event in terms of Article 12.1.1 of TSA and accordingly, the same may be allowed.

70. The Petitioner has submitted that REC Transmission Projects Company Limited is the Bid Process Coordinator (BPC) for the Project and the BPC had indicated the reasons for increased acquisition price to the Petitioner vide letter dated 24.8.2020. The increase of Rs.12,23,718/- in acquisition price by BPC (who has acted on behalf of

the beneficiaries in initiating the competitive bid process) were not within the control of the Petitioner. It has been submitted by the Petitioner that reason for increase in acquisition price as provided by BPC in its reply dated 24.8.2020 is due to increase in reimbursement expenses, increase in interest expenses and increase in Service Tax from 14% to 14.5%.

71. We have considered the submissions made by the parties. The BPC vide its letter dated 17.9.2015 had informed all the bidders about the acquisition price payable for acquiring 100% equity shareholding of SPV as Rs.18,14,41,000/-. Subsequently, the BPC vide its letter dated 1.12.2015 intimated the successful bidder the final acquisition price as Rs.18,26,64,718/-. The Petitioner wrote to BPC on 18.8.2020 seeking reasons for increase in acquisition price. In response, BPC vide its letter dated 24.08.2020 has submitted response with the details of increase in the acquisition price as under:

		(Rs. in lakh)	
Particulars		Final Acquisition Price intimated after bidding vide letter dated 1.12.2015	Tentative Acquisition Price intimated before bidding vide letter dated 17.9.2015
1	Professional Fee	1500.00	1500.00
2	Reimbursement of Expenses	87.71	84.20
3	Interest on Expenses	3.71	3.42
	Sub-Total without Service tax	1591.42	1587.62
4	Service Tax	230.22	221.79
5	Share Capital	5.00	5.00
	Total with Service tax	1826.64	1814.41

72. Perusal of above details reveals that the increase of Rs.12,23,718/- is due to increase in expenses and payment of service tax to the Government of India. As per sixth bullet under Article 12.1.1 of the TSA, 'any change in the acquisition price'

constitutes a Change in Law event. In view of the above, the Petitioner is entitled to relief for Change in Law on account of increase in acquisition price.

(b) Notification of GST Law with effect from 1.7.2017 by Government of India

73. The Petitioner has submitted that the Goods and Service Tax Act, 2017 has been notified by the Ministry of Finance, Government of India with effect from 1.7.2017, which is after the cut-off date, i.e. 2.10.2015 and, therefore, constitutes a Change in Law event. The Petitioner has further submitted that the Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018 has held that the introduction of GST w.e.f. 1.7.2017 constitutes a Change in Law and that the differential between the taxes subsumed in GST and the rates of GST on various items shall be admissible under Change in Law and also that the TSPs shall work out and provide the details of increase/ decrease in the tax liability in respect of introduction of GST to the LTTCs duly supported by Auditor's certificate. The Petitioner has claimed additional expenditure incurred by it on account of introduction of GST Laws as Rs.61.44 crore.

74. We have considered the submissions made by the Petitioner. The Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018 in the matter of 'Additional tax burden on transmission licensees on introduction of Goods and Service Tax compensation cess' has held that the introduction of GST with effect from 1.7.2017 shall constitute a Change in Law event. The relevant extract of the order dated 17.12.2018 in Petition No. 1/SM/2018 is reproduced below:

"27. From the forgoing, it is observed that due to varied nature of such taxes, duties and cess etc. that have been subsumed/abolished on introduction of GST, it is not possible to quantify the resulting impact in a generic manner for all the TSPs. The abolition of taxes, duties, cess, etc. on the introduction of GST are "Change in Law" events and the savings arising out of such "Change in Law" should be passed to the beneficiaries of the

TSPs. Similarly, the introduction of GST has also resulted in imposition of new or increase in existing taxes, duties, cess etc. which constitute "Change in Law" events and accordingly the additional impact due to introduction of GST shall be borne by the beneficiaries. The details of the increase or decrease in the taxes, duties, cess etc. shall be worked out by the TSPs and the beneficiaries. The TSPs should provide the details of increase or decrease in the taxes, duties, cess etc. supported by Auditor Certificate and relevant documents to the beneficiaries and refund or recover the amount from the TSPs due to the decrease or increase in the taxes, duties, cess etc. as the case may be. Since the GST liveable on the transmission licensees pertain to the construction period, the impact of GST shall be disbursed by the beneficiaries to the transmission licensees in accordance with the provisions in the TSA regarding relief for Change in Law during construction period. In case of any dispute on any of the taxes, duties, cess etc., the beneficiaries may approach the Commission.

Summary

28. Summary of our decision in the order is as under:-

(a) Introduction of GST with effect from 1.7.2017 shall constitute a Change in Law event if the cut-off date (7days prior to the bid deadline) as per the relevant TSA falls on or after 1.7.2017.

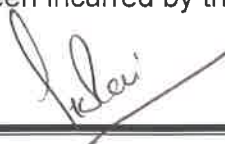
(b) The differential between the taxes subsumed in GST and the rates of GST on various items shall be admissible under Change in Law.

(c) The TSPs shall work out and provide the details of increase or decrease in the tax liability in respect of introduction of GST to the beneficiaries/Long Term Transmission Customers duly supported by Auditor's Certificate.

(d) The additional expenditure on account of GST shall be reimbursed by the beneficiaries/Long Term Transmission Customers as per the relevant provisions of the TSA regarding Change in Law during the construction period or operating period, as the case may be.

(e) In case of dispute, either party is at liberty to approach the Commission in accordance with law."

75. In the present case, as on cut-off date i.e. 2.10.2015, there was no GST. Subsequently, the Parliament and State Legislative Assemblies, in order to introduce a unified indirect tax structure, have introduced a fresh set of taxation laws, which has replaced various Central and State level taxes, through various enactments collectively referred to as the GST Laws which came into effect from 1.7.2017. Since the additional recurring and non-recurring expenditure, which has been incurred by the Petitioner is on



account of an Act of Parliament/ State Legislative Assemblies after the cut-off date, i.e. 2.10.2015, the same is covered under Change in Law provisions of the TSA under Article 12.1.1 of the TSA. The relief for any additional expenditure incurred by the Petitioner due to introduction of GST shall be admissible for the Project within the original scope of work. The Petitioner shall submit relevant documents to LTTCs to establish one to one correlation between the items and GST levied thereon, duly supported by invoices and Auditor's certificate.

(c) Notification of payment of Land compensation for tower base as well as corridor of transmission line by State Governments of Andhra Pradesh and Karnataka.

76. The Petitioner has submitted that the orders issued by the State Governments of Andhra Pradesh and Karnataka with regard to payment of land compensation for tower base as well as corridor of transmission lines in the States of Andhra Pradesh and Karnataka respectively fall within Article 12.1.1 of the TSA. It has been submitted that as per Article 12.1.1 of the TSA, Change in Law includes the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any law including rules and regulations framed pursuant to such law is Change in Law. Moreover, imposition of a requirement for obtaining any consent, clearances and permits which was not required earlier is also considered as Change in Law. Thus, the orders issued by the State Authorities of Governments of Andhra Pradesh and Karnataka fulfil the requirement of the Change in Law under the TSA as they are the enactments coming into effect after the cut-off date and they impose requirement of payment of land compensation for obtaining the consent and clearance for execution of the Project.



77. The Petitioner has submitted that at the time of bidding, there were no guidelines/ notifications for payment of land compensation for ROW of transmission lines. However, on 15.10.2015, Ministry of Power, Government of India issued the Guidelines whereby payment of compensation towards base area and towards diminution of land value in the width of transmission corridor was stipulated. It has been further submitted that prior to the notification of the Guidelines dated 15.10.2015, the transmission licensees were required to pay compensation towards normal crop and tree damages in terms of Section 67 and Section 68 of the Act read with Section 10 and Section 16 of the Indian Telegraph Act, 1885. However, the above Guidelines and the consequent orders/notification by the State Authorities led to an impact on the Project as there was now a requirement of determination and payment of compensation which did not exist prior to the bid cut-off date.

78. The Respondent, TANGEDCO has submitted that as regards the increase in the Project cost due to notification of payment of land compensation by Governments of Andhra Pradesh and Karnataka, the Petitioner should have sought legal remedies to restrict the additional land compensation in line with the MoP Guidelines instead of settling down with the land compensation set by the State Governments. For instance, the higher land compensation compared to that of MoP Guidelines levied on PGCIL for erection of Edamon-Cochin 400 KV corridor under Kudankulam scheme was borne by the State Government of Kerala. TANGEDCO has further submitted that the Petitioner has failed to seek legal remedies against the land compensation levied by the State Governments. Alternatively, it should have insisted on a similar approach in paying land compensation as in the case of Edamon-Cochin 400 KV corridor, as the States of

Andhra Pradesh and Karnataka are also benefited by the transmission elements of the Project. TANGEDCO has submitted that the Petitioner may be directed to furnish the details of payment of land compensation for individual assets, with details of asset-wise land compensation levied by the State Governments of Karnataka and Andhra Pradesh in excess of MoP Guidelines along with notified dates and payment made with respect of each element.

79. In response, the Petitioner has submitted that the Petitioner, when faced with the Force Majeure/Change in Law event of change in policy regarding land compensation, took various steps and wrote various letters to LTTCs, including the lead LTTC seeking support of the LTTCs in completing of Element 6. At the relevant time, TANGEDCO, the lead LTTC, did not intervene or support the Petitioner in resolving the said issue nor advised the Petitioner to challenge the orders issued by the Government of Andhra Pradesh regarding payment of land compensation. The Petitioner has further contended that compensation for Change in Law cannot be denied on the ground that the affected party should have challenged the law. The correctness or validity of the notification cannot be subject matter of this Petition. It has been further submitted by the Petitioner that the example of Edamon-Cochin 400 kV corridor cited by TANGEDCO where the Government of Kerala had paid the land compensation is not applicable in the present case. The said case is distinguishable for various reasons. Moreover, the compensation was shared between the PGCIL and Government of Kerala as a one-time special dispensation. This does not mean or necessitate that every State Government in every case has to share the compensation and neither the Petitioner nor TANGENDCO can dictate such terms to the State Government. The State Government notifications do not

make any such provision for sharing of the compensation fixed by the State Government and the Petitioner is bound by such notifications. In the order dated 25.1.2021 passed in Petition No. 265/MP/2020 (Powergrid Warora Transmission Limited) and order dated 29.1.2021 in Petition No. 264/MP/2021 (Powergrid Parli Transmission Limited), this Commission has already dealt with the above issue and has allowed the relief on account of above Change in Law event.

80. We have considered the submissions made by the parties and examined the documents made available on record in support of the aforesaid claim. Perusal of documents reveals that the claims of the Petitioner for payment of land compensation are on the basis of the orders of the District Collectors & Magistrates of the States of Andhra Pradesh and Karnataka. Moreover, orders of the District Collectors & Magistrates of the State of Andhra Pradesh relate to both prior and post period to the order G.O.RT No. 83 dated 20.6.2017 of Energy, Infrastructure & Investment Department, Government of Andhra Pradesh by which the Guidelines issued by Ministry of Power were adopted, albeit with certain changes/modifications.

81. At the outset, we would like to deal with the submission of the Petitioner to the effect that as on cut-off date, there was no guidelines/notification for payment of land compensation and that the transmission licensees were required to pay compensation towards normal crop and damages in terms of Section 67 and Section 68 of the Act read with Section 10 and Section 16 of Indian Telegraph Act, 1885. In our view, the aforesaid submission is not entirely correct. While it is correct that in many of the States, the transmission licensees are not required to pay the land compensation for laying of

the transmission lines, it is equally correct that in certain States, the provisions requiring the transmission licensee to pay the land compensation for laying of transmission lines under the aforesaid statutory provisions were in place. For instance, Hon'ble Supreme Court in its judgment in the case of Kerala State Electricity Board v. Livisha [2007(6) SCC 792], rendered as far back as in the year 2007, has acknowledged that drawing of electrical lines has an effect of diminution of value of land and other properties over which such lines are drawn and has also taken note of certain relevant factors for determination of land compensation. Further, even prior to the issuance of Guidelines issued by Ministry of Power, Government of India dated 15.10.2015, certain States/State authorities already had mechanism in place prescribing the applicable compensation for the transmission tower base area and/ or for diminution of value of land in the RoW corridor due to laying of transmission lines. It is also pertinent to note that the Guidelines issued by Ministry of Power were on the basis of the recommendations made by the Committee whose scope was to analyse the issues relating to RoW for laying of transmission lines and to suggest a '*uniform methodology*' for payment of compensation on this count. The said Guidelines were merely recommendatory in nature to the States/UTs and on their own did not constitute Change in Law as already observed by the Commission in its orders dated 29.3.2019 in Petition No.195/MP/2017 [NRSS XXXI (B) Transmission Limited and UPPCL and Ors.], order dated 29.1.2021 in Petition No. 264/MP/2020 [Powergrid Parli Transmission Limited v. MSEDCL and Ors.], etc. The acquisition of land being the State subject, all the States/UTs were requested by the Ministry of Power to take suitable decision regarding adoption of the said Guidelines. Thus, at the time of bidding, whether a transmission

licensee was required to factor in the land compensation payable needs to be examined on the basis of the procedure prevalent in the State and followed by State Authorities (or 'district' for that matter) where the transmission line is to be laid.

82. In view of the above, we now proceed to deal with the claims of the Petitioner on the basis of the orders issued by the Collector/District Magistrate, *inter alia*, fixing the rate of land compensation. Perusal of these orders reveals that in many of the cases, the Collectors have fixed the rate of land compensation for tower base by adopting the compensation rates fixed in the previous proceedings for laying of high voltage transmission lines. The relevant extract of one such order is as under:

*West Godavari Collectorate, Eluru.
Dated 30/08/2016*

**PROCEEDINGS OF THE DISTRICT COLLECTOR, WEST GODAVARI, ELURU
PRESENT SHRI BHASKAR KATAMNENI, IAS**

Sub: Land Acquisition – General – West Godavari District- Laying of Vemagiri-Chilakaluripeta 765KV D/C Overhead transmission Line u/s 68 of Electricity Act, 2003 for strengthening of Transmission System beyond Vemagiri- fixing up rates for land and trees – Orders issued.

Read: 1. W.G Collector's proceedings Roc No. G1/4617/2013, Dated 13.05.2015

- 2. W. G. Collector's proceeding Roc E-Computer No. G1/26414/2015 Dated 27.03.2016*
- 3. Ref No. PSITSL/Nuzvid/DC/26, Dated 03.06.2016 of the DGM, Construction Area Office, Nuzvid.*
- 4. Government Vide G.O.Ms No. 357 Revenue (L.A) Department, Dated 23.3.2006.*
- 5. W.G. Collector's Roc E-Computer No. G1/26414/2016, Dated 30.06.2016*
- 6. Ref No. PSITSL/Nuzvid/DC, Dated 27.08.2016 DGM, Construction Area Office, Nuzvid*

In reference 3rd read above, the DGM, Construction Area Office, PSITSL, Nuzvid has submitted that beyond Vemagiri transmission system was evolved in Andhra Pradesh and the same has been entrusted to M/s POWERGRID Southern Inter Connector Transmission System Limited (PSITSL), a 100 % wholly owned subsidiary of POWERGRID.



The DGM, Construction Area Office, Nuzivid has further submitted the above mentioned transmission line runs through Tallapudi, Gopalapuram, Koyalagudem, Jangareddigudem, T.Narasapuram and Chintalapudi Mandals of West Godavari District and through Krishna, Guntur and East Godavari District of A.P and the project is being implemented on Fast Track and scheduled to be completed within 27 months reckoned from March, 2016 and POWERGRID, on behalf of the PSITSL, making all out efforts to complete the project within the target period and presently survey works are in advanced stage and expect to commence the Foundation Works by 3rd week of June, 2016.

The DGM, Construction Area Office, Nuzivid has finally requested to advise the concerned authorities to provide required data as mentioned in the Gol Guidelines so as to enable to pay the compensation for the land between four legs of the tower and towards the damages for the crop/trees during the execution to the affected farmers/landlords at the earliest and further requested to advise the concerned Revenue/Police authorities to cooperate and support for resolving ROW issues, arise during the execution of the above important and critical project.

In the above circumstances, the DGM, Power Grid Corporation has been informed to attend Collectorate, W.G Eluru on 22.06.2016. Accordingly, the Managers, CAO, Power Grid Corporation Nuzivid and Sitanagaram have appeared before the District Revenue Officer, Eluru and in the meeting it was discussed about the following rates previously fixed in a similar cases, for tree valuses and land value for payment of compensation to the land owners in the cases of 400 KV Twin moose DC line from HNPCL/Visakhapatnam to 400/220 KV Substation at Kamavarpukota for evacuation of power from M/s Hinduja National Power Corporation Ltd. (1040 MW) Power Plant and also in case of 400 KV Twin Moose DC line from existing 400/220 KV Vemagiri Substation to 400/220 kV Kamavarapukota Substation issued in the reference 1st and 2nd cited and the copies of the same were supplied to the Power Grid Official, for giving consent and willingness to adopt the same rates in this case also.

Finally, the DGM Construction Area Office, PSITSL, Nuzivid has been requested to furnish their organization's willingness to adopt the following mentioned rates immediately to this office for taking further action in the matter.

1. Payment of Tree/Crop compensation @ 4 time on the rate fixed as per the G.O.M.S No. 357, Revenue (LA) Department, Dated 230.3.2006 and for Eucalyptus tree @ an amount of Rs.4,400/- per MT.
2. The land value in tower area is fixed at Rs.1,28,000/- lump sum.
3. If there are trees/crop exist in the tower area, value of trees/crop will be paid in addition to the land value.

In the reference 6th read above, the DGM, Construction Area Office, PSITSL Nuzivid has conveyed their organization's willingness to adopt the above compensation rates and requested to issue necessary orders at the earliest for implementation and

disbursement of compensation for the affected farmers in time during the execution of works, for Laying of Vemagiri – Chilakaluripeta 765 kV D/C Overhead transmission Line.

In the circumstances reported by the DGM, Construction Area Office, PSITSL, Nuzvid, it is hereby permitted to adopt the above tree value and land value fixed earlier in similar cases in respect of 400KV Twin Moose DC line from HNPCL/Visakhapatnam to 400/220 KV Substation at Kamavarapukota for evacuation of power from M/s Hinduja National Power Corporation Ltd. (1040 MW) Power Plant and also in case of 400KV Twin Moose DC line from existing 400/220 KV Vemagiri Substation to 400/20KV Kamavarapukota Substation.

83. Similarly, perusal of the Orders of District Collectors of Prakasam, Krishna and East Godavari shows that the land compensation fixed in respect of the Petitioner's Project were on the basis of the rate of compensation as already fixed in the earlier proceedings dated prior to the cut-off date (2.10.2015). The order of Collector of YSR District indicates that the compensation had been fixed, based on the request of the Petitioner, at the same rate as fixed in the case of APTRANSCO. Thus, it is clearly observed that the payment of land compensation for laying of transmission line in the various districts of the Andhra Pradesh was prevalent before the cut-off date as well as prior to the issuance of the Guidelines by Ministry of Power on 15.10.2015 and its adoption by the State of Andhra Pradesh by Energy, Infrastructure & Investment Department vide G.O.RT No. 83 dated 20.6.2017. Further, the Petitioner has not placed on record any document which clearly establishes that determination of compensation vide orders of District Collectors & Magistrates in Karnataka and Andhra Pradesh (before adoption vide G.O.RT No. 83 dated 20.6.2017) were not required as on cut-off date and that the need arose only on account of 'Change in Law' as defined in the TSA.

84. Hence, in our view, when the relevant State authorities were already awarding the land compensation for laying of transmission lines and for that purpose had fixed the

compensation rates which was prior to the cut-off date of the Petitioner, it was incumbent on the Petitioner to factor in such compensation while submitting its bid for the Project. Having not taken into cognizance such orders of the State authorities which were already in existence prior to the cut-off date, the Petitioner cannot be permitted to contend that there was no requirement of land compensation and that the orders of these State authorities fixing the land compensation constitute a Change in Law and its claims to this effect are to be allowed.

85. The similar issue has been considered by the Commission in its order dated 11.3.2019 in Petition No. 199/MP/2018 in the case of Maheshwaram Transmission Limited v. TANGEDCO, wherein the Petitioner therein had made the Change in Law claim by citing promulgation of new set of compensation guidelines for re-organized Rangareddy and Sangareddy districts in the State of Telangana. However, the Commission by rejecting its aforesaid Change in Law claim observed as under:

"37. The question arises whether (i) Government of Telengana notification dated 11.10.2016 re-organising the Rangareddy district and the revenue divisions, mandals, and villages due to which certain mandals which were earlier under the Mahabubnagar district in the State of Andhra Pradesh came under the re-organised Rangareddy district, (ii) Letters dated 5.11.2016 and 20.4.2017 issued by the Collector, Rangareddy district and District Collector, Sangareddy respectively fixing the compensation for land owners, are covered under change in law provisions of the TSA. It is noted that Collector, Rangareddy district and District Collector, Sangareddy vide their letters dated 5.11.2016 and 20.4.2017 while disposing of the representations of the Petitioner fixing compensation for land owners to fulfil their demands, have relied upon the previous order dated 8.8.2014 issued by District Collector & District Magistrate, Rangareddy district.

38. In our view, Change in law relief is allowable if there is any imposition of a new requirement of obtaining any consents, clearances and permits which was not required earlier or a change in the terms and conditions prescribed earlier or introduction of any new terms and conditions for obtaining the consents, clearances and permits after the cut-off date. However, in the present case, at the time of bidding, the Petitioner was aware about the order dated 8.8.2014 issued by the District Collector & District Magistrate, Rangareddy district fixing the compensation for land owners. Based on the representation of the Petitioner that the landowners are demanding huge compensation,

District Collector, Rangareddy District vide letter dated 5.11.2016 decided that the proceedings issued by the then Collector, Rangareddy vide No. G1/115/2014, dated 8.8.2014 will apply to reconstituted Rangareddy District including erstwhile Mahabubnagar district. After issue of the said letter, District Collector, Sangareddy District directed, vide its letter dated 20.4.2017, the Petitioner to pay the compensation as per the said order. It is noted that order dated 8.8.2014 was issued prior to the bid deadline i.e. 15.9.2014. Therefore, this cannot be considered as Change in terms and conditions of the consents, clearances and permits. Perusal of the both letters reveals that the Collector, Rangareddy district and District Collector, Sangareddy did not change the base rate of compensation and directed the Petitioner to pay the compensation to land owners already prevailing before the bidding. Since, as on cut-off date i.e. 15.9.2014, there was already provision for compensation to land owners fixed by the District Collector, Rangareddy district vide its order dated 8.8.2014 which was followed by the Collector, Rangareddy district and District Collector, Sangareddy without any change. Since, there is no change in base rate of compensation, the letters dated 5.11.2016 and 20.4.2017 issued by the District Collector, Rangareddy district and District Collector, Sangareddy district is not covered under change in law and therefore, claim in this regard is not allowable since, in the facts of the case, there is no change in rate of compensation."

86. In the aforesaid order, the Commission rejected the Change in Law claim of land compensation made by the Petitioner therein on the basis of the orders of District Collectors (Sangareddy and Rangareddy) since at the time of bidding (prior to cut-off date), the Petitioner was already aware about the earlier order dated 8.8.2014 issued by the District Collector & Magistrate of Rangareddy (prior to its reconstitution) fixing the compensation for land owners and which was subsequently adopted by the Collectors of Sangareddy and reconstituted Rangareddy. The Commission had further observed that since, as on the cut-off date, there was already provisions of compensation to the land owners fixed by the District Collector Rangareddy vide order dated 8.8.2014 and there was no change in the base rate of compensation in the orders of the District Collectors of Sangareddy and reconstituted Rangareddy, it cannot be considered as change in terms and conditions of consent, clearance and permits and consequently, a 'Change in Law' event. The aforesaid decision squarely applies to the facts of the present case. The Petitioner cannot claim the land compensation under Change in Law

on the basis of the orders of District Collector fixing the compensation in line with the earlier orders which were already available as on the cut-off date. The Petitioner was required to factor in such compensation while submitting its bid.

87. It is further observed that the Government of Andhra Pradesh subsequently vide its G.O.RT No. 83 dated 20.6.2017 issued by Energy, Infrastructure and Investment Department adopted the Guidelines issued by the Ministry of Power on 15.10.2015 for the State of Andhra Pradesh, albeit with certain changes – (i) compensation @ 100% (as against 85% provided in MoP Guidelines) of land value determined by District Magistrate or any other authority based on circle rate/ Guidelines value/Stamp Act rates for tower base area and (ii) compensation towards diminution of value of land in the RoW corridor due to laying of transmission line and imposing certain restriction to be decided as per the categorisation/type of land in different place, subject to a maximum of 10% of land value as determined based on circle rate/Guidelines value/Stamp Act rates (as against 15% provided in the MoP Guidelines). The said order has been made effective from the date of its issuance i.e. 20.6.2017. The said order issued by the Government of Andhra Pradesh and made applicable across all the districts of Andhra Pradesh would constitute a Change in Law in terms of TSA. The State orders/notifications adopting the recommendations made in the Guidelines of Ministry of Power, Government of India dated 15.10.2015 have already been considered as Change in Law by the Commission vide its order dated 29.1.2021 in Petition No. 264/MP/2020 [Powegrid Parli Transmission Limited v. MSEDCL and Ors.], order dated 28.10.2021 [Powergrid Jabalpur Transmission Limited v. MSEDCL and Ors.] in Petition No. 610/MP/2020 and others. Therefore, the amount of land compensation paid by the

Petitioner towards tower base and for the RoW corridor in terms of the aforesaid order of the Government of Andhra Pradesh is required to be allowed under Change in Law, albeit after deducting the amount already fixed by the concerned District authorities in similar cases prior to the cut-off date, which the Petitioner was required to factor in at the time of submitting its bid.

88. In view of the above, the Petitioner will be entitled to claim the payment of land compensation under Change in Law only if the Petitioner has been required to pay the land compensation in terms of the G.O.RT No. 83 dated 20.6.2017 issued by Energy, Infrastructure & Investment Department, Government of Andhra Pradesh. The Petitioner will be entitled to claim such amount under Change in Law after deducting the compensation fixed by concerned State authority in similar cases prior to cut-off date, if any. The compensation fixed by the District Collector for the period before the Notification of G.O.RT No. 83 dated 20.6.2017 in accordance with the then prevailing law in Andhra Pradesh cannot be allowed as Change in Law.

89. In case of the State of Karnataka, the Petitioner has claimed the compensation on the basis of the orders passed by the DC, Tumakur District only. The Petitioner has not placed on record any notification or the order of the Government of Karnataka adopting the Guidelines of Ministry of Power dated 15.10.2015 post its cut-off date. As already observed, whether the State authorities were already awarding the land compensation for laying of transmission prior to the cut-off date is a relevant factor as in case such authorities were already awarding such compensation prior to the cut-off date, it was incumbent upon the Petitioner to factor in such compensation while submitting its bid.

We observe from the proceedings of the Committee constituted by the Ministry of Power for preparation of the Guidelines that the District Authority in Tumkur, Karnataka had in fact awarded the land compensation vide its order dated 8.7.2014 in the case of construction of transmission line, which clearly is prior to the cut-off date in the present case. Nothing contrary has been placed on record by the Petitioner to indicate that the District Authorities in Tumkur District, Karnataka were not awarding the land compensation prior to its bid cut-off date. Further, the Petitioner has not submitted any orders of Government of Karnataka regarding change in land compensation policy. The Petitioner has based its claim on the order dated 3.12.2018 of Tumkur District DC and DM passing the compensation payable to farmers relating to 400 kV D/C Cudapa-Madhugiri Power Line project

90. We observe that the above order dated 3.12.2018 issued by the Tumkur District DC and DM cannot be construed to be a 'Change in Law' since such orders are passed by DC under the Act and the Telegraph Authority Act, 1885 and the Petitioner had the recourse as provided in these Acts. Therefore, we are not inclined to grant any relief claimed against compensation paid in the State of Karnataka.

(d) Additional payment towards Wild life clearance from NTCA

91. The Petitioner has submitted that new requirement of obtaining NTCA clearance due to notification of the Tiger reserve subsequent to the bidding of the Project constitutes as Change in Law event. The additional cost implication owing to the above new requirement is Rs.15.47 crore which was paid by the Petitioner to the Forest Department as per its invoices raised towards wild-life clearance and the Petitioner is

entitled to relief as per Article 12 of the TSA.

92. The Respondent, TANGEDCO has submitted that the Petitioner was bound to visit the route of the transmission lines associated with the Project and surrounding areas and obtain/verify all information which it deemed fit and necessary for preparation of the bid. It has been further submitted that the Petitioner ought to have adhered to the Clause 2.14.2.4 of the RfP, which states that the bidders in their own interest should carry out required survey and field investigation for submission of their bids. Thus, merely sticking to survey report of the BPC and not surveying the route is squarely Petitioner's fault. Therefore, the delay in getting the clearance along with financial burden due to aforesaid imprudent act of the Petitioner cannot be passed on to the beneficiaries.

93. The Petitioner has submitted that Element 5, Chilakaluripeta–Cuddapah 765 kV D/C line was traversing through the forest area in Proddatur and Nellor divisions in the State of Andhra Pradesh. Accordingly, on 18.4.2016, the Petitioner applied for grant of permission to undertake the survey of the forest areas in accordance with the established procedure. The Petitioner, pursuant to the receipt of the permission on 30.4.2016, undertook the Differential Global Position System survey in association with the District Forest Officer (DFO), Proddatur. After acceptance of the said survey by the Principal Chief Conservator of Forest (PCCF), Guntur on 29.5.2017, the Petitioner submitted the proposal on 31.5.2017 for diversion of forest land measuring 74.486 ha in Proddatur and Nellor divisions, which was then forwarded to the DFO of Proddatur division and the DFO of Nellor division on 5.6.2017 for further action. While the DFO of

Nellor division proceeded with approval process, the DFO of Proddatur division informed the Petitioner that wildlife clearance is required since the area falls under the tiger corridor. However, on the request of the Petitioner the DFO of Proddatur division could not provide any notification declaring the area as a tiger corridor. Accordingly, the Petitioner vide letter dated 19.12.2017 addressed to the PCCF, Guntur raised the issue that wildlife clearance is required only if it is notified in terms of Clause 3.5.2 of the Guidelines dated 19.12.2012 issued by the Ministry of Environment and Forest. Based upon the aforesaid representation by the Petitioner to PCCF, Guntur, vide letter dated 1.1.2018, the PCCF, Guntur approached the NTCA, New Delhi for seeking clarification regarding applicability of wildlife clearance in absence of any notification. On 12.3.2018, the NTCA confirmed the requirement of wildlife clearance.

94. We have considered the submissions of the Petitioner and the Respondent. We observe that route length of instant transmission line i.e C'Peta-Cuddapah under three alternatives as per BPC survey report are as follows:

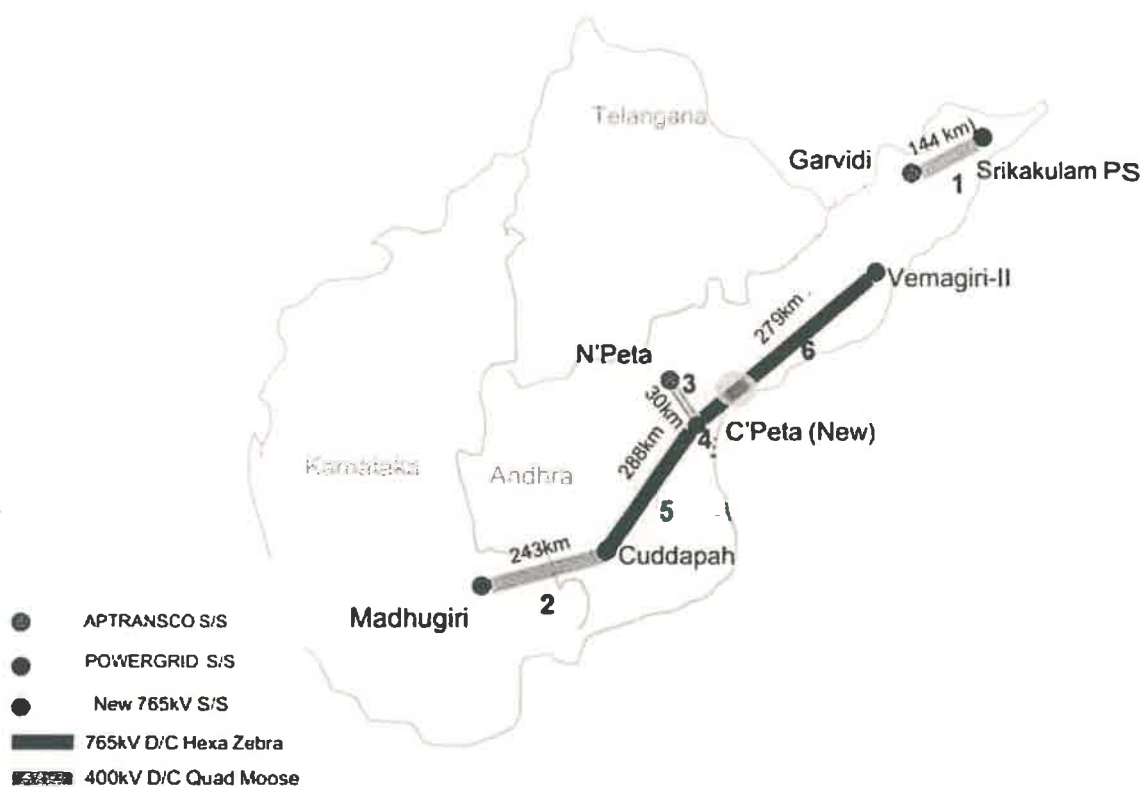
**“Chilkaluripeta to Cuddapah 765 kV D/C Transmission Line
Comparative Statement for 3 Alternative Routes**

Sr. No.	Description	Alt-I (Proposed) (Violet)	Alt-II (Green)	Alt-III (Blue)
	Bee line length	229.258 km	237.634 km	237.634 km
1.	Line Length	260.175 km	261.303 km	274.146 km
	a) Plain	235.100 km	230.103 km	240.046 km
	b) Undulated terrain	25.075 km		
2.	a) Angle Points	95		
3.	Forest			
	a) Reserve forest	23.971 km		
	b) Protected forest	NIL		
	c) Social forest	NIL		
	d) Other area	NIL		
4.	Transportation & Maintenance	Available	Available	Available
		15 Nos.	13 Nos.	13 Nos.
5.	Power Line Crossings (132 kV & Above)	AP15-AP16 (220 kV D/C)	AP14-AP15 (220 kV D/C)	AP10-AP11 (132 kV D/C)
		AP16-AP17 (220 kV D/C)	AP16-AP17 (220 kV D/C)	AP14-AP15 (220 kV D/C)
		AP18-AP19 (132 kV D/C)	AP18-AP19 (132 kV D/C)	AP25-AP26 (220 kV D/C)
		AP20-AP21 (220 kV D/C)	AP24-AP25 (400 kV D/C)	AP29-AP30 (132 kV D/C)
		AP23-AP24 (132 kV D/C)	AP27-AP28 (132 kV D/C)	AP31-AP32 (400 kV D/C)
		AP32-AP33 (220 kV D/C)	AP33-AP34 (400 kV D/C)	AP44-AP45 (400 kV D/C)
		AP34-AP35 (400 kV D/C)	AP41-AP42 (132 kV D/C)	AP46-AP47 (400 kV D/C)
		AP36-AP37 (400 kV D/C)	AP59-AP60 (400 kV D/C)	AP50-AP51 (765 kV D/C)
		AP41-AP42 (132 kV D/C)	AP61-AP62 (765 kV D/C)	AP56-AP57 (400 kV D/C)
		AP48-AP49 (765 kV D/C)	AP76-AP77 (132 kV D/C)	AP76-AP77 (132 kV D/C)
	AP51-AP52 (400 kV D/C)	AP90-AP91 (132 kV D/C)	AP88-AP89 (132 kV D/C)	

Client:
REC Transmission Projects Company Ltd.
(A Wholly Owned Subsidiary of Rural Electrification
Corporation Limited)
New Delhi

Consultant:
M/s. Prasad Surveyors
Pune"

95. The illustrative SLD provided by the Petitioner provides the route length as under:



96. We observe that the Petitioner followed the route length as per its own survey and traversed some route not envisaged under the BPC survey. The TSA does not mandate the Petitioner to follow route as provided by BPC, but provides the Petitioner to carry out its own survey which the Petitioner has carried out and followed its own route.

97. Change in Law can be claimed under TSA only for clear notifications of law which did not exist on the cutoff date. We observe that the requirement of obtaining the wildlife clearance by the Petitioner has not arisen from any notification issued by the Ministry of Forest & Environment after the cut-off date, but has arisen in terms of NTCA, Ministry of Forest & Environment having approved the Tiger Conservation Plan of Nagarjunsagar Srisaillam Tiger Reserve for the period from 2013-14 to 2022-23 vide F.No.1-19/2009- NTCA dated 13.10.2014, whereby certain areas outside the Tiger

Reserve had been approved as Tiger Corridor by NTCA. This is evident from the letter dated 1.1.2018 of the PCCF, Guntur addressed to NTCA. The relevant extract of the said letter reads as under:

"Sub: Andhra Pradesh Forest Department – Wildlife - Request for clarification on applicability of Wildlife clearance for projects (transmission lines etc.) passing through Tiger corridor with reference to the guidelines sl. No. 3.5.2 issued by Government of India, Ministry of Environment and Forest (Wildlife Division), New Delhi, dated 19.12.2012-Reg.

Ref: GM (Project & Comml.), Power Grid Corporation of India Ltd., Secunderabad, Ref. SRTS-I/Engg/ESMD/20117, Dt. 19.12.2017.

It is to submit that, the National Tiger Conservation Authority, Ministry of Environment, Forest and Climate Change, Government of India have approved the Tiger Conservation Plan of Nagarjunsagar Srissailam Tiger Reserve for the period from 2013-14 to 2022-23 vide F.no.1-19/2009-NTCA, dated 13.10.2014. In the above plan certain areas outside Tiger Reserve have been proposed as Tiger Corridor and the same has been approved by NTCA.

Recently, Power Grid Corporation of India Ltd., has approached this Office of the clarification on the applicability of the Wildlife clearance for projects (transmission lines) passing through Tiger corridor with reference to guidelines sl. No. 3.5.2 issued by Government of India, Ministry of Environment and Forest (Wildlife Division), New Delhi, dated: 19.12.2012 stating that Tiger Corridor has not been formally notified.

In view of above, it is requested to issue a clarification on the applicability of Wildlife clearance for projects (transmission lines) passing through approved Tiger Corridor with reference to the guidelines sl. No. 3.5.2 issued by Government of India, Ministry of Environment and Forest (Wildlife Division), New Delhi, dated 19.12.2012.

98. In response, the requirement of the wildlife clearance from NTCA for the projects passing through the tiger corridors of Nagarjunsagar-Srisailam Tiger Reserve was confirmed by the NTCA in terms of Section 38 O (1)(g) of the Wildlife (Protection) Act, 1972. The relevant extract of the letter of NTCA dated 12.3.2018 is as under:

"Sub: Request for clarification on applicability of wildlife clearance for projects (transmission lines etc.) passing through tiger corridor with reference to guidelines S. No. 5.2 issued by Government of India, Ministry of Environment, Forest & Climate Change

(Wildlife Division) letter dated 19.12.2012 –reg.

With reference to the above subject, I am directed to convey that the projects (Transmission Lines etc.) passing through tiger corridors of Nagarjunasagar- Srisaillam Tiger Reserve requires clearance/advice from this Authority in view of the provisions of the section 38 O (1)(g) of the Wild Life (Protection) Act, 1972.

The exact clarification can only be furnished once the shape files of the alignment of transmission lines are furnished along with GPS data in this regard....”

99. Thus, it is apparent that the approval of the tiger corridor by NTCA through the Tiger Conservation Plan of Nagarjunsagar Srisaillam Tiger Reserve was dated 13.10.2014 and was prior to the cut-off date. Consequently, the requirement of clearance from NTCA in respect of the projects passing through the said corridor under Section 38 O(1)(g) of the Wildlife (Protection) Act, 1972, was also in existence prior to the cut-off date. Therefore, the Petitioner cannot contend that there was an inclusion of new terms or conditions for obtaining consent, clearance or permit. In our view, the Petitioner has failed to exercise necessary prudence and due diligence and to make itself fully informed about the requirement of obtaining the wildlife clearance in terms of the existing provisions as on the cut-off date.

100. The Petitioner has also submitted that the route in the Survey Report furnished by the BPC for the Element 5 did not indicate the requirement of wildlife clearance, though wildlife clearance was required to be obtained even for the route proposed by BPC. The Petitioner has further submitted that in the absence of any notification declaring the areas as wildlife corridor, it was not possible for the Petitioner to ascertain the requirement of wildlife clearance till the requirement of such clearance was confirmed by the Forest Authorities.

101. We have considered the submissions of the Petitioner. In our view, the Petitioner's reliance placed on the Survey Report prepared by the BPC is misplaced. We observe that all the three alternate routes proposed in the Survey Report prepared by the BPC for the Element 5 clearly indicated that they pass through forest areas and thus, requirement of obtaining the forest clearance was within the knowledge of the Petitioner. We also observe that the TSA does not mandate the Petitioner to follow route as provided by BPC, but provides the Petitioner to carry out its own survey which the Petitioner has carried out and followed its own route. Since the route followed is as per the Petitioner's own survey, it was Petitioner's responsibility to ascertain the requirement of obtaining wildlife clearance. We further observe that the requirement of obtaining wildlife clearance for tiger corridor arose from the Tiger Conservation Plan of Nagarjunsagar Srisailem Tiger Reserve dated 13.10.2014 and as the said plan was prior to the cut-off date, the requirement of the Petitioner to obtain the wildlife clearance along with forest clearance for the tiger corridor area was in existence as on the cut-off date. Thus, in our view, the Petitioner was required to factor in the time and cost requirements for obtaining the wildlife clearance at the time of bidding. In view of the above, the Change in Law claim of the Petitioner for the additional payment toward wildlife clearance deserves to be rejected.

(e) Cost over-run on account of increase in the Project cost including funding cost and overhead cost due to Change in Law

102. The Petitioner has submitted claims on account of funding costs and overhead costs for each of the Change in Law events. The Petitioner has submitted that in terms of Article 12.2.1 of the TSA, the impact of Change in Law during the construction period



of the Project is to be given as an increase in the cost of the Project and that the expression cost of Project or Project cost during the construction period also refers to and encompasses within its scope, all costs with regard to the establishment of Project incurred by the entity. These not only includes the hard cost of capital assets (plant, machinery and equipment, etc.) but also the interest costs and finance charges during the construction and other soft costs/ overheads related to establishment of the Project. Relying upon the Terms and Conditions of Tariff Regulations, it has been submitted by the Petitioner that even as per the said Regulations, IDC, which essentially comprises of interest payable on debt part is allowed to be capitalized and the total expenditure incurred in completion of the Project including on account of time overrun is capitalized with IDC as an additional cost to the extent of 70% of the increased Project cost and the balance 30% of the increased Project cost serviced as equity providing for a return of 15.5% post-tax. Similarly, for competitively bid transmission projects, increase in project cost on account of Change in Law events needs to be fully serviced, namely, the cost overrun with regard to increase in project cost on account of Change in Law, associated incidental expenditure and the funding costs during the construction period. For that purpose, the quantum of increase in the Project cost is to be apportioned as normative debt-equity in the ratio of 70:30 and increased equity deployed related to such increase in Project cost is to be serviced at a higher return consistent with the rate of return applicable to the equity.

103. The Petitioner has further contended that increase in the Project cost on account of Change in Law *inter-alia* also includes the funding cost and the overhead cost during the construction period which needs to be serviced in terms of increase in transmission

charges payable over and above the quoted transmission tariff during the entire period of TSA in order to enable the Petitioner to be compensated fully for the effect of Change in Law event. Therefore, the compensation/relief to the Petitioner should not be restricted only to the capital expenditure incurred but should also include the funding/financing costs as well as overheads costs. Accordingly, the Petitioner has claimed additionally Rs.15.51 crore as overhead costs and Rs.214.14 crore as funding costs for the aforesaid Change in Law events. The Petitioner in support of its contention has relied upon the judgment of APTEL dated 20.10.2020 in Appeal No. 208 of 2019 in the case of Bhopal Dhule Transmission Company vs Central Electricity Regulatory Commission and Ors.

104. In addition to above, the Petitioner has submitted that although all the elements of the Project were completed by April 2019 except for 40 km stretch of Vemagiri II-Chilakluripeta 765 kV D/C line, the Project could not be commissioned owing to Force Majeure and Change in Law conditions. The Petitioner has submitted that for the elements which were completed but could not be commissioned owing to Force Majeure and Change in Law conditions, the Petitioner incurred funding costs and overheads from April 2019 until actual CoD. The additional cost implication owing to funding and overheads from April, 2019 to CoD is Rs.174.87 crore and Rs.0.53 crore respectively and the Petitioner is entitled to relief as per Article 12 of the TSA. Further, costs towards continued mobilization of equipment/ services during the intervening period to be in readiness to undertake the work has also been claimed. The additional cost implication during the period from April, 2019 to CoD is Rs.10.08 crore owing to increase in the cost of equipment/ services and Rs.0.59 crore towards overheads and

the Petitioner is entitled to relief as per Article 12 of the TSA.

105. The Respondent, TANGEDCO has submitted that increase in the cost of the Project on account of relief under Change in Law is applicable only to the hard cost of the Project excluding financing charges/interest and other overheads. It is irrelevant to compare the provisions under Tariff Regulations under the ambit of Section 62 of the Act with the tariff determination process for TBCB based Projects under Section 63, which would otherwise defeat the objective of the competitive bidding. TANGEDCO has submitted that the Petitioner itself has stated that except 40 km stretch of Vemagiri-C'Peta 765 kV line, all other elements were completed prior to SCOD and therefore, the material for the entire Project would have been supplied by the Contractors prior to April, 2019. Thus, under such circumstances, the Petitioner cannot claim material/equipment cost escalation beyond SCOD. Further, delay in declaring the CoD of the other elements is totally attributable to the Petitioner and therefore, the funding cost on account of un-commissioned elements from April, 2019 to CoD ought also not to be allowed.

106. We have considered the submissions made by the parties. The Petitioner has relied upon the judgment of APTEL dated 20.10.2020 in Appeal No. 208 of 2019 in the case of Bhopal Dhule Transmission Company vs Central Electricity Regulatory Commission and Ors in which the APTEL has observed as under:

Appeal No.208 of 2019 Dated: 20th October, 2020 Bhopal Dhule Transmission Co. Ltd. v. CERC and Ors.

"8.8 Since the spirit of Article 12 of the TSA is to ensure monetary restitution of a party to the extent of the consequences of Change in Law events, such exceptions cannot be read into Article 12 of the TSA. The Appellant has submitted that a crucial factor for the Appellant whilst bidding for the Project was that uncontrollable Change in Law events

would be duly accounted for in accordance with Article 12 of the TSA. By the Impugned Order, the Central Commission has wrongly altered the meaning of the Change in Law clause of the TSA long after award of the bid and commissioning of the Project.

8.11. Such a denial of the IDC by the Central Commission is in contravention of the provisions of Article 12.1.1 of the TSA in the facts and circumstances of the present case. By adopting such an erroneous approach, the Central Commission has rendered the Change in Law clause in the TSA completely nugatory and redundant. Such an interpretation by the Central Commission is causing the Appellant grave financial prejudice as it has no other means of recovering the IDC which it was constrained to incur for no fault of its own.

8.14 Further, the Hon'ble Supreme Court in the Energy Watchdog Judgement dated 11.04.2017 held that while determining the consequences of change in law, parties shall have due regard to the principle that the purpose of compensating the party affected by, such change in law is to restore, through the monthly tariff payments, the affected party to the economic position if such change in law has not occurred.

8.15 We are of the view that the Central Commission erred in denying Change in Law relief to the Appellant for IDC and corresponding Carrying Costs on account of admitted Change in Law events after having arrived at unequivocal findings of fact and law that Change in Law events adversely affected the Appellant's Project in accordance with the TSA. Therefore, the impugned order passed by the Central Commission is liable to be set aside as the same is in contravention of settled law laid down by the Hon'ble Supreme Court (Supra) and also the previous orders passed by the Central Commission in Petition Nos. 73/MP/2014 read with 310/MP/2015 and 174/MP/2016 wherein the same issue has been dealt by the Commission differently. In view of these facts, the Appellant is entitled for the change in law relief as prayed for in the instant Appeal. The issue is thus, decided in favour of the Appellant

107. We observe that the issue in the Appeal No. 208 of 2019 in Bhopal Dhule Transmission Company Limited v. CERC and Ors. was monetary restitution and restoration to the same economic position as if Change in Law had not occurred. This issue has been dealt with by APTEL in its judgment dated 13.4.2018 in Appeal No. 210 of 2017 in the case of Adani Power Limited v. Central Electricity Regulatory Commission and Ors. and it was held that since Gujarat Bid-01 PPA had no provision for restoration to the same economic position, the decision of allowing carrying cost will not be applicable. The relevant extract of the judgment dated 13.4.2018 reads as under:

"ISSUE NO.3: DENIAL OF CARRYING COST

x. Further, the provisions of Article 13.2 i.e. restoring the Appellant to the same

economic position as if Change in Law has not occurred is in consonance with the principle of 'restitution' i.e. restoration of some specific thing to its rightful status. Hence, in view of the provisions of the PPA, the principle of restitution and judgment of the Hon'ble Supreme Court in case of Indian Council for Enviro-Legal Action vs. Union of India & Ors., we are of the considered opinion that the Appellant is eligible for Carrying Cost arising out of approval of the Change in Law events from the effective date of Change in Law till the approval of the said event by appropriate authority. It is also observed that the Gujarat Bid-01 PPA have no provision for restoration to the same economic position as if Change in Law has not occurred. Accordingly, this decision of allowing Carrying Cost will not be applicable to the Gujarat Bid01 PPA."

108. While dealing with the issue of carrying cost, in another matter, APTEL in its judgment dated 14.8.2018 in Appeal No. 111 of 2017 in the matter of M/s. GMR Warora Energy Limited v. Central Electricity Regulatory Commission and Ors. has held as under:

"xiii. Now we have reached to the final issue raised by GWEL related to carrying cost on the allowed Change in Law events. For the sake of brevity we are not discussing the claims of GWEL and counter claims of the Discom/Prayas Energy Group on this issue as the said issue has been decided by this Tribunal vide judgment dated 13.4.2018 in Appeal No. 210 of 2017 in case of Adani Power Ltd. v. CERC wherein this Tribunal after detailed analysis has allowed carrying cost on the allowable Change in Law events. We straight way come to the relevant portion of the said judgment which is reproduced below:

"12 d)

"ix. In the present case we observe that from the effective date of Change in Law the Appellant is subjected to incur additional expenses in the form of arranging for working capital to cater the requirement of impact of Change in Law event in addition to the expenses made due to Change in Law. As per the provisions of the PPA the Appellant is required to make application before the Central Commission for approval of the Change in Law and its consequences. There is always time lag between the happening of Change in Law event till its approval by the Central Commission and this time lag may be substantial. As pointed out by the Central Commission that the Appellant is only eligible for surcharge if the payment is not made in time by the Respondents Nos. 2 to 4 after raising of the supplementary bill arising out of approved Change in Law event and in PPA there is no compensation mechanism for payment of interest or carrying cost for the period from when Change in Law becomes operational till the date of its approval by the Central Commission. We also observe that this Tribunal in SLS case after considering time value of the money has held that in case of redetermination of tariff the interest by a way of compensation is payable for the period for which tariff is re-determined till the date of such re-determination of the tariff. In the present case after perusal of the PPAs we find that the impact of Change in Law event is to be passed on to the

Respondents Nos. 2 to 4 by way of tariff adjustment payment as per Article 13.4 of the PPA. The relevant extract is reproduced below:

13.4 Tariff Adjustment Payment on account of Change in Law 13.4.1 Subject to Article 13.2 the adjustment in Monthly Tariff Payment shall be effective from: (a) the date of adoption, promulgation, amendment, re-enactment or repeal of the Law or Change in Law; or (b) the date of order/ judgment of the Competent Court or tribunal or Indian Government instrumentality, if the Change in Law is on account of a change in interpretation of Law; (c) the date of impact resulting from the occurrence of Article 13.1.1. From the above it can be seen that the impact of Change in Law is to be done in the form of adjustment to the tariff. To our mind such adjustment in the tariff is nothing less than re-determination of the existing tariff.

x. Further, the provisions of Article 13.2 i.e. restoring the Appellant to the same economic position as if Change in Law has not occurred is in consonance with the principle of 'restitution' i.e. restoration of some specific thing to its rightful status. Hence, in view of the provisions of the PPA, the principle of restitution and judgment of the Hon'ble Supreme Court in case of Indian Council for Enviro Legal Action vs. Union of India &Ors., we are of the considered opinion that the Appellant is eligible for Carrying Cost arising out of approval of the Change in Law events from the effective date of Change in Law till the approval of the said event by appropriate authority. It is also observed that the Gujarat Bid-01 PPA have no provision for restoration to the same economic position as if Change in Law has not occurred. Accordingly, this decision of allowing Carrying Cost will not be applicable to the Gujarat Bid-01 PPA."

109. The judgment of the APTEL dated 13.4.2018 in Appeal No. 210 of 2017 in the case of Adani Power Limited v. Central Electricity Regulatory Commission and Ors. was challenged before the Hon'ble Supreme Court wherein the Hon'ble Supreme Court vide its judgment dated 25.2.2019 in Civil Appeal No.5865 of 2018 with Civil Appeal No. 6190 of 2018 (Uttar Haryana Bijili Vitran Nigam Limited & Anr. Vs. Adani Power Ltd. & Ors.) has held as under:

"10. A reading of Article 13 as a whole, therefore, leads to the position that subject to restitutionary principles contained in Article 13.2, the adjustment in monthly tariff payment, in the facts of the present case, has to be from the date of the withdrawal of exemption which was done by administrative orders dated 06.04.2015 and 16.02.2016. The present case, therefore, falls within Article 13.4.1(i). This being the case, it is clear that the adjustment in monthly tariff payment has to be effected from the date on which the exemptions given were withdrawn. This being the case, monthly invoices to be raised by the seller after such change in tariff are to appropriately reflect the changed tariff. On the facts of the present case, it is clear that the respondents were entitled to

adjustment in their monthly tariff payment from the date on which the exemption notifications became effective. This being the case, the restitutionary principle contained in Article 13.2 would kick in for the simple reason that it is only after the order dated 04.05.2017 that the CERC held that the respondents were entitled to claim added costs on account of change in law w.e.f. 01.04.2015. This being the case, it would be fallacious to say that the respondents would be claiming this restitutionary amount on some general principle of equity outside the PPA. Since it is clear that this amount of carrying cost is only relatable to Article 13 of the PPA, we find no reason to interfere with the judgment of the Appellate Tribunal."

16..... There can be no doubt from this judgment that the restitutionary principle contained in Clause 13.2 must always be kept in mind even when compensation for increase/decrease in cost is determined by the CERC."

110. We observe that the TSA in the instant matter does not have restitution provisions and the Petitioner has also not placed before us any such provisions in the TSA. Therefore, in view of above judgments of APTEL and Hon'ble Supreme Court, since the TSA in the instant Petition does not have a provision dealing with restitution principles of restoration to same economic position, the claim of the Petitioner to be fully compensated for IDC incurred on account of Change in Law is not admissible.

111. As regards the claims of the Petitioner for funding and overhead costs towards un-commissioned elements from April, 2019 to CoD owing to delays on account of Force Majeure, as the Commission has not condoned the delay in achieving the SCOD, the Petitioner shall not be entitled to be compensated for IDC and overheads incurred by it towards un-commissioned elements and during the aforesaid period.

112. As regards the claim of the Petitioner towards increase in cost of equipment/service during the period from April, 2019 to CoD, we observe that as per the Chartered Accountant certificate furnished by the Petitioner, the entire claim under the aforesaid head i.e. Rs.10.08 crore of additional payment towards cost of equipment/

services and Rs.0.59 crore as overhead cost is on anticipation basis and as on the date of filing of the Petition, the Petitioner was yet to incur such additional cost. Moreover, nothing has been brought on record as to the details of underlying equipment or services whose cost has increased, the justification as to why such cost or its increase could not have been factored into by the Petitioner and how the increase is attributable to any Change in Law events. In the above circumstances, we are not inclined to allow the aforesaid claim of the Petitioner.

113. This issue is answered accordingly.

Issue No. 4: What reliefs, if any, should be granted to the Petitioner in the light of the answers to the above issues?

114. Article 12.2 of the TSA provides for relief for Change in Law as under:

“12.2 Relief for Change in Law

12.2.1 During Construction Period: During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- For every cumulative increase/decrease of each Rupees Nineteen Crore Seventy Two Lakh Only (Rs 19.72 Crore) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to zero point three one three percent (0.313%) of the Non-Escalable Transmission Charges.

12.2.3 For any claims made under Article 12.2.1 and 12.2.2 above, the TSP shall provide to the Long-Term Transmission Customers and the Appropriate Commission documentary proof of such increase/decrease in cost of the Project/revenue for establishing the impact of such Change in Law.

12.2.4 The decision of the Appropriate Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective, shall be final and binding on both the Parties subject to the rights of appeal provided under applicable Law.”

115. The delay of 289 day claimed by the Petitioner on account of Force Majeure has

not been condoned by the Commission.

116. All reliefs on account of Change in Law have been claimed by the Petitioner for the construction period. Accordingly, as per Article 12.2.1 of the TSA, for every cumulative increase/decrease of each Rupees Nineteen Crore Seventy-Two Lakh Only (Rs.19.72 crore) in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to zero point three one three percent (0.313%) of the Non-Escalable Transmission Charges. Thus, in terms of the findings of the Commission in the foregoing paragraphs, the Petitioner shall re-compute the increase in the cost of Project, to be supported by CA certificate, and accordingly, shall be entitled to corresponding increase in Non-Escalable Transmission Charges as provided under Article 12.2.1 of the TSA.

117. After the CoD of the transmission system, the Petitioner has been recovering transmission charges for the Project under the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2010. With effect from 1.11.2020, the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2020 has come into force. Therefore, the impact of Change in Law payable to the Petitioner shall be recovered in accordance with the provisions of Regulation 15(2)(b) (second bill to the DICs) of the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2020.

118. The issue is answered accordingly.

119. The Petitioner has sought reimbursement of fee paid by it for filing the Petition and legal expenses. The filing fee can be reimbursed in respect of tariff petitions that are filed for (a) determination of tariff, (b) revisions of tariff due to additional capital expenditure, and (c) truing up of expenditure. This Petition being a miscellaneous Petition and not being a tariff petition, reimbursement of filing fee is not allowed. Accordingly, the prayer of the Petitioner for reimbursement of the filing fee is hereby rejected

120. This issue is answer accordingly.

121. The Petition No. 13/MP/2021 is disposed of in terms of the above discussions and findings.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 610/MP/2020

Coram:

Shri P.K.Pujari, Chairperson

Shri Arun Goyal, Member

Shri P.K.Singh, Member

Date of Order: 28th October, 2021

In the matter of

Petition under Section 63 and Sections 79(1)(c) and (d) of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for relief under Force Majeure, (Article 11) and Change in Law, (Article 12) of the Transmission Service Agreement dated 19.11.2014, for Transmission System Strengthening associated with Vindhyachal-V.

And

In the matter of

Powergrid Jabalpur Transmission Limited,
(Formerly known as Vindhyachal-Jabalpur Transmission Limited),
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

...Petitioner

Vs

1. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, 4thFloor, Bandra (East),
Mumbai-400051
2. M.P. Power Management Company Limited,
Block No-11, Ground Floor, Shakti Bhawan,
Vidhyut Nagar, Rampur,
Jabalpur-482008, Madhya Pradesh
3. Gujarat Urja Vikas Nigam Limited,
Vidhyut Bhawan, Race Course,
Vadodara-390007
4. Chhattisgarh State Power State Distribution Company Limited,
P.O Sunder Nagar, Dangania,
Raipur- 492013, Chhattisgarh.
5. Goa Electricity Department,
Government of Goa, Curti-Ponda,
Goa- 403401.

6. Electricity Department, Dadar and Nagar Haveli,
Administration of Dadar Nagar Haveli, 66 kV, Amla Road,
Silvassa-396 230.

7. Electricity Department, Administration of Daman & Diu,
Plot No. 35, OI DC Complex, Near Fire Station, Somnath,
Daman-396 210.

8. Chief Engineer (PSPM),
Central Electricity Authority,
PSPM Division, Sewa Bhawan, Rama Krishna Puram,
New Delhi-110 066

9. Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122001

... Respondents

The following were present:

Shri M. G. Ramachandran, Sr. Advocate, PJTL
Shri Shubham Arya, Advocate, PJTL
Ms. Ranjitha Ramachandran, Advocate, PJTL
Shri Ravi Prakash, Advocate, MSEDCL
Ms. Prerna Gandhi, Advocate, MSEDCL
Shri Rahul Sinha, Advocate, MSEDCL
Shri V. C. Sekhar, PJTL
Shri Burra Vamsi Rama Mohan, PJTL
Shri Prashant Kumar, PJTL
Shri Arjun Malhotra, PJTL
Shri Amit Bhargava, PJTL
Shri Mani Kumar, PJTL

ORDER

The present Petition has been filed by the Petitioner, Powergrid Jabalpur Transmission Limited (PJTL), erstwhile called Vindhyaachal Jabalpur Transmission Limited, under Sections 63, 79(1)(c) and 79(1)(d) of the Electricity Act, 2003 (hereinafter referred to as 'the Act') seeking time extension over and above 180 days granted by the Long Term Transmission Customers ('the LTTCs') under Article 11 of the Transmission Service Agreement dated 19.11.2014 (in short 'TSA') and compensatory relief under Article 12 of the TSA on account of Change in Law events,

which has adversely affected the construction of the 'Transmission System Strengthening associated Vindhyachal-V' (in short, 'the Project'). The Petitioner has made the following prayers:

"(i) Admit and entertain the present Petition under Section 63 read with Section 79 (1) (c) and (d) of the Electricity Act, 2003 for declaration of the Project being affected by Force Majeure events and Change in Law events and for providing relief under Article 11 and Article 12.2 respectively of Transmission Service Agreement dated 19.11.2014 as set out hereinabove;

(ii) Declare that the Petitioner is entitled for time extension of balance 9 days over and above the extension of 180 days granted by Respondents-LTTCs on account of Force Majeure conditions.

(iii) Declare that the Petitioner shall be entitled to get the increase in cost of project amounting to Rs. 76.64 Cr. during execution and completion of the transmission project.

(iv) Declare that the Petitioner shall be entitled to increase in adopted annual non-escalable charges by 6.38% on account increase in aforementioned cost of project due to Change in Law.

(v) To allow recovery of filing fees and legal expenses in regard to the present Petition..."

2. The Petitioner is a fully owned subsidiary of Power Grid Corporation of India Limited (in short 'PGCIL'), which was selected as a successful bidder through the tariff based competitive bidding under Section 63 of the Act to establish the Project on Build, Own, Operate and Maintain (BOOM) basis. The Petitioner is required to provide transmission service to the LTTCs (arrayed as Respondents 1 to 7) of the Project which requires establishing the transmission system comprising of the following transmission line:

Scheme / Transmission Works	Scheduled Commercial Operation Date (SCoD)	Actual Commercial Operation Date (CoD)	Difference in days
765 kV D/C Vindhyachal - Jabalpur transmission line	25.6.2018	1.1.2019	189

[Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

3. The Petitioner was incorporated as a special purpose vehicle ('SPV') by Bid Process Coordinator (in short, 'BPC'), namely, REC Transmission Projects Company Limited (in short 'RECTPCL') for the purpose of developing and implementing the Project under the Tariff Based Competitive Bidding route. In the bid process conducted by RECTPCL, PGCIL participated and emerged as a successful bidder. Letter of Intent (LoI) was issued by RECTPCL to PGCIL on 10.2.2015. 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 26.2.2015. Under the TSA, Maharashtra State Electricity Distribution Company Limited (MSEDCL) has been appointed as the lead LTTC to represent all the LTTCs for discharging the rights and obligations specified therein. The Commission in its order dated 15.6.2015 in Petition No. 89/TL/2015 granted transmission licence to the Petitioner for inter-State transmission of electricity and vide order dated 28.5.2015 in Petition No.88/ADP/2015 adopted the transmission charges of the Petitioner.

4. As per the TSA, the Project was to be completed and commissioned by 25.6.2018. However, the Petitioner has claimed that implementation of the Project was affected due to various Force Majeure and Change in Law events encountered during construction of the Project and its elements and led to certain delay in achieving the Commercial Operation Date (in short 'COD').

Submissions by the Petitioner

5. The Petitioner has submitted that the matter of extension of Scheduled Commercial Operation Date (in short 'SCOD') owing to various Force Majeure events was taken up with LTTCs in accordance with Article 4.4.2 of the TSA and a Joint Coordination Meeting was held on 24.4.2020 between the Petitioner and the LTTCs


C.E.O./Project In-Charge
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to discuss the extension of time for the Project. As an outcome of the said discussion and through minutes dated 15.6.2020, LTTCs informed the Petitioner that despite the Force Majeure events resulting in a delay in commissioning of Project by 189 days, the Clause 4.4.2 of TSA provides for extension for 180 days. LTTCs have, therefore, agreed to grant time extension of 180 days subject to approval of respective management of the distribution licensees and after assurance of the Petitioner that there will not be any additional tariff burden on LTTCs due to extension of SCOD. With regard to remaining 9 days, the LTTCs opined that the Petitioner may approach the Commission. Due to lockdown situations, it was agreed that presently assurance letter from the Petitioner would suffice for them to provide extension and that the execution of Supplementary Agreement shall be after restoration of normalcy. In view of request of LTTCs as per minutes of Joint Coordination Meeting, vide letters dated 24.6.2020 and 25.6.2020, the Petitioner furnished undertaking to the lead LTTC that no tariff burden shall be levied on any of the LTTCs pursuant to extension of COD owing to Force Majeure events and for remaining 9 days of delay, the matter shall be taken up with the Commission and Contract Performance Guarantee for equivalent amount for liquidated damages for 9 days shall be kept valid till the decision of the Commission. It was also categorically stated by the Petitioner in the aforesaid letter dated 24.6.2020 that the claim under Change in Law shall, however, be made in accordance with the provisions of the TSA.

6. The Petitioner has submitted the following details of delay that occurred due to force majeure events based on which extension of 9 days (over and above 180 days already allowed by the LTTCs) is being claimed:

Sr. No.	Force Majeure Event	Time Period	Delay with overlap (in days)	Delay without Overlap (in days)
1	Delay in Forest Clearance	22.08.2016 to 17.05.2018	633	633
2	Delay in assessment of land compensation in the State of Madhya Pradesh	12.05.2017 to 31.12.2018	598	37
3	Civil suits filed at Hon'ble High Court and District Courts of Madhya Pradesh – Order of status quo by Courts	13.03.2018 to 26.11.2018	258	2
4	Obstruction by local villagers and Dharna & Pradarshan	01.07.2017 to 24.11.2018	511	191
5	Delay due to Sanjay Dubri Tiger Reserve	02.08.2017 to 26.02.2018	208	0
6	Delay due to promulgation of Goods and Services Tax (GST) Act, 2017	01.07.2017 to 28.09.2017	89	0
Total Impact				861

7. The Petitioner has submitted that the following Change in Law events occurred during the implementation of the Project and a brief about them is provided in the subsequent paragraphs:

- (a) Increase in acquisition price of SPV;
- (b) Notification of Good and Service Tax Act, 2017 (in short 'GST Laws') by Government of India;
- (c) Notification of payment of land compensation for tower base as well as corridor of transmission line by Government of Madhya Pradesh; and
- (d) Cost Over-run on account of increase in the Project cost including funding cost and overhead cost.

8. As regards acquisition price of SPV, the Petitioner has submitted that prior to submission of bid by PGCIL, BPC vide its letter dated 21.11.2014 had intimated to the

bidders the acquisition price payable by the selected bidder for acquisition of 100% equity shareholding of the Petitioner company along with its related assets and liabilities as Rs.17,67,51,000/-. However, subsequent to bidding, BPC vide its letter dated 24.2.2015 informed the successful bidder about final acquisition price as Rs.17,90,56,575/-. This increase in acquisition price by Rs.23,05,575/- constitutes a Change in Law event covered under Article 12.1.1 of the TSA as it has occurred after seven days prior to the bid deadline.

9. The Petitioner has submitted that introduction of GST Laws by the Parliament after the cut-off date (7 days prior to the bid deadline) i.e. 05.01.2015 qualifies to be a Change in Law. The Petitioner has further submitted that the Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018, *inter-alia*, has already held that the introduction of GST and subsuming/ abolition of specific taxes and duties, etc. in the GST constitute Change in Law. The claim of the Petitioner on account of introduction of GST Laws is Rs.19.14 crore.

10. The Petitioner has submitted that the Government of Madhya Pradesh, vide its GO No. R/3283/2016/7/2A dated 11.05.2017 has separately notified payment of land compensation for tower base as well as for corridor of transmission line to the landowners. Since this notification of Government of Madhya Pradesh was issued after cut-off date i.e. 05.01.2015 (7 days prior to bid deadline), it qualifies as Change in Law event in terms of Article 12.1.1 of the TSA. The additional expenditure incurred and anticipated to be incurred by the Petitioner account on this is Rs.51.41 crore.

11. The Petitioner has submitted that in terms of Article 12.2 (Relief for Change in Law) of the TSA, the impact of Change in Law for the construction period is to be

given as an increase in the cost of the Project. The cost of the Project or the Project cost refers to and encompasses within its scope all costs in regard to the establishment of the Project incurred by the entity i.e. not only the hard cost of the capital assets (i.e. plant, machinery and equipment, etc.) installed in the Project but also the interest cost, finance charges during construction and other soft costs related to the establishment of the Project.

12. The Petitioner has submitted that as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short, 'the 2014 Tariff Regulations'), Interest During Construction (IDC), which essentially comprises of the interest payable on debt part, is allowed to be capitalized along with other hard costs. The total expenditure incurred in the Project including on account of time overrun is capitalized along with IDC as an additional cost. It has been submitted that for competitively bid transmission projects, increase in Project cost on account of Change in Law events need to be fully serviced, namely, the cost overrun in regard to increase in the Project cost on account of Change in Law and also funding cost during the construction period. The entire increase in the Project cost (100%) on account of capital expenditure incurred by the Petitioner on account of Change in Law as well as the funding and financing cost of such capital expenditure, in full, during the construction period need to be serviced by increased transmission charges payable over and above the quoted transmission tariff during the entire period of the TSA in order to compensate the Petitioner of the impact of Change in Law events. Therefore, the compensation/ relief should not be restricted to only the capital expenditure incurred but should also include funding and financing cost as well as the overheads.



13. As to the overhead cost, the Petitioner has entered into a Consultancy Agreement with Power Grid Corporation of India Limited to establish the Project with Consultancy Charges @ 5% + applicable taxes on the Project cost. In lieu of IEDC incurred as an overhead on the Project cost, the overheads have been claimed owing to the increase in the Project cost on account of Change in Law.

14. The Petitioner has summarized the increase in the cost of Project on account of Change in Law events along with funding cost and overhead cost as under:

(Rs. in crore)					
Sr. No.	Change in Law Event	Basic amount	Associated increase in funding costs	Associated increase in overhead costs	Increase in project cost on account of Change in Law
1	Increase in acquisition price by BPC	0.23	0.11	0.01	0.35
2	Notification of GST laws by Government of India	19.14	0.75	1.13	21.03
3	Notification of payment of land compensation by Government of Madhya Pradesh.	51.41	0.81	3.03	55.26
	Total impact on Project cost	70.78	1.67	4.17	76.64

Hearing dated 15.04.2021

15. The Petition was admitted on 15.04.2021 and notices were issued to the Respondents to file their reply. The Respondent, Maharashtra State Electricity Distribution Company Limited (MSEDCL) has filed its reply and the Petitioner has filed rejoinder to the same.

Reply of MSEDCL

16. MSEDCL, in its reply dated 24.11.2020, has mainly submitted as under:

- (a) Based on the letters of BPC, it is observed that the final acquisition price of SPV is increased by Rs.23,05,575/- due to increase in reimbursement of expenses. However, it is not clear about the reasons for such increase in the reimbursed expenses.

(b) The Petitioner has claimed Rs.19.14 crore towards GST. However, no supporting invoices have been placed on record and only Auditor Certificate has been submitted along with the Petition. Hence, prudence check is required before allowing the compensation towards Change in Law for GST.

(c) On 11.5.2017, the Government of Madhya has notified the Policy regarding 'payment of Land Compensation for Tower base as well as for corridor of transmission line, to the land owners'. The Petitioner has claimed Rs.51.41 crore towards said Change in Law event. However, no supporting invoices have been furnished in this regard. In Auditor Certificate submitted by the Petitioner, Rs.12.19 crore has been arrived at by considering the anticipated expenditure for financial year 2020-21. Inclusion of future estimated expenditure, if any, should not be considered for any calculation of impact of Change in Law. Hence, prudence check is required before allowing the claim in this regard.

(d) As per Article 12.2.1 of the TSA, the calculations should be based on the cumulative increase/ decrease in Project cost upto scheduled CoD of the Project. As per the schedule 3 of the TSA, the scheduled CoD (26.06.2018) is 40 months from the effective date. Calculations submitted by the Petitioner involves the period after 26.06.2018. Therefore, the calculations of the percentage increase in the annual non-escalable transmission charges given by the Petitioner is erroneous since it considers the increase in amount even after SCOD and also the anticipated expenditure for the financial year 2020-21. Therefore, the claim of the Petitioner to be entitled to increase in adopted annual non-escalable charges by 6.38% on account of increase in cost of Project due to Change in Law, should not be allowed. The entitlement to increase in adopted annual non-escalable charges should be arrived at only after prudence check.

Rejoinder of Petitioner to the Reply of MSEDCL

17. The Petitioner in its rejoinder dated 18.03.2021 to the reply filed by MSEDCL has submitted as under:



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(a) Due to continuous and prudent efforts of the Petitioner, the implementation of the Project was expedited and the Project was eventually completed with a delay of merely 189 days on 01.01.2019. Force majeure events encountered during the implementation of the Project such as delay in Forest Clearance, delay in assessment of land compensation in the State of Madhya Pradesh, Civil suits filed before the Hon'ble High Court and District Courts of Madhya Pradesh, obstruction by local villagers and dharna Pradarshan, delay due to Sanjay Dubri Tiger Reserve and delay due to promulgation of Goods and Services Tax (GST) Act, 2017 were beyond the control of the Petitioner. Major Force majeure events i.e. forest clearance and Right of Way issues were taken up through PRAGATI (Pro-Active Governance and Timely Implementation). Considering the force majeure events, vide minutes of meeting dated 15.06.2020 of the meeting held on 24.04.2020 issued by the LTTCs, the LTTCs had granted time extension of 180 days after assurance of the Petitioner that there will not be any additional tariff burden on LTTCs due to extension of SCOD due to Force Majeure events.

(b) As regards increase in acquisition price of SPV, BPC for the Project had indicated the reasons for increased acquisition price to the Petitioner vide letter dated 23.07.2020. The increase of Rs.23,05,575/- in acquisition price by BPC (which has acted on behalf of the beneficiaries in initiating the competitive bid process) were not within the control of the Petitioner. The reason for increase in acquisition price as provided by BPC in its letter dated 23.07.2020 is due to increase in "reimbursement of expenses".

(c) With regard to the Notification of GST Laws as Change in Law events, an Auditor certificate with detailed breakup of implication of GST vis-à-vis the taxes applicable prior to introduction of GST related to the various packages covered in the transmission project implemented by the Petitioner has been provided and the Petitioner has only claimed the differential increase in amount of taxes after the introduction of GST.

(d) The increase in cost due to the introduction of Policy by Government of Madhya Pradesh dated 11.05.2017 is covered under Change in Law event in terms of the Article 12.1.1 of the TSA.

(e) As regards the anticipated expenditure of Rs.12.19 crore under land compensation and GST impact during financial year 2020-21, such expenditure pertains to the period prior to COD of the Project i.e. 01.01.2019. The Petitioner is yet to pay the balance & retention amount to the contractors under service contract and tower supply package contract as per the contract terms and conditions and, thus, the differential GST amount of Rs.0.32 crore is applicable on the above-mentioned payments to the contractors. The payment of Rs.11.86 crore towards land compensation has not been made till date due to litigation/ court cases regarding identification of landowners and it shall be paid once the court cases are resolved.

(f) Considering the various force majeure conditions, LTTCs have granted the time extension of 180 days with consent to reduce the CPG equivalent to 8 days LD amount. The Petitioner has prayed to grant the time extension of balance 9 days. Accordingly, the Petitioner is entitled for increase in the adopted non-escalable charges corresponding to the expenditure incurred/ payable up to CoD of the Project in accordance with the provisions of the Article 12.2.1 of the TSA.

Hearing dated 17.09.2021

18. The matter was heard at length on 17.09.2021. The learned senior counsel for the Petitioner circulated note of arguments and made detailed submission in the matter. The learned counsel for the Respondent, MSEDCL also made his submission by referring to the reply filed by the Respondent.

Analysis and Decision

19. We have considered the submissions of the Petitioner and MSEDCL and perused the documents on record. Based on the above, the following issues arise for our consideration:

Issue No. 1: Whether the Petitioner has complied with the provisions of the TSA before approaching the Commission for claiming relief under Force

Majeure and Change in Law?

Issue No. 2: Whether the Petitioner is entitled for additional 9 days of time extension over and above the 180 days granted by LTTCs?

Issue No. 3: Whether the claims of the Petitioner are covered under Change in Law in terms of the TSA?

Issue No. 4: What reliefs, if any, should be granted to the Petitioner in the light of the answers to the above issues?

The above issues have been dealt with in succeeding paragraphs.

Issue No. 1: Whether the Petitioner has complied with the provisions of the TSA before approaching the Commission for claiming relief under Force Majeure and Change in Law?

20. The Petitioner has claimed relief under Article 11 (Force Majeure) of the TSA.

Article 11.5.1 of the TSA provides as under:

"11.5 Notification of Force Majeure Event

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

11.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations."

21. Under Article 11.5.1 of the TSA, an affected party shall give notice to the other party of any event of force majeure as soon as reasonably practicable, but not later than seven days after the date on which the party knew or should have reasonably

known of the commencement of the event of force majeure. It further provides that such notice shall be a pre-condition to the affected party's entitlement to claim relief under the TSA.

22. The Petitioner has further claimed relief under Article 12 (Change in Law) of the TSA. Article 12.3.1 of the TSA provides as under:

"12.3 Notification of Change in Law Event

12.3.1 If the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Lead Long Term Transmission Customer of such Change in Law as soon as reasonably practicable after becoming aware of the same.

12.3.2 The TSP shall also be obliged to serve a notice to Lead Long Term Transmission Customer even when it is beneficially affected by a Change in Law.

12.3.3 Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its effect on the TSP."

23. Article 12.3 of the TSA provides that if the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law, it shall give notice to the lead LTTC as soon as reasonably practicable after being aware of the same. It further provides that any notice served pursuant to Articles 12.3.1 and 12.3.2 of the TSA shall provide amongst other things, precise details of Change in Law and its effect on the TSP.

24. The Petitioner has placed on record the various notices issued to the LTTCs intimating the occurrence as well as the cessation of the Force Majeure events for e.g. (i) for delay in the forest clearance, the notices were issued on 15.06.2017, 13.04.2018 and 2.07.2018; (ii) for delay due to roll out of GST Act, 2017, notices were issued on 07.07.2017 and 01.06.2018; (iii) for obstruction by local villagers and Dharna Pradarshan, the notices were issued on 05.02.2018, 07.04.2018, 10.08.2019, 09.11.2018 and 31.12.2018; (iv) for delay due to severe RoW consequent upon the



Notification by Government of Madhya Pradesh towards land diminution value, the notices were given on 15.06.2017 and 31.12.2018; (v) for delay due to Civil Suits filed before District and Hon`ble High Court of Madhya Pradesh, the notices were given on 23.03.2018, 29.10.2018 and 27.11.2018, whereas the issue of delay due to Sanjay Dubri Tiger Reserve was brought to the notice of the LTTCs in the meeting dated 24.04.2020 itself.

25. The Petitioner gave notices to the LTTCs dated 15.06.2017 under Change in Law events regarding payment of compensation for transmission lines due to introduction of land compensation for transmission lines in the State of Madhya Pradesh and dated 07.07.2017 regarding introduction of GST with effect from 01.07.2017. It is noticed that the Petitioner gave consolidated notice dated 30.10.2019 enumerating the Force Majeure events, including extension of time to implement the Project, to LTTCs. However, no response was received from the lead LTTC/ LTTCs. As regards increase in the acquisition price of SPV, while the Petitioner has not placed any notice intimating the LTTCs about the aforesaid Change in Law, it has been pointed out that all the LTTCs were duly informed by the Petitioner regarding increase in the acquisition price of SPV by BPC in Petition No. 88/ADP/2015 filed by the Petitioner under Section 63 of the Act for adoption of tariff and it also served copies of the Petition *inter-alia* stating reimbursement of increased acquisition price of SPV, on the LTTCs including the BPC. Perusal of the records reveals that the Petitioner had in fact indicated/ intimated the LTTCs about the increase in the acquisition price of SPV in the aforesaid Petition filed by the Petitioner after the selected bidder (PGCIL) acquired the SPV as per the bid process, which in our view suffices the requirement of notice to LTTCs. It is worthy of mentioning here that notice is a legal concept describing a requirement that a party be aware of legal process affecting their rights,

obligations or duties. We have considered that through Petition No. 88/ADP/2015, LTTCs were made aware about increase in acquisition price by BPC. Accordingly, in our view, the Petitioner has complied with the requirement of TSA regarding prior notice to the lead LTTC regarding occurrence of Force Majeure events and Change in Law before approaching the Commission. We further observe that the Respondents have not raised any issue as regards non-compliance with provision of notifying them of force majeure/ change in law.

26. This issue is answered accordingly.

Issue No.2: Whether the Petitioner is entitled for relief under Force majeure events i.e. additional 9 days of time extension over and above the 180 days granted by LTTCs?

27. The Petitioner has sought 9 days extension under Article 11.7 (Force Majeure) of the TSA on account of the following force majeure events:

28. The provisions of the TSA with regard to "Force Majeure" are extracted hereunder:

"11.3 Force Majeure

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) Natural Force Majeure Events: Act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years,

*(b) Non-Natural Force Majeure Events:
i. Direct Non-Natural Force Majeure Events:*

- *Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the TSP; or*
- *the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consents, Clearances and Permits required by the TSP to perform their obligations under the RFP Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other Consents, Clearances and Permits required for the development/ operation of the Project, provided that a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or*
- *any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality which is directed against the Project, provided that a Competent Court of Law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down. ii. Indirect Non - Natural Force Majeure Events.*
- *act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or*
- *radioactive contamination or ionising radiation originating from a source in India or resulting from any other Indirect Non Natural Force Majeure Event mentioned above, excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Site by the Affected Party or those employed or engaged by the Affected Party; or*
- *industry wide strikes and labour disturbances, having a nationwide impact in India.*

11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- (a) *Unavailability, late delivery, or changes in cost of the machinery, equipment, materials, spare parts etc. for the Project;*
- (b) *Delay in the performance of any contractors or their agents;*
- (c) *Non-performance resulting from normal wear and tear typically experienced in transmission materials and equipment;*
- (d) *Strikes or labour disturbance at the facilities of the Affected Party;*
- (e) *Insufficiency of finances or funds or the agreement becoming onerous to perform; and*
- (f) *Non-performance caused by, or connected with, the Affected Party's:*
 - i. negligent or intentional acts, errors or omissions;*
 - ii. failure to comply with an Indian Law; or*
 - iii. breach of, or default under this agreement or any Project Documents.*

11.6 Duty to perform and duty to mitigate

To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

29. In the light of the provisions of force majeure, the claims of the Petitioner have been examined. The Petitioner has submitted that construction of Project was delayed for the reasons which according to it, were beyond its control on following counts: delay in obtaining forest clearance; (b) delay in assessment of land compensation in the State of Madhya Pradesh; (c) civil suits filed before the Hon'ble High Court of Madhya Pradesh and order of status quo by courts; (d) obstruction by local villagers and dharna Pradarshan; (e) delay due to Sanjay Dubri Tiger reserve; and (f) delay due to promulgation of Goods and Service Tax Act, 2017.

30. The Petitioner has submitted that 35.984 km of the transmission line passed through forest area covering 214.099 hectares of land. On 23.02.2016, the Petitioner made on-line application for grant of forest clearance to the three divisions, namely Sidhi Division, Singrauli Division and Satna Division. The first permission for tree cutting for conductor corridor works was received on 17.05.2018 for Sidhi Division and thereafter on 07.06.2018 and 12.06.2018 for Singrauli Division and Satna Division respectively. The Petitioner has submitted that in terms of Ministry of Environment, Forest and Climate Change ('MoEFCC') Notifications dated 14.03.2014 and 10.10.2014, the general time for grant of forest clearance (Stage-I and Stage-II) in normal circumstances is stipulated as six months from the date of the application to the Forest Department. The Petitioner has submitted that permission for the forest clearance applied on 23.02.2016 should have been granted by 22.08.2016 (six months from 23.01.2016). Keeping in view that even the Stage-I forest clearance allowed on 17.05.2018, there is at least delay of 633 days due to delay in the forest clearance

which was beyond the control of the Petitioner and the Petitioner could not have proceeded with the implementation of the Project.

31. The Respondent, MSEDCL has submitted that there is overall delay of 189 days in the commissioning of the Project due to Force Majeure events. In the joint meeting of LTTCs held on dated 24.04.2020, extension of 180 days was granted in terms of Article 4.4.2 of the TSA subject to approval of management of respective distribution licensees and subsequent to execution of Supplementary Agreement of TSA about assurance of the Petitioner that there will not be any additional tariff burden on LTTCs due to extension of SCoD. MSEDCL has submitted that the Commission may take appropriate decision regarding extension of time for remaining 9 days after prudence check.

32. We have considered the rival submissions. The Petitioner has claimed that delay in grant of forest clearance is covered under force majeure. The Petitioner has submitted that since there was delay of 633 days on account of delay in grant of permission for tree cutting for tower foundation works and it was unable to commission the Project by SCoD. It is apparent that force majeure means any event or circumstance or combination of events and circumstances which wholly or partly prevents or unavoidably delays an affected party in the performance of its obligations under the TSA. An affected party has been defined in the TSA as "any of the Long Term Transmission Customers or the TSP whose performance has been affected by an event of Force Majeure". In the present case, the execution of the transmission lines was affected on account of delay in grant of permission of tree cutting from forest authorities. It is pertinent to note that as per paragraph 4.4 of the guidelines issued by MoEFCC, "if a project involves forest as well as non-forest land, it is advisable that

work should not be started on non-forest land till approval of the Central Government for release of forest land under the Act has been given." While as per the TSA, the Project was to be completed and commissioned by 25.06.2018, the Stage-I forest clearance was received only on 17.05.2018. In our view, the Petitioner was prevented from discharging its obligations under the TSA on account of delay in grant of forest clearance and, therefore, the delay of 633 days in grant of permission for tree cutting by forest authorities is covered under force majeure and the Petitioner is entitled for relief under provisions of the TSA.

33. Subsequent to the meeting held on 24.04.2020 amongst MSEDCL, other LTTCs and the Petitioner, the LTTCs have agreed for grant of extension of 180 days in terms of provisions of Article 4.4.2 of the TSA and for remaining 9 days, the LTTCs advised the Petitioner to approach the Commission for condonation of delay.

34. We have examined the matter. Article 11.7 of the TSA provides for relief for force majeure events, which is extracted as under:

11.7 Available Relief for a Force Majeure Event

Subject to this Article 11

(a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

(b) every Party shall be entitled to claim relief for a Force Majeure Event affecting its performance in relation to its obligations under this Agreement.

(c) For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per Appendix –III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per Appendix –III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of such event(s).

(d) For so long as the TSP is claiming relief due to any Force Majeure Event under this Agreement, the Lead Long Term Transmission Customer may, from time to time on one (1) day notice, inspect the Project and the TSP shall provide the Lead Long Term Transmission Customer's personnel with access to the Project to carry out such inspections, subject to the Lead Long Term Transmission Customer's personnel complying with all reasonable safety precautions and standards."

35. Article 4.4 provides for extension of time for implementation of the Project as under:

"4.4. Extension of time:

4.4.2 In the event that an Element or the Project cannot be commissioned by its scheduled COD on account of any Force Majeure Event as per Article 11, the Scheduled COD shall be extended, by a "day for day" basis, for a maximum period of one hundred and eighty (180) days. In case the Force Majeure Event continues even after the maximum period of one hundred and eighty (180) days, the TSP or the Majority Long Term Transmission Customers may choose to terminate the Agreement as per the provisions of Article 13.5."

36. The above provisions provide for extension of SCoD up to a maximum of 180 days and the same has already been granted by the LTTCs. However, there is delay of 189 days in implementation of Project. Article 4.4.2 of TSA provides for terminating TSA by TSP (the Petitioner) or the majority of LTTCs if force majeure event continues beyond the period of 180 days. We note that neither TSP nor LTTCs have terminated TSA and the Project has finally achieved COD with a delay of 189 days. None of the Respondents have raised objection to extension of SCoD or argued against existence of force majeure event. We have considered that respondent have not shown acquiescence to the condonation of further delay of 9 days. In view of the above and considering that the delay in achieving COD was due to delay in obtaining forest clearance, we allow the extension of SCoD of 9 days (beyond 180 days already allowed) till CoD of the Project. Thus, total delay in the Project of 189 days from SCoD to COD is hereby condoned.

37. As we have concluded in the preceding paragraph that SCoD of the Project has

been extended till its actual CoD on account of delay in forest clearance, we are of the view that there is no requirement to make any observations on merits on the other force majeure events claimed by the Petitioner i.e. delay in assessment of land compensation in the State of Madhya Pradesh; civil Suits filed before the Hon`ble High Court of Madhya Pradesh and order of status quo by courts; obstruction by local villagers and dharna pradarshan; delay due to Sanjay Dubri Tiger reserve; and delay due to promulgation of Goods and Service Tax Act, 2017.

38. This issue is answered accordingly.

Issue No. 3: Whether the claims of the Petitioner are covered under Change in Law in terms of the TSA?

39. The provisions of the TSA with regard to Change in Law are extracted as under:

“12.1 Change in Law

12.1.1 Change in Law means the occurrence of any of the following after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring/non-recurring expenditure by the TSP or any income to the TSP:

- *The enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;*
- *A change in the interpretation or application of any Law by Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;*
- *The imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier:*
- *A change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents Clearances and Permits;*
- *Any change in the licensing regulations of the Appropriate Commission, under which the Transmission License for the Project was granted if made applicable by such Appropriate Commission to the TSP:*
- *any change in the Acquisition Price; or*
- *any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.*

40. Perusal of the above provisions of Article 12 in the TSA reveal that for an event to be 'Change in Law', its occurrence has to be after the seven days prior to the bid deadline and should result into any additional recurring/ non-recurring expenditure by TSP or any income to TSP. The events broadly covered under Change in Law are following:

- (a) Any enactment, coming into effect, adoption, promulgation, amendment, modification or repeal, of any Law;
- (b) Any change in interpretation of any law by a Competent Court of law, or Indian Governmental Instrumentality having the legal power for such interpretation; or
- (c) Imposition of a requirement for obtaining any consents, clearances and permits which was not required earlier;
- (d) A change in terms and conditions prescribed or inclusion of any new terms and conditions for obtaining consents, clearances and permits or the inclusion of new terms and conditions for obtaining such consents, clearances and permits;
- (e) Any change in the Transmission Licence Regulations issued by the Commission;
- (f) Any change in the Acquisition price; and
- (g) Any change in tax or introduction of any tax made applicable for providing transmission service by the TSP as per the terms of the agreement.

41. Cut-off date for change in law events i.e. the date which is seven days prior to the bid deadline was 5.1.2015. In the light of the above provisions of Change in Law, the claims of the Petitioner which have occurred after cut-off date during the construction and operating period have been examined as under:

(a) Increase in acquisition price of BPC

42. The Petitioner has submitted that prior to submission of bid, BPC vide its letter

dated 21.11.2014 had intimated to the bidders the acquisition price payable by the selected bidder for acquisition of 100% equity shareholding of SPV along with all its related assets and liability as Rs.17,67,51,000/-. However, subsequent to bidding, BPC vide its letter dated 24.02.2015 intimated the successful/ selected bidder the final acquisition price as Rs.17,90,56,575/-. The Petitioner has submitted that increase of Rs.23,05,575/- in the acquisition price of SPV is Change in Law event in terms of Article 12.1.1 of TSA and accordingly, the same may be allowed.

43. MSEDCL has submitted that the Petitioner has not provided reasons as to which parameters have resulted into increase in the acquisition price and the claim of the Petitioner on this count may be allowed after prudence check.

44. *Per contra*, the Petitioner has submitted that REC Transmission Projects Company Limited is the Bid Process Coordinator (BPC) for the Project and the BPC had indicated the reasons for increased acquisition price to the Petitioner vide letter dated 23.07.2020. The increase of Rs.23,05,575/- in acquisition price by BPC (who has acted on behalf of the beneficiaries in initiating the competitive bid process) were not within the control of the Petitioner. It has been submitted by the Petitioner that reason for increase in acquisition price as provided by BPC in its reply dated 23.07.2020 is due to increase in "reimbursement of expenses".

45. We have considered the submissions made by the parties. In the present case, BPC vide its letter dated 21.11.2014 had informed all the bidders about the acquisition price payable for acquiring 100% equity shareholding of SPV as Rs.17,67,51,000/-. Subsequently, the BPC vide its letter dated 24.02.2015 intimated the successful bidder the final acquisition price as Rs.17,90,56,575/-. The Petitioner

wrote to BPC on 16.07.2020 seeking reasons for increase in acquisition price. In response, BPC vide its letter dated 23.07.2020 has submitted response with the details of increase in the acquisition price as under:

		(Rs. in lakh)	
Particulars		Final Acquisition Price intimated after bidding vide letter dated 24.2.2015	Tentative Acquisition Price intimated before bidding vide letter dated 21.11.2014
1	Professional Fee	1500.00	1500.00
2	Reimbursement of Expenses	89.12	68.62
3	Interest on Expenses	0.02	0.01
Sub-Total without Service tax		1589.14	1568.63
4	Service Tax	196.42	193.88
5	Share Capital	5.00	5.00
Total with Service tax		1790.56	1767.51

46. Perusal of above details reveals that the increase of Rs.23,05,575/- is due to increase in expenses, interest on expenses and payment of service tax to the Government of India. As per sixth bullet under Article 12.1.1 of the TSA, 'any change in the acquisition price' constitutes a Change in Law event. In view of the above, the Petitioner is entitled to relief for change in law on account of increase in acquisition price.

(b) Notification of GST Law w.e.f. 01.07.2017

47. The Petitioner has submitted that the Goods and Service Tax Act, 2017 has been notified by the Ministry of Finance, Government of India with effect from 01.07.2017, which is after the cut-off date, i.e. 05.01.2015 and, therefore, constitutes a Change in Law event. The Petitioner has further submitted that the Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018 has held that the introduction of GST w.e.f. 01.07.2017 constitutes a Change in Law and that the differential between the taxes subsumed in GST and the rates of GST on various items shall be admissible under Change in Law and also that the TSPs shall work out and provide the details

of increase/ decrease in the tax liability in respect of introduction of GST to the LTTCs duly supported by Auditor's certificate. The Petitioner has claimed additional expenditure incurred by it on account of introduction of GST Laws as Rs.19.14 crore.

48. MSEDCL has submitted that the Petitioner has claimed Rs.19.14 crore towards GST. However, no supporting invoices have been placed on record by the Petitioner and it has only furnished an Auditor Certificate in this regard. Therefore, prudence check is required before allowing the claim towards Change in Law on account of introduction of GST Laws.

49. *Per contra*, the Petitioner has submitted that it has placed on record the copy of the Auditor Certificate consisting of detailed breakup of implication of GST vis-à-vis the taxes applicable prior to introduction of GST related to the various packages covered in the transmission project implemented by the Petitioner. The Petitioner has claimed the differential increase in amount of taxes after the introduction of GST.

50. We have considered the submissions made by the Petitioner and the Respondent, MSEDCL. The Commission in its order dated 17.12.2018 in Petition No. 1/SM/2018 in the matter of 'Additional tax burden on transmission licensees on introduction of Goods and Service Tax compensation cess' has held that the introduction of GST with effect from 01.07.2017 shall constitute a Change in Law event. The relevant extract of the order dated 17.12.2018 in Petition No. 1/SM/2018 is reproduced below:

"27. From the forgoing, it is observed that due to varied nature of such taxes, duties and cess etc. that have been subsumed/abolished on introduction of GST, it is not possible to quantify the resulting impact in a generic manner for all the TSPs. The abolition of taxes, duties, cess, etc. on the introduction of GST are "Change in Law" events and the savings arising out of such "Change in Law" should be passed to the beneficiaries of the

TSPs. Similarly, the introduction of GST has also resulted in imposition of new or increase in existing taxes, duties, cess etc. which constitute "Change in Law" events and accordingly the additional impact due to introduction of GST shall be borne by the beneficiaries. The details of the increase or decrease in the taxes, duties, cess etc. shall be worked out by the TSPs and the beneficiaries. The TSPs should provide the details of increase or decrease in the taxes, duties, cess etc. supported by Auditor Certificate and relevant documents to the beneficiaries and refund or recover the amount from the TSPs due to the decrease or increase in the taxes, duties, cess etc. as the case may be. Since the GST liveable on the transmission licensees pertain to the construction period, the impact of GST shall be disbursed by the beneficiaries to the transmission licensees in accordance with the provisions in the TSA regarding relief for Change in Law during construction period. In case of any dispute on any of the taxes, duties, cess etc., the beneficiaries may approach the Commission.

Summary

28. Summary of our decision in the order is as under:-

- (a) Introduction of GST with effect from 1.7.2017 shall constitute a Change in Law event if the cut-off date (7days prior to the bid deadline) as per the relevant TSA falls on or after 1.7.2017.
- (b) The differential between the taxes subsumed in GST and the rates of GST on various items shall be admissible under Change in Law.
- (c) The TSPs shall work out and provide the details of increase or decrease in the tax liability in respect of introduction of GST to the beneficiaries/Long Term Transmission Customers duly supported by Auditor's Certificate.
- (d) The additional expenditure on account of GST shall be reimbursed by the beneficiaries/Long Term Transmission Customers as per the relevant provisions of the TSA regarding Change in Law during the construction period or operating period, as the case may be.
- (e) In case of dispute, either party is at liberty to approach the Commission in accordance with law."

51. In the present case, as on cut-off date i.e. 05.01.2015, there was no GST. Subsequently, the Parliament and State Legislative Assemblies, in order to introduce a unified indirect tax structure, have introduced a fresh set of taxation laws, which has replaced various Central and State level taxes, through various enactments collectively referred to as the GST Laws which came into effect from 01.07.2017. Since the additional recurring and non-recurring expenditure, which has been incurred by the Petitioner is on account of an Act of Parliament/ State Legislative Assemblies after the cut-off date, i.e. 05.01.2015, the same is covered under Change in Law provisions of the TSA under Article 12.1.1. The relief for any additional

expenditure incurred by the Petitioner due to introduction of GST shall be admissible for the Project within the original scope of work. The Petitioner vide Auditor Certificate dated 17.03.2021 has placed on record the detailed break-up of implication of GST vis-à-vis taxes applicable prior to introduction of GST related to the various packages covered in the transmission Project implemented by the Petitioner. The Petitioner shall submit relevant documents to establish one to one correlation between the items and GST levied thereon, duly supported by invoices and Auditor's certificate. The Respondent LTTCs shall match invoices and reconcile them before making payment.

(c) Notification of payment of land compensation for tower base as well as corridor of transmission line by Government of Madhya Pradesh

52. The Petitioner has submitted that Government of Madhya Pradesh vide GO No. R/3283/2016/7/2A dated 11.05.2017 has notified payment of land compensation for tower base as well as for corridor of transmission line, to the landowners. According to the Petitioner, this notification, which has been enacted after the cut-off date, required the Petitioner to pay land compensation for tower base as well as the corridor of transmission line and, therefore, qualifies as Change in Law in terms of Article 12.1.1 of the TSA. The Petitioner has submitted that the additional expenditure incurred and anticipated to be incurred by the Petitioner is Rs.51.41 crore.

53. MSEDCL has submitted that no supporting invoices have been placed on record by the Petitioner and only Auditor Certificate has been furnished in this regard. It has been submitted that in the Auditor Certificate submitted by the Petitioner, Rs.12.19 crore have been arrived at by considering the anticipated expenditure for the financial year 2020-21. Inclusion of future estimated expenditure, if any, should not be considered for any calculation of impact of Change in Law. Therefore, Rs.

12.19 crore should not be considered by the Commission for the claim of Change in Law. Accordingly, prudence check is required before allowing the compensation towards Change in Law in this regard.

54. *Per contra*, the Petitioner has submitted that anticipated expenditure of Rs.12.19 crore under land compensation and GST impact during financial year 2020-21, pertains to the period prior to COD of the Project i.e. 01.01.2019. It has been submitted by the Petitioner that the amount of Rs.11.86 crore is liable for payment towards land compensation but has not been made till date due to litigation/ court cases regarding identification of landowner. Thus, this expenditure is balance & retention payment and shall be paid once court cases are resolved. Similarly, anticipated GST impact of Rs.0.32 crore provided in auditor certificate pertains to period prior to 01.01.2019. The Petitioner is yet to pay the balance & retention amount to the contractors (corresponding to the work executed prior to DOCO of Project) under service contract and tower supply package contract. This differential GST amount of Rs.0.32 crore is applicable on above mentioned payments.

55. We have considered the submissions made by the parties. Government Order No. R/3283/2016/7/2A dated 11.05.2017 of the Government of Madhya Pradesh requires payment of land compensation for tower base and corridor for transmission line to the landowners. The translated version of the aforesaid GO issued by the Government of Madhya Pradesh submitted by the Petitioner is as follows:

*"Govt. of Madhya Pradesh
Ministry of Revenue Department*

Ministry of Revenue Department Sr. No: R/3283/2016/7/2A Date: 11.5.2017

*To,
All Collectors,
Madhya Pradesh*



C.E.O./Project In-Charge

Subject: About determination of compensation amount payable to private landlords because of setting up transmission lines by the POWERGRID in the state.

Ministry of Power, Govt. of India vide letter ref 3/7/2015- Trans. dated 15.10.2015 has issued the guidelines regarding determination of compensation payment for utilisation of land proposed under Right of way in laying of transmission lines.

2. Hence, in consideration of the Ministry of Power, Govt of India letter dated 15 10 2015 and in the interest of public, following guidelines are being issued for the payment of compensation amount for the land used for the installation of the High Tension transmission lines of 66 kV and above:

(1) In addition to the compensation for the damage caused by the entry on the land, 85% of the existing market rates of the land used for the establishment of the tower will be paid to Land owner.

(2) 15% of the existing market rates will be paid for the area of land situated under the transmission line between the width of the outer wires of both the sides of transmission lines tower. For this purpose, the width between the two outer wires will be considered as follows:

Sl. No.	Transmission capacity	Width between both outer conductors (in Meters)
1	66 kV	18 meters
2	110 kV	22 meters
3	132 kV	27 meters
4	220 kV	35 meters
5	400 kV S/C	46 meters
6	400 kV D/C	46 meters
7	+/- 500 kV HVDC	52 meters
8	765 kV S/C (in Delta configuration)	64 meters
9	765 kV D/C	67 meters
10	+/- 800 kV HVDC	69 meters
11	1200 kV	89 meters

2. The amount to be given above will only be compensation amount. The land will remain registered in the name of the former land owner as before.

3. Even if otherwise provided in any rule, compensation for agricultural land will be payable on the basis of prevailing market rates of agricultural land and similarly compensation for non- agricultural land will be payable on the basis of prevailing market rates of non-agricultural land.

4. This circular is applicable only to Power transmission lines. Under this, compensation is to be paid to Power transmission line. Under this Power distribution is not included...."

56. Perusal of the above quoted GO dated 11.05.2017 issued by the Government of Madhya Pradesh, vide Circular No. R/3283/2016/7/2A reveals that these are directions of the State Government which are binding on the State authorities for determination of compensation for transmission lines.

57. 'Indian Government Instrumentality' as defined in the TSA is under:

"Indian Governmental Instrumentality' shall mean Government of India, Government of any State in India or any ministry, department, board, authority, agency, corporation, commission under direct or indirect control of the Government of India or any State Government or both, any political sub-division of any of them including any court or Appropriate Commission or tribunal or judicial or quasi-judicial body in India but excluding TSP and Long Term Transmission Customers;"

58. Further, the term 'Law' has been defined in the TSA as under:

"Law' or 'Laws' in relation to this Agreement, shall mean all laws including electricity laws in force in India and any statute, ordinance, rule, regulation, notification, order or code, or any interpretation of any of them by an Indian Governmental Instrumentality having force of law and shall include all rules, regulations, decisions and orders of the Appropriate Commission;"

59. Thus, 'Law' under TSA includes any statute, ordinance, rule, regulation, notification, order or code or any interpretation of any of them by an Indian Governmental Instrumentality having force of law. Therefore, the GO dated 11.05.2017 issued by the Revenue Department, Government of Madhya Pradesh qualifies as 'Law' under the TSA and its introduction/ implementation being after the cut-off date in the present case, is a Change in Law event in terms of Article 12.1.1 of the TSA.

60. Nothing is placed before the Commission by the parties as to whether any compensation was payable by the Petitioner for tower base and transmission line corridor before the aforementioned GO dated 11.05.2017 issued by the Revenue Department, Government of Madhya Pradesh vide Circular No. R/3283/2016/7/2A

came into force. However, subsequent to the issue of the said GO dated 11.05.2017, the compensation for tower base @85% of market value of land and the compensation for the transmission line corridor @15% of the market value of land became payable. Therefore, if any compensation was payable for tower base and transmission line corridor prior to the GO dated 11.05.2017, the additional liabilities of compensation payable for the Petitioner shall be only the differential amount. In light of the above, the Petitioner is entitled to relief only on account of differential additional expenditure incurred towards payment of land compensation for tower base and transmission line corridor in terms of the GO dated 11.05.2017 of the Government of Madhya Pradesh.

61. However, we note that as per the CA certificate furnished by the Petitioner, expenditure of Rs.12.19 crore is on anticipated basis and the Petitioner is yet to actually incur such expenditure. The claimed amount of Rs.12.19 crore by the Petitioner consists of (i) the differential GST impact of approximately Rs.0.32 crore (Rs.0.30 crore as differential GST impact + Rs.0.02 crore as overhead cost) applicable on the balance & retention amount to the contractors under service contract and tower supply package contract, etc., which is yet to be paid by the Petitioner and (ii) amount of Rs.11.86 crore (Rs.11.20 crore as land compensation + Rs.0.56 crore as overhead cost) towards land compensation, for which the payment has not been made till date due to litigation/ court cases regarding identification of landowners. Since the above expenditure pertains to the period prior to COD i.e. 01.01.2019, the Petitioner is entitled to seek Change in Law relief for such expenditures (except overhead cost). However, these expenditures were on anticipated basis to be incurred during financial year 2020-21 and had not been actually incurred by the Petitioner at the time of filing of the Petition. The Petitioner will be entitled to Change in Law reliefs on account of such expenditure upon providing documentary evidence of having incurred such

expenditures on actual basis.

(d) Cost over-run on account of Change in Law events

62. The Petitioner has submitted that in terms of Article 12.2.1 of the TSA, the impact of Change in Law during the construction period of the Project is to be given as an increase in the cost of the Project and that the expression cost of Project or Project cost during the construction period also refers to and encompasses within its scope, all costs in regard to the establishment of Project incurred by entity. This not only includes the hard cost of capital assets (plant, machinery and equipment, etc.) but also the cost of funding during construction and other soft costs/ overheads related to establishment of the Project. Relying upon the notified Terms and Conditions of Tariff Regulations, it has been submitted by the Petitioner that even as per the said Regulations, IDC, which essentially comprises of interest payable on debt part is allowed to be capitalized and the total expenditure incurred in competition of the Project including on account of time overrun is capitalized with IDC as an additional cost to the extent of 70% of the increased Project cost and the balance 30% of the increased Project cost is serviced as equity providing for a return of 15.5% post-tax. Similarly, for competitively bid transmission Projects, increase in Project cost on account of Change in Law events needs to be fully serviced, namely, the cost overrun in regard to increase in Project cost on account of Change in Law and the funding cost during the construction period. For that purpose, the quantum of Project cost related to increase in the Project cost is to be apportioned as debt-equity in the ratio of 70:30 and increased equity deployed related to such increase in Project cost is to be serviced at a higher return consistent with the rate of return applicable to the equity.

63. The Petitioner has further submitted that the increase in the Project cost on

account of Change in Law *inter-alia* also includes the funding cost and the overhead cost during the construction period needs to be serviced as per by increase in transmission charges payable over and above the quoted transmission tariff during the entire period of TSA in order to enable the Petitioner to be compensated fully for the effect of Change in Law event. Therefore, the compensation/relief to the Petitioner should not be restricted only to the capital expenditure incurred but should also include the funding /financing costs as well as overheads. Accordingly, the Petitioner has claimed additionally Rs.4.17 crore as overhead cost and Rs.1.67 crore as funding costs for the aforesaid Change in Law events. The Petitioner in support of its contention has relied upon the judgment of the APTEL dated 20.10.2020 in Appeal No. 208 of 2019 in the case of Bhopal Dhule Transmission Company vs Central Electricity Regulatory Commission and Ors.

64. We have considered the submissions made by the parties. In terms of Article 12.2 of the TSA, relief for Change in Law during the construction period entails a stipulated increase/decrease in the non-escalable transmission charges for the corresponding increase/decrease in the cost of Project up to SCoD. Any compensation to the Petitioner for a Change in Law event has to be according to provisions of Article 12 of the TSA. Since the Petitioner, while entering into the contract i.e. TSA, was fully aware of the formula provided in Article 12.2 of the TSA for compensation on account of a Change in Law event, it is not entitled to claim any additional cost on account of Change in Law events over and above the compensation as per formula provided in Article 12.2 of the TSA. Further, it is not the contention of the Petitioner that the provision of Article 12 of the TSA is insufficient to compensate for the impact of Change in Law. Moreover, the overhead cost claimed by the Petitioner as consultancy charges to PGCIL is not directly linked to any Change in Law event and in our view, it

is governed by the contract executed between the Petitioner and PGCIL. Therefore, any such consultancy charges cannot be allowed to be passed on to the consumers under the Change in Law provisions of the TSA.

65. We also take note of the submissions of the Petitioner that the matter of extension of SCoD owing to various force majeure events was taken up with LTTCs in accordance with Article 4.4.2 of the TSA and a joint coordination meeting was held between the Petitioner and the LTTCs on 24.04.2020 to discuss the extension of time for the Project. Based on the request of LTTCs, the Petitioner vide its letter dated 24.06.2020 had undertaken that no tariff burden shall be levied on any of the LTTCs pursuant to the extension of the SCoD owing to the force majeure events. Relevant portion of the said letter dated 24.06.2020 is extracted as under:

"In view of foregoing it is submitted that , subject to the condition that time extension of 180 days shall be provided by LTTCs (for the remaining 9 days' time extension, PJTL would approach CERC), it is hereby confirmed that no additional tariff burden shall be levied on any LTTCs pursuant to extension of CoD owing to Force majeure conditions and that CPG for equivalent amount for 9 days shall be kept valid until the decision of CERC."

66. Admittedly, the issue regarding time over-run and time extension of 180 days for the Project from SCoD to actual CoD has been duly settled with LTTCs and the Petitioner has not sought relief on account of force majeure events that resulted into time over-run for the Project. Therefore, the Petitioner has already forgone its claims for the period from SCoD till the revised CoD of the Project. We also take note of the fact that none of the Change in Law events deliberated in the present Petition has resulted in delay in Project implementation.

67. The Petitioner has placed reliance on the judgment of the APTEL dated 20.10.2020 in Appeal No. 208 of 2019 in the case of Bhopal Dhule Transmission Company vs. Central Electricity Regulatory Commission and Ors. to claim IEDC and

IDC. Without going into applicability of the aforesaid judgment of the APTEL in the instant case, in view of the fact that the Petitioner has itself undertaken that it will not claim additional tariff on account of extension of COD for event of force majeure, any claim of IDC/ IEDC cannot be considered beyond the SCOD.

68. This issue is replied accordingly.

Issue No. 4: What reliefs, if any, should be granted to the Petitioner in the light of the answers to the above issues?

69. Article 12.2 of the TSA provides for relief for Change in Law as under:

"12.2 Relief for Change in Law

12.2.1 During Construction Period: During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

- For every cumulative increase/decrease of each Rupees Three Crore Seventy Six Lakh in the cost of the Project upto the Scheduled COD of the Project, the increase/decrease in Non-Escalable Transmission Charges shall be an amount equal to zero point three one three percent (0.313%) of the Non-Escalable Transmission Charges.

12.2.3 For any claims made under Article 12.2.1 and 12.2.2 above, the TSP shall provide to the Long Term Transmission Customers and the Appropriate Commission documentary proof of such increase/decrease in cost of the Project/revenue for establishing the impact of such Change in Law.

12.2.4 The decision of the Appropriate Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective, shall be final and binding on both the Parties subject to the rights of appeal provided under applicable Law."

70. MSEDCL has submitted that in terms of the above provisions of the TSA, the calculation should be based on the cumulative increase/ decrease in the Project cost up to SCoD of the Project only, which is 26.06.2018. However, the calculation submitted by the Petitioner involves the period after 26.06.2018 and, thus, the calculation of percentage increase in the annual non-escalable transmission charges given by the Petitioner is erroneous.

71. We have considered submissions of MSEDCL. Its contention, in our view, is misconceived. The extension of SCOD by 189 days (180 days by LTTCs and 9 days in this order) was on account of events of force majeure and it was agreed by the Petitioner that it would not claim any additional tariff on this count. However, in our view, events of Change in Law have to be treated differently as payments due to Change in Law events have been or are to be made by the Petitioner to government authorities and is, therefore, eligible for relief in terms of provisions of TSA. In terms of Article 4.4 of the TSA, the LTTCs and the Petitioner have agreed to extend the SCoD of the Project by 180 days (out of total time over-run of 189 days) on account of occurrence of various force majeure events and the extension for the balance 9 days has been allowed by the Commission in the present order. Thus, as a result, the revised SCoD of the Project is 01.01.2019 (same as COD of the Project) and consequently, the Petitioner is entitled to claims the relief for Change in Law events during the construction period up to 01.01.2019.

72. All reliefs on account of Change in Law have been claimed by the Petitioner for the construction period. Accordingly, as per Article 12.2.1 of the TSA, for every cumulative increase/ decrease of each rupees three crore seventy six lakh in the cost of the Project up to the revised SCOD of the Project on account of Change in Law during the construction period, the Petitioner shall be entitled to be compensated with increase/ decrease in non-escalable transmission charges by an amount equal to zero point three one three percent (0.313%) of the non-escalable transmission charges.

73. The Petitioner shall provide documentary proof of such increase/ decrease in cost of the Project/ revenue to LTTCs.

74. After CoD of the transmission system, the Petitioner has been recovering transmission charges for the Project under the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2010. With effect from 01.11.2020, the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2020 has come into force. Therefore, the impact of Change in Law payable to the Petitioner shall be recovered in accordance with the provisions of Regulation 15(2)(b) (second bill to the DICs) of the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2020.

75. This issue is answered accordingly.

76. The Petitioner has sought reimbursement of fee paid by it for filing the Petition and legal expenses. The filing fee can be reimbursed in respect of tariff petitions that are filed for (a) determination of tariff, (b) revisions of tariff due to additional capital expenditure, and (c) truing up of expenditure. This Petition being a miscellaneous Petition and not a tariff petition, reimbursement of filing fee is not allowed. Accordingly, the prayer of the Petitioner for reimbursement of the filing fee is hereby rejected.

77. The Petition No. 610/MP/2020 is disposed of in terms of the above discussions and findings.

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

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

**Sd/-
(P.K. Pujari)
Chairperson**



ANNEXURE-8

संख्या 2023/बीबीस-पी-3-2018

प्रेषक

आलोक कुमार
प्रमुख सचिव,
उ०प्र० शासन।

सेवा में

1- प्रबन्ध निदेशक,
उ०प्र० पावर कारपोरेशन लि०,
शक्ति भवन, लखनऊ।3- प्रबन्ध निदेशक,
उ०प्र० पावर ट्रांसमिशन कारपोरेशन लि०,
शक्ति भवन, लखनऊ।

लखनऊ : दिनांक 06 सितम्बर, 2018

ऊर्जा अनुभाग- 3

विषय उ०प्र० पावर ट्रांसमिशन कारपोरेशन लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारवण लाइनों में लगाये जाने वाले विभिन्न कृषकों/भूस्वामियों को भूमि मुआवजे सम्बन्धी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मंत्रालय के दिशा निर्देशों के अनुरूप अंगीकृत करने के सम्बन्ध में।

महोदय,

उपर्युक्त विषय के सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि उ०प्र० पावर ट्रांसमिशन कारपोरेशन लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारवण लाइनों में लगाये जाने वाले विभिन्न कृषकों/भूस्वामियों को भूमि मुआवजे सम्बन्धी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मंत्रालय के दिशा निर्देशों के अनुरूप उ०प्र० पावर ट्रांसमिशन कारपोरेशन लि० के अन्तर्गत निर्माण होने वाली विभिन्न विभव की लाइनों में वर्तमान क्षतिपूर्ति के अतिरिक्त Land compensation के मद से टावर बेस के नीचे 85 प्रतिशत क्षेत्रफल भूमि की लागत के रूप में अतिरिक्त क्षतिपूर्ति अनुमन्य किये जाने का निर्णय लिया गया है। भूमि क्षतिपूर्ति (Land compensation) के मद में क्षतिपूर्ति की लागत की गणना उस क्षेत्र विशेष के जिला अधिकारी के द्वारा निर्धारित सर्किल रेट के अनुसार की जायेगी। यह आदेश तात्कालिक प्रभाव से लागू होगा।

3- अतः अनुरोध है कि कृपया तदनुसार कार्यवाही सुनिश्चित कराने का कष्ट करें।

भवदीय,

[Signature]

(आलोक कुमार)
प्रमुख सचिव।

संख्या 2023 (1)/बीबीस-पी-3-2018 दिनांक सितम्बर, 2018

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित -

समस्त जिलाधिकारी, उ०प्र०।

2- प्रबन्ध निदेशक, पूर्वांचल/पश्चिमांचल/मध्यांचल/दक्षिणांचल विद्युत वितरण निगम लि०, वाराणसी/मेरठ/लखनऊ/आगरा एवं प्रबन्ध निदेशक, कानपुर विद्युत आपूर्ति कम्पनी लि० (केएनपी), कानपुर।

कार्यवाहक निदेशक, विद्युत सुरक्षा, उ०प्र० गौतमगुरु लखनऊ।

आवश्यक विद्युत सुरक्षा

CEA/CE 765 kv/CE (WRP)/CECT-I/CECT-II/CMUT/MUCLES आजा सं.

[Signature]

(महेश्वरी गौतम)

उप सचिव।

06/9/18

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASINo. 869 MD/JP/PTCL
Dt. 06/09/18

Dir. (W & P)

[Signature]

6/9/18

CA. / Instructions / N/A/E

copy to all SPOs

7/09/2018

संख्या: 2643/चौबीस-पी-3-2019

प्रेषक,

अरविन्द कुमार,
प्रमुख सचिव,
उ०प्र० शासन।

सेवा में,

समस्त जिलाधिकारी,
उत्तर प्रदेश।

ऊर्जा अनुभाग- 3

लखनऊ : दिनांक 19 नवम्बर, 2019

विषय: पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारेषण लाईनों में लगाये जाने वाले विभिन्न कृषकों/भूस्वामियों को भूमि मुआवजे संबंधी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मंत्रालय के दिशा-निर्देशों के अनुरूप अंगीकृत करने के संबंध में।


महोदय,

उपर्युक्त विषय के संबंध में अवगत कराना है कि ऊर्जा अनुभाग-3 के शासनादेश संख्या-2023/24-पी-3-2018, दिनांक 06 सितम्बर, 2018 द्वारा उत्तर प्रदेश पावर ट्रांसमिशन कारपोरेशन लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारेषण लाईनों में लगाये जाने वाले विभिन्न कृषकों/भूस्वामियों को भूमि मुआवजे संबंधी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मंत्रालय के दिशा-निर्देशों के अनुरूप उ०प्र०पा०ट्रा०का०लि० के अन्तर्गत निर्माण होने वाली विभिन्न विभव की लाईनों में वर्तमान क्षतिपूर्ति के अतिरिक्त Land Compensation के मद से टावर बेस के नीचे 85 प्रतिशत क्षेत्रफल भूमि की लागत के रूप में अतिरिक्त क्षतिपूर्ति अनुमन्य किये जाने का प्राविधान किया गया है।

2- इस संबंध में उक्त शासनादेश दिनांक 06.09.2018 एवं अधिशासी निदेशक, पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के पत्र संख्या पावरग्रिड/एनआर-3/पीईएसए/17684 दिनांक 20.06.2019 की प्रति प्रेषित करते हुए मुझे यह कहने का निदेश हुआ है कि ऊर्जा विभाग की उपरोक्त व्यवस्था उत्तर प्रदेश में पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के द्वारा स्थापित की जाने वाली पारेषण लाईनों पर भी लागू करने के लिए पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के अनुरोध पर अग्रतर आवश्यक कार्यवाही की जाय।

3- उक्त आदेश राजस्व विभाग की सहमति से निर्गत किये जा रहे हैं।
संलग्नक-यथोक्त।


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

भवदीय,

(अरविन्द कुमार)
प्रमुख सचिव।

.....2/

-2-

संख्या : 2643 (1)/चौबीस-पी-3-2018 दिनांक नवम्बर, 2019

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- प्रबन्ध निदेशक, उ०प्र०पावर कारपोरेशन लि०, शक्ति भवन, लखनऊ।
- 2- प्रबन्ध निदेशक, उ०प्र०पावर ट्रांशमिशन कारपोरेशन लि०, शक्ति भवन, लखनऊ।
- 3- प्रबन्ध निदेशक, पूर्वान्चल/पश्चिमांचल/मध्यान्चल/दक्षिणांचल विद्युत वितरण निगम लि०, वाराणसी/मेरठ/लखनऊ/आगरा एवं प्रबन्ध निदेशक, कानपुर विद्युत आपूर्ति कम्पनी लि०, (केस्को), कानपुर।
- 3- कार्यवाहक निदेशक, विद्युत सुरक्षा, उ०प्र० गोमतीनगर, लखनऊ।

आज्ञा से,

(महावीर प्रसाद गौतम)
उप सचिव।

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस
वाराणसी-221002, उत्तर प्रदेश

Ref. No.: WR-NR/PTL/765 KV D/C VIND-VARA TL/

Date: 04.12.2021

To.

As per distribution

Subject: Transmission System associated with the "New WR-NR 765 KV Inter-Regional Corridor": Notice being issued under clause 12.3 of Transmission Service Agreement for Change in Law caused due to Introduction of (i) Land Compensation and (ii) Additional demand of Forest Department in the Transmission Line passing through Forests.

Ref: Transmission Service Transmission (TSA) dated 27.04.2017.

Dear Sir,

The subject Transmission System is being executed by POWERGRID Varanasi Transmission System Ltd (PVTSL) and is governed by above referred Transmission Service Agreement (TSA) dated 27.04.2017 signed between PVTSL and Long Term Transmission Customers (LTTCs). The project has been commissioned on 1st August 2021.

In line with the TSA, notice is hereby given under Article 12.3 of the TSA consequent upon "Change in Law" caused due to introduction of:

- (i) Compensation towards diminishing value of land @85% of land area covered by tower base: Notification dated 06.09.2018 and 19.11.2019 issued by Govt. of Uttar Pradesh in this regard are attached. Same has already been intimated on regular basis through our Monthly Progress Report (Apr'19 onwards), Annexure III, Point no. 10 under "Change in Law". Estimated amount towards said additional compensation is estimated to be Rs. 5.22 Cr. Approx.
- (ii) Forest land premium and annual lease rent @10% of premium payable as per Forest Clearance (Stage-II approval) accorded by Forest Department with imposition of UP Govt. Notification No. 379/81-2-2021-800(139)/2019 dated 05.04.2021 Point No. 21. Letter received from DFO, Mirzapur in this regard is attached. Subsequent to Notification: DFO, Mirzapur Vide letter dated 1881/ Mirzapur/15 dated 29.11.2021 has raised demand of Rs 38,09,95,660.08 as land premium and Rs 3,80,59,566.01 as 10% annual lease rent totalling to Rs 41,86,55,226.09. In addition to above, 10% Annual lease rent of Rs. 3,80,59,566 is payable for 30 years (renewable from time to time).

Thanking you.



C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Yours sincerely



(S.K. Rai)
Project In-Charge

POWERGRID Varanasi Transmission System Limited

Distribution:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016

B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस

वाराणसी-221002, उत्तर प्रदेश

2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor, Vidyut Bhawan, Tiswadi, Goa – 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd 5th Floor, Prakashgad, Bandra (E), Mumbai – 400051
4. The Chairperson, Electricity Department, Daman & Diu, Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd, Vidyut Bhawan, Near Secretariat, Amlī, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd, Sardar Patel Vidyut Bhawan, Race Course, Vadodara, Gujarat-390007
7. The Chairperson, M.P. Power Management Company Ltd, Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd BSES Bhawan, Nehru Place, New Delhi – 110019
9. The Chairperson, BSES Yamuna Power Ltd. 2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi – 110092
10. The Chairperson, New Delhi Municipal Council, NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd. NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Civil Secretariat, Jammu - 180001
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms) Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
 - (i) Ajmer Vidyut Vitran Nigam Ltd Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004
 - (ii) Jodhpur Vidyut Vitran Nigam Ltd New Power House, Industrial Area, Jodhpur 342003
 - (iii) Jaipur Vidyut Vitran Nigam Ltd Vidyut Bhawan, Janpath, Jaipur 302005
14. The Chairperson, Uttarakhand Power Corporation Ltd. Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road, Balliwala Chowk, Dehradun 248001
15. The Chairman, Uttar Pradesh Power Corporation Ltd. 7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow 226001

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016

B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

C.E.O./President-in-Charge
P.V.T.S.L.
VARANASI

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस
वाराणसी-221002, उत्तर प्रदेश

16. The Chairperson, Electricity Wing of Engineering Department
Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh 160009
17. The Chairperson, Himachal Pradesh State Electricity Board Ltd.
Vidyut Bhawan, Shimla 171004
18. The Chairperson, Haryana Power Purchase Centre
Shakti Bhawan, Sector 6, Panchkula 134109
19. The Chairperson, Punjab State Power Corporation Ltd
Thermal Sheds, T1-A, Patiala -147001
20. Chief Engineer (SPAT Circle), U.P. Power Corporation Ltd,
10th floor, Shakti Bhawan, 14 Ashok Marg, Lucknow - 226001
21. Chief Engineer (PPP Cell), UPPTCL, 7th Floor, Shakti Bhawan, Lucknow - 226001

Copy for kind information:

Director (Projects), POWERGRID, Gurgaon
Executive Director (CMG), POWERGRID, Gurgaon
Executive Director (NR-III), POWERGRID, Lucknow
Executive Director (WR-II), POWERGRID, Vadodra
CGM (Projects), NR-III, POWERGRID, Lucknow


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

R. K. Chari & Co.

Chartered Accountants

CA Certificate for seeking additional tariff from Central Electricity Regulatory Commission (CERC)

We, R. K. Chari & Co., (Chartered Accountants) have examined the relevant records and documents produced before us for verification by POWERGRID Varanasi Transmission System Limited (hereinafter referred to as 'PVTSL') having CIN U40100DL2017GOI310478, having its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, South Delhi, New Delhi, Delhi - 110016 and having its corporate office at Northern Region-II, Plot No. 2A/INS-02, Awadh Vihar Yojna, Shaheed Path, Lucknow - 226002, Uttar Pradesh. On the basis of the said examination and to the best of our knowledge and information, we hereby certify that PVTSL has incurred additional cost on account of cost overrun due to change in law and force majeure events under different heads including change in acquisition price amounting to INR 1,095.26 Lakhs till 31 March 2024. An additional amount of INR 161.31 Lakhs is projected to be incurred by the management as per the management's estimate. Details of the total additional cost of INR 1,256.57 Lakhs is stated in the below table:

(All amounts In Lakhs)

Sl No.	Particulars	Total Amount	2018-19 (Actual)	2019-20 (Actual)	2020-21 (Actual)	2021-22 (Actual)	2022-23 (Actual)	2023-24 (Actual)	2024-25 (Estimated)	2025-26 (Estimated)
1	Change in Acquisition Price	-	-	-	-	-	-	-	-	-
	IDC	-	-	-	-	-	-	-	-	-
	IEDC	110.07	110.07	-	-	-	-	-	-	-
	Sub Total	110.07	110.07	-	-	-	-	-	-	-
2	Land Compensation (85% of Tower base)	520.00	-	-	-	262.10	117.40	-	80.50	60.00
	IDC	56.21	-	-	-	28.33	12.69	-	8.70	6.19
	IEDC	20.80	-	-	-	10.48	4.70	-	3.22	2.40
	Sub Total	597.01	-	-	-	300.91	134.79	-	92.42	68.89
3	Procurement and Installation of bird divertors	409.59	0.86	-	4.60	385.46	18.67	-	-	-
	IDC	44.28	0.09	-	0.50	41.67	2.02	-	-	-
	IEDC	16.38	0.03	-	0.18	15.42	0.75	-	-	-
	Sub Total	470.25	0.98	-	5.28	442.55	21.44	-	-	-
4	IDC/IEDC from SCOD (26.07.2021) to Project COD (01.08.2021) (For the total project cost excluding the cost on account of change in law i.e., Sl No 1 to 3 above)	-	-	-	-	-	-	-	-	-

Office: F-7, Third Floor, Sector 3, Noida - 201301, Uttar Pradesh, India
Email Id - niteshjain@rkchari.com ; niketmaheshwari@rkchari.com

C.E. Q. Rajesh In-Charge
P.V.T.S.L.
VARANASI

R. K. Chari & Co.

Chartered Accountants

IDC	79.24	-	-	-	79.24	-	-	-	-
IEDC	-	-	-	-	-	-	-	-	-
Sub Total	79.24	-	-	-	79.24	-	-	-	-
Total	1,256.57	111.05	-	5.28	822.70	156.23	-	92.42	68.89

Notes:

1. Project date of cut-off (DOCO) is 01 August 2021.
2. This certificate is issued for the purpose of PVTSL for filing a petition to Central Electricity Regulatory Commission (CERC) for seeking additional tariff on the basis of projected / actual additional capitalization incurred during the tariff period.

For and on behalf of R. K. Chari & Co.

Chartered Accountants

Firm Registration No.: 000481C



UDIN: 24406850BKCSCE6591

Place: Noida

Date: 31/May/2024

Niitesh Jain

Partner

Membership No. 406850

Address: F-7, Third Floor, Sector 3, Noida - 201301, Uttar Pradesh

Disclaimer

- a) This certificate is not intended for general circulation or publication nor is it to be reproduced for any purpose other than outlined above or as may be required under any law for the time being in force.
- b) The Firm does not assume any responsibility or liability for losses occasioned to the subject or any other parties as a result of the circulation, publication, reproduction or use of this certificate contrary to the purposes of this certificate.

Niitesh Jain
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

Office: F-7, Third Floor, Sector 3, Noida – 201301, Uttar Pradesh, India
Email Id – niiteshjain@rkchari.com ; nicketmaheshwari@rkchari.com



भारत सरकार
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
क्षेत्रीय कार्यालय (मध्य)
Ministry of Environment, Forest & Climate Change
Regional Office (Central Region)



केन्द्रीय भवन, पंचम तल, सेक्टर-एच, अलीगंज, लखनऊ-226024
Kendriya Bhawan, 5th Floor, Sector-H, Aliganj, Lucknow-226024, Telefax-2326696
Email: roc.lko-mef@gov.in, m_env@rediffmail.com

पत्र संख्या-8बी/यू.पी./04/68/2020/एफ.सी./901

दिनांक: 14.09.2020

सेवा में,

प्रमुख सचिव(वन, पर्यावरण एवं जलवायु परिवर्तन विभाग),
अनुभाग-2, उत्तर प्रदेश शासन,
लखनऊ।

(ऑनलाईन प्रस्ताव संख्या-FP/UP/Trans/35565/2018)

विषय: पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम (100 प्रतिशत अधीनस्थ कम्पनी पावर ग्रिड कार्पोरेशन ऑफ इण्डिया लि०, भारत सरकार का उपक्रम) द्वारा 765 के०वी० डबल सर्किट विध्यांचल पूलिंग स्टेशन, वाराणसी पारेषण लाईन के निर्माण हेतु जनपद मीरजापुर में प्रभावित 210.152 हे० आरक्षित वनभूमि के गैर-वानिकी प्रयोग तथा प्रभावित कुल 1565 वृक्षों में से 409 वृक्षों के पातन की अनुमति तथा वाराणसी वन प्रभाग में प्रभावित 0.2814 हे० संरक्षित वनभूमि के बिना वृक्ष पातन के गैर-वानिकी प्रयोग की अनुमति अर्थात् कुल 210.4334 हे० वनभूमि के गैर-वानिकी प्रयोग एवं बाधक कुल 409 वृक्षों के पातन की अनुमति के सम्बन्ध में।

सन्दर्भ: विशेष सचिव, उत्तर प्रदेश शासन का पत्रांक-1027/81-2-2020-800(139)/2019, लखनऊ, दिनांक- 08.07.2020 एवं क्षेत्रीय सशक्त समिति (REC) की बैठक दिनांक-25.08.2020 की कार्यवाही (Agenda no. 49.9 U.P.)

महोदय,

उपरोक्त विषय पर विशेष सचिव(वन), उत्तर प्रदेश का पत्रांक-1027/81-2-2020-800(139)/2019, लखनऊ, दिनांक-08.07.2020 का आशय ग्रहण करने का कष्ट करें। जिसके द्वारा विषयांकित प्रस्ताव पर वन (संरक्षण) अधिनियम, 1980 की धारा (2) के अन्तर्गत भारत सरकार की स्वीकृति माँगी थी।


प्रकरण को दिनांक-25.08.2020 को आहूत की गयी क्षेत्रीय सशक्त समिति (REC) की बैठक में (REC Agenda item 49.9-UP) शामिल किया गया था जिसमें विचारोपरान्त प्रकरण को सशर्त स्वीकृति प्रदान की गयी है। अतः केन्द्र सरकार पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम (100 प्रतिशत अधीनस्थ कम्पनी पावर ग्रिड कार्पोरेशन ऑफ इण्डिया लि०, भारत सरकार का उपक्रम) द्वारा 765 के०वी० डबल सर्किट विध्यांचल पूलिंग स्टेशन, वाराणसी पारेषण लाईन के निर्माण हेतु जनपद मीरजापुर में प्रभावित 210.152 हे० आरक्षित वनभूमि के गैर-वानिकी प्रयोग तथा प्रभावित कुल 1565 वृक्षों में से 409 वृक्षों के पातन की अनुमति तथा वाराणसी वन प्रभाग में प्रभावित 0.2814 हे० संरक्षित वनभूमि के बिना वृक्ष पातन के गैर-वानिकी प्रयोग की अनुमति अर्थात् कुल 210.4334 हे० वनभूमि के गैर-वानिकी प्रयोग एवं बाधक कुल 409 वृक्षों के पातन की सैद्धान्तिक स्वीकृति निम्नलिखित शर्तों पर प्रदान करती है:-

1. Legal status of the forest land shall remain unchanged.
2. Compensatory afforestation shall be taken up by the Forest Department over (Mirzapur 423.28 ha.), (Varanasi 0.2814 ha.) 423.5614 ha. degraded forest land (Mirzapur-Compartment / Khasra No. Not provided, Village-Lalganj, Tehsil-Mirzapur Marhihan Forest Range, District- Mirzapur) (Varanasi-Compartment/ Khasra No. Not provided, Village-Not provided, Tehsil-Sewa puri Range, District- Varanasi) at the cost of the user agency. As far as possible, a mixture of local indigenous species shall be planted and monoculture of any species may be avoided.
3. The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars if required on the CA land shall be deposited in advance with the Forest Department by the project authority. The CA will be maintained for 10 years. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years.


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4. The State Government shall charge the Net Present Value (NPV) for the 210.4334 ha. forest area to be diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 30/10/2002, 01/08/2003, 28/03/2008, 24/04/2008 and 09/05/2008 in IA No. 566 in WP (C) No. 202/1995 and as per the guidelines issued by the Ministry vide letters No. 5-1/1998-FC (Pt.II) dated 18/09/2003, as well as letter No. 5-2/2006-FC dated 03/10/2006 and 5-3/2007-FC dated 05/02/2009 in this regard.
5. Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon'ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to this effect.
7. User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department.
8. All the funds received from the user agency under the project shall be transferred/ deposited to CAMPA fund only through e-portal.
9. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector.
10. The User agency in consultation with the State Forest Department prepare a detailed scheme for creation and maintenance of plantation of dwarf species (preferably medicinal plants) in right of way under the transmission line and deposit the cost for execution of the said scheme to the State Forest Department.
11. The user agency at its cost shall provide bird deflectors, which are to be fixed on upper conductor of transmission line at suitable intervals to avoid bird hits.
12. *The User Agency shall comply with the guidelines for laying transmission lines through forest areas issued by Ministry vide letter no. 7-25/2012-FC dated 05/05/2014 & 19/11/2014.*
13. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable.
14. The layout plan of the proposal shall not be changed without prior approval of Central Government.
15. No labour camp shall be established on the forest land.
16. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
17. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of the concerned Divisional Forest Officer.
18. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
19. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
20. The forest land shall not be used for any purpose other than that specified in the project proposal.
21. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.
22. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.
23. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife.
24. The compliance report shall be uploaded on e-portal (<https://parivesh.nic.in/>).


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भवदीया,

 (प्राची गंगवार)
 उप वन महानिरीक्षक {केन्द्रीय}

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु :-

1. मुख्य वन संरक्षक एवं नोडल अधिकारी(वन संरक्षण) 17, राणा प्रताप मार्ग, लखनऊ, उ0प्र0।
2. प्रभागीय वनाधिकारी, मिर्जापुर वन प्रभाग, मिर्जापुर।
3. प्रभागीय वनाधिकारी, वाराणसी वन प्रभाग, वाराणसी।
4. प्रबन्धक, पावर ग्रिड कॉर्पोरेशन ऑफ इण्डिया लि0, उत्तर क्षेत्र-III, वाराणसी।
5. पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, क्षेत्रीय कार्यालय, लखनऊ को वेबसाइट पर अपलोडिंग हेतु/आदेश प्रत्रावली।


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16.09.2020
(प्राची गंगवार)
उप वन महानिरीक्षक {केन्द्रीय}

**Ministry of Environment, Forest & Climate Change
Regional Office (Central Region)**

Kendriya Bhawan, 5th Floor, Sector-II, Aliganj, Lucknow-226024, Telefax-2326696
Email: roc.jko-mef@gov.in, m_env@rediffmail.com

Letter No.-8B/U.P./04/68/2020/F.C./901

Date: 14.09.2020

To,

Principal Secretary (Forest, Environment and Climate Change Department),
Section-2, Government of Uttar Pradesh,
Lucknow.

(Online proposal number-FP/UP/Trans/35565/2018)

Sub: POWERGRID Varanasi Transmission System Limited (100% subsidiary company of Power Grid Corporation of India Limited, A Government of India Enterprise)- Non-forestry use of 210.152 hectares of reserved forest land and permission for felling of 409 trees out of total 1565 trees in Mirzapur district and non-forestry use 0.2814 hectare forest land without tree felling in Varanasi forest Division, in total permission for non-forestry use of total 210.4334 hectare forest land and permission for felling of 409 trees for Construction of 765 KV double circuit Vindhychal pooling station – Varanasi D/C line.

Ref: Special Secretary, Uttar Pradesh Government's letter no. 1027/81-2-2020-800 (139) / 2019, Lucknow, dated 08.07.2020 and action of Regional Empowered Committee (REC) meeting dated 25.08.2020 (Agenda no. 49.9 U.P.)

Sir,

Reference is invited to Special Secretary (Forest), Uttar Pradesh's letter no. 1027/81-2-2020-800(139)/2019, Lucknow, dated 08.07.2020 on the above subject. Through which the approval of the Government of India was sought under Section (2) of the Forest (Conservation) Act, 1980 on the subject proposal.

The matter was included (REC Agenda item 49.9-UP) in the meeting of the Regional Empowered Committee (REC) convened on 25.08.2020, in which after consideration, conditional approval was given to the matter. In principal approval is granted for Non-forestry use of 210.152 hectares of reserved forest land and permission for felling of 409 trees out of total 1565 trees in Mirzapur district and non-forestry use 0.2814 hectare forest land without tree felling in Varanasi forest Division, in total permission for non-forestry use of total 210.4334 hectare forest land and permission for felling of 409 trees for Construction of 765 KV double circuit Vindhychal pooling station – Varanasi D/C line subject to the following conditions.

1. Legal status of the forest land shall remain unchanged.
2. Compensatory afforestation shall be taken up by the Forest Department over (Mirzapur 423.28 ha.),(Varanasi 0.2814 ha.) 423.5614 ha. degraded forest land (Mirzapur-Compartment / Khasra No.

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Not provided, Village-Lalganj, Tehsil-Mirzapur Marhihan Forest Range, District- Mirzapur) (Varanasi-Compartment/Khasra No. Not provided, Village-Not provided, Tehsil-Sewa puri Range, District-Varanasi) at the cost of the user agency. As far as possible, a mixture of local indigenous species shall be planted and monoculture of any species may be avoided.

3. The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars if required on the CA land shall be deposited in advance with the Forest Department by the project authority. The CA will be maintained for 10 years. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years.

4. The State Government shall charge the Net Present Value (NPV) for the 210.4334 ha. forest area to be diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 30/10/2002, 01/08/2003, 28/03/2008, 24/04/2008 and 09/05/2005 long pr ate202/1995 and as per the guidelines issued by the Ministry vide letters18/09/2003, as well as letter No. 5-2/2006-FC dated 03/10/2006 and 5-3/2007-FC dated 05/02/2009 in this regard.

5. Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to this effect.

7. User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department.

8. All the funds received from the user agency under the project shall be transferred/ deposited to CAMPA fund only through e-portal.

9. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector.

10. The User agency in consultation with the State Forest Department prepare a detailed scheme for creation and maintenance of plantation of dwarf species (preferably medicinal plants) in right of way under the transmission line and deposit the cost for execution of the said scheme to the State Forest Department.

11. The user agency at its cost shall provide bird deflectors, which are to be fixed on upper conductor of transmission line at suitable intervals to avoid bird hits.

12. The User Agency shall comply with the guidelines for laying transmission lines through forest areas issued by Ministry vide letter no.5. 7-25/2012-FC dated 05/05/2014 & 19/11/2014.

13. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable.

14. The layout plan of the proposal shall not be changed without prior approval of Central Government.



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15. No labour camp shall be established on the forest land.
16. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
17. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of the concerned Divisional Forest Officer.
18. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
19. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
20. The forest land shall not be used for any purpose other than that specified in the project proposal.
21. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.
22. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.
23. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife.
24. The compliance report shall be uploaded on e-portal (<https://parivesh.nic.in/>).

Yours sincerely
Sd./-
(Prachi Gangwar)
Deputy Inspector General of Forest (Central)

Copy for information and necessary action

1. Chief Conservator of Forests and Nodal Officer (Forest Conservation), 17, Rana Pratap Marg, Lucknow, S. 050.
2. Divisional Forest Officer, Mirzapur Forest Division, Mirzapur.
3. Divisional Forest Officer, Varanasi Forest Division, Varanasi.
4. Manager, Power Grid Co. of India Ltd. North Zone-III. Varanasi.
5. Ministry of Environment, Forest and Climate Change, Regional Office, Lucknow for uploading/order form on the website.

(Prachi Gangwar)
Deputy Inspector General of Forest (Central)

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



ANNEXURE-12

F. No. 5-2/2017- FC
Government of India
Ministry of Environment, forests and Climate Change
(FC Division)

Indira Paryavaran Bhawan,
Aliganj, Jor Bag Road,
New Delhi - 110003.

Dated: 28th March, 2019

To,
The Principal Secretary/Secretary (Forests),
All State/UT Governments.

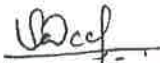
Sub: Handbook of guidelines for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980.

Sir,

In supersession of all guidelines issued in the past, a handbook of guidelines is issued for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980. All the provisions enshrined in these guidelines will be applicable from 8th March 2019 onwards. The copy of comprehensive guidelines is available on Ministry's website: www.parivesh.nic.in.

This issue with the approval of competent authority.


Yours faithfully,


(Sandeep/Sharma)

Assistant Inspector General of Forest (FC)

Copy to:

1. Prime Minister's Office, New Delhi.
2. Secretary, Ministry of Mines/Coal/Steel/MoRTH/MoPNG/MHA/MoP/MoTA, Government of India, New Delhi.
3. Principal Chief Conservator of Forests, all State/UT Governments.
4. Nodal Officer (FCA), all State/ UT Governments.
5. All Regional Offices, Ministry of Environment, Forest and Climate Change (MoEF&CC), GoI, New Delhi.
6. Joint Secretary in-charge, Impact Assessment Division, MoEF&CC, GoI, New Delhi.
7. All IGF/ DIGF/AIGF in MoEF&CC, GoI, New Delhi.
8. Sr. Director (Technical), NIC, MoEF&CC with a request to place a copy of the letter on website of this Ministry.
9. PPS to Secretary (EF&CC)/DGF&SS/ADGF(FC)/ADGF(Wildlife), MoEF&CC, New Delhi.
10. Guard File.


(Sandeep Sharma)

Assistant Inspector General of Forest (FC)



C.E.O./Project In-charge
P.V.T.S.L.
VARANASI

o/c
1/24/19

Handbook of

Forest (Conservation) Act, 1980

and

Forest Conservation Rules, 2003

(Guidelines & Clarifications)



J. K. Jaiswal

Ministry of Environment, Forest and Climate Change

Government of India

2019

13. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
14. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of concerned Divisional Forest Officer.
15. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
16. The User Agency and the State Government shall ensure compliance of all the Court orders, provisions, rules, regulations and guidelines for the time being in force as applicable to the project.
17. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
18. The forest land shall not be used for any purpose other than that specified in the project proposal.
19. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.
20. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.
21. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife.

I. Transmission Line Project

In-principle/ Stage-I approval

1. Legal status of the forest land shall remain unchanged.
2. Forest land will be handed over only after required non-forest land for the project is handed over by the user agency.
3. **Compensatory afforestation**
 - a) Compensatory afforestation shall be taken up by the Forest Department over ha non-forest / degraded forest land (Compartment / Khasra No., Village-....., Tehsil-....., District-) at the cost of the user agency. As far as possible, a mixture of local indigenous species shall be planted and monoculture of any species may be avoided.
 - b) The non-forest land proposed for CA shall be transferred and mutated in the name of Forest Department and notified as RF/PF prior to Stage-II approval. A copy of the original notification declaring the non-forest land under Section 4 or Section 29 of the Indian Forest Act, 1927, or under the relevant section of the State Forest Act as the case may be, will be submitted by the State Government prior to Stage-II approval;
4. The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars if required on the CA land shall be deposited in advance with the Forest Department by the project authority. The CA will be maintained for 10 years. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years.
5. NPV:

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- a) The State Government shall charge the Net Present Value(NPV) for the ha forest area to be diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 30/10/2002, 01/08/2003, 28/03/2008, 24/04/2008 and 09/05/2008 in IA No. 566 in WP (C) No. 202/1995 and as per the guidelines issued by the Ministry vide letters No. 5-1/1998-FC (Pt.II) dated 18/09/2003, as well as letter No. 5-2/2006-FC dated 03/10/2006 and 5-3/2007-FC dated 05/02/2009 in this regard.
- b) Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon'ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to this effect.
6. User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department.
 7. All the funds received from the user agency under the project shall be transferred/ deposited to CAMPA fund only through e-portal.
 8. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector.
 9. **The User agency in consultation with the State Forest Department prepare a detailed scheme for creation and maintenance of plantation of dwarf species (preferably medicinal plants) in right of way under the transmission line for execution of the said scheme to the State Forest Department.**
 10. **The user agency at its cost shall provide bird deflectors, which are to be fixed on upper conductor of transmission line at suitable intervals to avoid bird hits.**
 11. **The User Agency shall comply with the guidelines for laying transmission lines through forest areas issued by Ministry vide letter no. 7-25/2012-FC dated 05/05/2014 & 19/11/2014.**
 12. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable.
 13. The layout plan of the proposal shall not be changed without prior approval of Central Government.
 14. No labour camp shall be established on the forest land.
 15. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
 16. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of the concerned Divisional Forest Officer.
 17. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
 18. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
 19. The forest land shall not be used for any purpose other than that specified in the project proposal.
 20. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.

J. S. S.
 C.E.O./Project In-Charge
 P.V.T.S.L.
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21. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.
22. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife.
23. The compliance report shall be uploaded on *e-portal* (<https://parivesh.nic.in/>).

Formal/ Stage-II approval

1. Legal status of the forest land shall remain unchanged.
2. Forest land will be handed over only after required non-forest land for the project is handed over by the user agency.
3. Compensatory afforestation shall be taken up by the Forest Department over ha non-forest / degraded forest land (Compartment / Khasra No., Village-....., Tehsil-....., District-) at the cost of the user agency. As far as possible, a mixture of local indigenous species shall be planted and monoculture of any species may be avoided.
4. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector.
5. **The user agency at its cost shall provide bird deflectors, which are to be fixed on upper conductor of transmission line at suitable intervals to avoid bird hits.**
6. **The User Agency shall comply with the guidelines for laying transmission lines through forest areas issued by Ministry vide letter no. 7-25/2012-FC dated 05/05/2014 & 19/11/2014.**
7. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable.
8. The layout plan of the proposal shall not be changed without prior approval of Central Government.
9. No labour camp shall be established on the forest land.
10. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel.
11. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of the concerned Divisional Forest Officer.
12. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
13. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
14. The forest land shall not be used for any purpose other than that specified in the project proposal.
15. The User Agency and the State Government shall ensure compliance of all the Court orders, provisions, rules, regulations and guidelines for the time being in force as applicable to the project.
16. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.
17. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.

[Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



सत्यमेव जयते

भारत सरकार
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
क्षेत्रीय कार्यालय (मध्य)
Ministry of Environment, Forest and Climate Change
Regional Office (Central Region)



केन्द्रीय भवन, पंचम तल, सेक्टर-एच, अलीगंज, लखनऊ-226024

Kendriya Bhawan, 5th Floor, Sector-H, Aliganj, Lucknow- 226024, Telefax: 2328696, 2324340, 2324047, 2324025
Email: (Env.) m_env@rediffmail.com, (Forest) goimoefrolko@gmail.com

पत्र सं० 8बी/यू.पी./04/07/2018/एफ.सी/12

दिनांक: 03.04.2019

सेवा में,

नोडल अधिकारी एवं मुख्य वन संरक्षक,
वन विभाग, 17 राणा प्रताप मार्ग,
उत्तर प्रदेश, लखनऊ।

ONLINE PROPOSAL NO. FP/UP/TRANS/23751/2017

विषय: 400 के०वी० डबल सर्किट लखनऊ-कानपुर (भाग-2) पारिषण लाईन में उन्नाव में 0.4809 हे० संरक्षित वन भूमि एवं उस पर अवस्थित 58 वृक्ष जनपद कानपुर में 0.5658 हे० संरक्षित वनभूमि बिना वृक्ष पातन, जनपद कानपुर देहात में 0.1748 हे० बिना वृक्ष पातन कुल 1.2215 हे० संरक्षित वनभूमि एवं उस पर अवस्थित 58 वृक्षों के पातन की अनुमति के संबंध में।

सन्दर्भ: पत्रांक सं० 1754/लखनऊ-कानपुर लाईन(1.2215 हे०)/23751/2017, लखनऊ, दिनांक 07.03.2019.

महोदय,

उपरोक्त विषय पर नोडल अधिकारी एवं मुख्य वन संरक्षक, उत्तर प्रदेश शासन का पत्रांक-2136/लखनऊ-कानपुर लाईन/23751/2017, लखनऊ, दिनांक-11.01.2018 का आशय ग्रहण करने का कष्ट करें जिसके द्वारा राज्य सरकार ने विषयांकित प्रस्ताव पर वन (संरक्षण) अधिनियम, 1980 की धारा-2 के तहत भारत सरकार की स्वीकृति मांगी थी।

प्रश्नगत प्रकरण में इस कार्यालय के समसंख्यक पत्र दिनांक-09.11.2018 द्वारा प्रकरण में सैद्धान्तिक स्वीकृति जारी की गयी थी। जिसकी अनुपालन आख्या मुख्य वन संरक्षक एवं नोडल अधिकारी, उत्तर प्रदेश शासन, लखनऊ के उपरोक्त संदर्भित पत्र द्वारा प्रस्तुत की गयी है। प्रस्तुत की गयी अनुपालन आख्या पर विचारोपरान्त मुझे आपको यह सूचित करने का निर्देश हुआ है कि केन्द्र सरकार 400 के०वी० डबल सर्किट लखनऊ-कानपुर (भाग-2) पारिषण लाईन में उन्नाव में 0.4809 हे० संरक्षित वन भूमि एवं उस पर अवस्थित 58 वृक्ष जनपद कानपुर में 0.5658 हे० संरक्षित वनभूमि बिना वृक्ष पातन, जनपद कानपुर देहात में 0.1748 हे० बिना वृक्ष पातन कुल 1.2215 हे० संरक्षित वनभूमि एवं उस पर अवस्थित 58 वृक्षों के पातन की विधिवत् स्वीकृति निम्नलिखित शर्तों पर प्रदान करती है:-

1. वन भूमि की वैधानिक स्थिति में कोई परिवर्तन नहीं होगा।
2. प्रयोक्ता अभिकरण के व्यय पर वन विभाग द्वारा प्रभावित वन भूमि के दुगुने अवनत वन भूमि (1.2215 x 2 = 2.45 ha.) अर्थात् 2.45 हे० पर क्षतिपूरक वृक्षारोपण एवं 10 वर्षों तक रखरखाव किया जाएगा। उक्त वृक्षारोपण का कार्य विधिवत् स्वीकृति जारी होने के 01 वर्ष के भीतर पूर्ण किया जाएगा।
3. प्रयोक्ता अभिकरण के व्यय पर वन विभाग द्वारा पारिषण लाईन के नीचे प्रस्तावित वन भूमि में बौने पौधों (मुख्यतः औषधीय पौधे) के रोपण एवं 10 वर्षों तक रखरखाव किया जाएगा। उक्त वृक्षारोपण का कार्य विधिवत् स्वीकृति जारी होने के 01 वर्ष के भीतर पूर्ण किया जाएगा।
4. पीपली आरक्षित वन भूमि पर विस्थापितों द्वारा किए गए अतिक्रमण एवं वन संरक्षण अधिनियम 1980 एवं भारतीय वन अधिनियम, 1927 के प्रावधानों के उल्लंघन के बारे में विधि सम्मत कार्रवाई पूरी की जाएगी तथा इसकी सूचना क्षेत्रीय कार्यालय को दी जाएगी।
5. अगर शुद्ध वर्तमान मूल्य की दरों में बढ़ोत्तरी होती है तो प्रयोक्ता अभिकरण द्वारा एन.पी.वी. की बढ़ी हुई दर की अतिरिक्त राशि जमा करनी होगी।
6. पारिषण लाईन का संरक्षण इस प्रकार किया जाएगा कि इसमें काटे जाने वाले वृक्षों की संख्या न्यूनतम हो।

C.E.O./Project In-charge
P.V.T.S.L.
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7. पारेषण लाईन के लिए राइट ऑफ वे (right of way) की चौड़ाई 46 मीटर तक सीमित रहेगी।
8. प्रयोक्ता अभिकरण के व्यय पर मक डिस्पोजल कार्ययोजना के अनुसार वन विभाग की देख-रेख में किया जायगा।
9. परियोजना के निर्माण व रख-रखाव के दौरान आस-पास के क्षेत्र की वनस्पतियों एवं जीव-जन्तुओं को किसी प्रकार की क्षति नहीं पहुँचायी जाएगी।
10. प्रस्तावित वनभूमि के अतिरिक्त आस पास की वनभूमि से/पर निर्माण कार्य के दौरान मिट्टी/पत्थर काटने या भरने का कार्य नहीं किया जाएगा।
11. प्रत्यावर्तित वन भूमि का उपयोग किसी भी अन्य प्रयोजन के लिए नहीं किया जायेगा।
12. प्रयोक्ता अभिकरण द्वारा निर्माण कार्य के दौरान स्थल पर कार्यरत मजदूरों /स्टाफ को रसोई गैस/किरोसिन तेल की आपूर्ति की जायेगी, ताकि निकटवर्ती वनों को क्षति न हों।
13. प्रयोक्ता अभिकरण द्वारा प्रस्तावित स्थल/वन क्षेत्र के आस पास मजदूरों/स्टाफ के लिए किसी भी प्रकार का कैम्प नहीं लगाया जायेगा।
14. प्रत्यावर्तित वन क्षेत्र का सीमा स्तम्भों द्वारा सीमांकन प्रयोक्ता अभिकरण के व्यय पर किया जाएगा। प्रत्येक पीलर पर कमांक, डी0जी0पी0एस0 निर्देशांक, Backward and Forward bearing एवं अपने निकटवर्ती पीलर से दूरी दर्शायी जाएगी। उक्त सीमांकन का कार्य विधिवत् स्वीकृति जारी होने के 03 माह के भीतर पूर्ण किया जाएगा।
15. प्रयोक्ता अभिकरण एवं राज्य सरकार वर्तमान एवं भविष्य में योजना पर लागू सभी नियम, कानून तथा दिशा निर्देशों का पालन करेगी।
16. प्रस्ताव में निहित किसी भी निर्धारित शर्त का अनुपालन नहीं होने अथवा असंतोषजनक अनुपालन होने की स्थिति में केन्द्र सरकार द्वारा इस विधिवत् स्वीकृति को निरस्त करने का अधिकार सुरक्षित है।

भवदीय,

(के0 के0 तिवारी)
वन संरक्षक {केन्द्रीय}

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु :-

1. अति0 वन महानिदेशक एफ.सी., पर्यावरण एवं वन मन्त्रालय, पर्यावरण भवन सी.जी.ओ. काम्पलेक्स, लोदी रोड, नयी दिल्ली-110003.
2. निदेशक (आर0ओ0एच0क्यू0) पर्यावरण, वन एवं जलवायु परिवर्तन मन्त्रालय, इन्दिरा पर्यावरण भवन, जोरबाग रोड, नयी दिल्ली-110003.
3. विशेष सचिव (वन), उत्तर प्रदेश शासन, बापू भवन, लखनऊ।
4. मुख्य वन संरक्षक, कानपुर मण्डल, कानपुर एवं लखनऊ मण्डल, लखनऊ।
5. प्रभागीय वनाधिकारी/निदेशक, कानपुर देहात, कानपुर एवं उन्नाव।
6. उप प्रबन्धक, पावरग्रिड कार्पो0 आफ इंडिया लि0, 400/220 के0वी0 सब स्टेशन, कुर्सी रोड, पो0-अनवारी, त0-फतेहपुर, बाराबंकी।
7. पर्यावरण, वन एवं जलवायु परिवर्तन मन्त्रालय, क्षेत्रीय कार्यालय, लखनऊ को वेबसाइट पर अपलोडिंग हेतु प्रेषित।
8. आदेश पत्रावली।

(के0 के0 तिवारी)
वन संरक्षक {केन्द्रीय}

**Ministry of Environment, Forest & Climate Change
Regional Office (Central Region)**

Kendriya Bhawan, 5th Floor, Sector-II, Aliganj, Lucknow-226024, Telefax-2326696
Email:(Env.) m_env@rediffmail.com, (Forest)goimoeofrolko@gmail.com

Letter No.-8B/U.P./04/07/2018/F.C./12

Date: 03.04.2019

To,
Nodal Officer and Chief Conservator of Forests
Forest Department, 17 Rana Pratap Marg,
Uttar Pradesh, Lucknow.

(Online proposal number-FP/UP/Trans/23751/2017)

Sub: 400 KV double circuit Lucknow-Kanpur (Part-2) transmission line -Non-forestry use of 0.4809 hectares of protected forest land and permission for felling of 58 trees in unnao, 0.5658 hectare protected forest land without felling of trees in Kanpur district , 0.1748 hectare protected forest land without felling of trees in Kanpur(Rural) , in total Non-forestry use of 1.2215 hectares of protected forest land and permission for felling of 58 trees-Reg

Ref: Ltr.No. 1754/Lucknow-Kanpur Line (1.2215 Ha)/23751/2017, Lucknow, dt 07.03.2019.

Sir

Reference is invited to the letter no. 2136/Lucknow-Kanpur Line/23751/2017, Lucknow, dated 11.01.2018 of the Nodal Officer and Chief Conservator of Forest, Uttar Pradesh Government, by which the State Government has approved the proposal on the subject. Approval of the Government of India was sought under Section 2 of the (Protection) Act, 1980.

For the referred subjectIn-principal approval was issued by this office's letter of even number dated 09.11.2018 for the subject work. The compliance report of which has been presented by the above referred letter of Chief Forest Conservator and Nodal Officer, Uttar Pradesh Government, Lucknow. After considering the compliance report presented, I am directed to inform you that Non-forestry use of 0.4809 hectares of protected forest land and permission for felling of 58 trees in Unnao, 0.5658 hectare protected forest land without felling of trees in Kanpur district , 0.1748 hectare protected forest land without felling of trees in Kanpur(Rural) , in total Non-forestry use of 1.2215 hectares of protected forest land and permission for felling of 58 trees for400 KV double circuit Lucknow-Kanpur (Part-2) transmission line is duly approved subject to the following conditions

1. Legal status of the forest land shall remain unchanged.
2. At the Cost of the user agency, compensatory plantation and maintenance for 10 years will be done by the forest department on the degraded forest land twice the affected forest land (1.2215 x 2 = 2.45 ha.) i.e. 2.45 ha. The said tree plantation work will be completed within 01 year of the issuance of formal approval.

C.E.O./Project In-Charge
P.V.T.S.L.
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3. At the cost of the user agency, the Forest Department will plant and maintain dwarf plants (mainly medicinal plants) for 10 years in the proposed forest land below the transmission line. The said tree plantation work will be completed within 01 year of the issuance of formal approval.
4. Legal action will be taken regarding encroachment by displaced people on Pipli reserved forest land and violation of the provisions of Forest Conservation Act 1980 and Indian Forest Act, 1927 and information about it will be given to the regional office.
5. If there is an increase in the Net Present Value rates, the user agency will have to deposit additional amount of the increased NPV rate.
6. The alignment of the transmission line will be done in such a way that the number of trees to be cut is minimum.
7. The width of the right of way for the transmission line will be limited to 46 meters.
8. Soil disposal will be done at the expense of the user agency as per the action plan under the supervision of the Forest Department.
9. There will be no harm to the flora and fauna of the surrounding area during the construction and maintenance of the project.
10. Apart from the proposed forest land, no work of cutting or digging of soil/stone will be done during the construction work from/on the surrounding forest land.
11. The reverted forest land will not be used for any other purpose.
12. The user agency will supply LPG/kerosene oil to the labourers/staff working at the site during the construction work, so that the nearby forests are not damaged.
13. No camp of any kind will be organized for labourers/staff around the proposed site/forest area by the user agency.
14. The demarcation of the reverted forest area will be done by boundary pillars at the expense of the user agency. On each pillar, serial number, DGPS coordinates, Backward and Forward bearing and distance from the nearest pillar will be shown. The said demarcation work will be completed within 03 months of the issuance of formal approval.
15. The user agency and the state government will follow all the rules, laws and guidelines applicable to the scheme in the present and future.
16. In case of non-compliance or unsatisfactory compliance with any of the prescribed conditions contained in the proposal, the Central Government reserves the right to cancel this formal approval.

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



Yours sincerely,
Sd./-
(K.K. Tiwari)

Conservator of Forest (Central)

Copy for information and necessary action:-

1. Additional Director General of Forests FC, Ministry of Environment and Forests, Paryavaran Bhawan CGO. Complex, Lodhi Road, New Delhi-110003.
2. Director (ROHQ), Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003.
3. Special Secretary (Forest), Government of Uttar Pradesh, Bapu Bhawan, Lucknow.
4. Chief Conservator of Forest, Kanpur Division, Kanpur and Lucknow Division, Lucknow.
5. Divisional Forest Officer/Director, Kanpur Dehat, Kanpur and Unnao.
6. Deputy Manager, Power Grid Corporation of India Ltd., 400/220 KV Sub Station, Kursi Road, Po-Anwari, T-Fatehpur, Barabanki.
7. Sent to the Ministry of Environment, Forest and Climate Change, Regional Office, Lucknow for uploading on the website. Order file.

(K.K. Tiwari)
Conservator of Forest (Central)

Yours sincerely
Sd./-
(Prachi Gangwar)
Deputy Inspector General of Forest (Central)

Copy for information and necessary action

1. Chief Conservator of Forests and Nodal Officer (Forest Conservation), 17, Rana Pratap Marg, Lucknow, S. 050.
2. Divisional Forest Officer, Mirzapur Forest Division, Mirzapur.
3. Divisional Forest Officer, Varanasi Forest Division, Varanasi.
4. Manager, Power Grid Co. of India Ltd. North Zone-III. Varanasi.
5. Ministry of Environment, Forest and Climate Change, Regional Office, Lucknow for uploading/order form on the website.

(Prachi Gangwar)

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI



पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड  **पावरग्रिड**
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED **POWERGRID**

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]

C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Ref: NR-III/PVTSL/VNS/3६२

Date:-06.01.2021

To,

As per Distribution List over leaf

Sub.: Transmission System associated with the "New WR-NR 765 kV Inter-Regional Corridor": Notice being issued under clause 12.3 of Transmission Service Agreement for "Change in Law" caused due introduction of Bird diverters/ deflectors in the Transmission Line passing through Forests at suitable Intervals to avoid bird hits.

Ref.: Transmission Service Agreement (TSA) dated 27.04.2017

Dear Sir,

The subject Transmission System is being executed by POWERGRID Varanasi Transmission System Ltd (PVTSL) and is governed by Transmission Service Agreement (TSA) signed between PVTSL and Long Term Transmission Customers (LTTCS).

In line with TSA, notice is hereby given under Article 12.3 of TSA consequent upon "Change in Law" caused due to introduction of Bird diverters / deflectors which are to be fixed on Earthwire & OPGW of Transmission Line at suitable intervals to avoid bird hits. This new requirement is as per circular no. 238/2/2019 dtd.22.02.2019 of Ministry of Environment, Forest & Climate Change (Government of India) and condition imposed by Forest Authorities in Stage-I approval. (copy of U.P.& M.P. portion enclosed).

Imposition of above new requirement by the approving authority in our 765kV D/C (Hexa) Vindhyaachal Pooling Station to Varanasi transmission line involves re-engineering, procurement & implementation activities. The process of re-engineering, procurement, execution for such a large no. of Bird deflectors/diverters (in the range of 7302 nos. appx.) shall lead to extra time requirement.

Further, the total cost of additional 7302 nos. (appx.) bird deflectors/ diverters shall also be very high. The excess expenditure amount and excess time requirement shall be known only after work is completed/ executed and payments are made.

The above mentioned excess time & expenses to be incurred against 765kV D/C (Hexa) Vindhyaachal Pooling Station to Varanasi transmission line for installation of bird diverters/ deflectors in line with above approval letters shall be furnished in due course of time.

Thanking you,

Enclosed: As above.

Yours Sincerely,

(Handwritten Signature)

C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

(Handwritten Signature)

(S.K.Rai)
CEO/PVTSL, Varanasi

Distribution: as per attached list

Copy for kind information to:

Executive Director NR-III/TBCB-CC/CMG/WR-II
CGM (TBCB & CMG), CC
Dy.CEO,PVTSL,Vindhyaachal.

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड

POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED



[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

Distribution list:

1. The Chairperson, Chhattisgarh State Power Distribution Company Ltd
4th Floor, Sewa Bhawan, Dangania, Raipur 492013 (C.G.)
2. The Chairperson, Goa Electricity Department, Government of Goa, 3rd Floor,
Vidyut Bhawan, Tiswadi, Goa - 403001
3. The Chairperson, Maharashtra State Electricity Distribution Company Ltd
5th Floor, Prakashgad, Bandra (E), Mumbai - 400051
4. The Chairperson, Electricity Department, Daman & Diu,
Kesariya-Diu road, Gandhipara, Diu, Daman and Diu 362520
5. The Chairperson, DNH Power Distribution Corporation Ltd,
Vidyut Bhawan, Near Secretariat, Amla, Silvassa, Dadar and Nagar Haveli 396230
6. The Chairperson, Gujarat Urja Vikas Nigam Ltd,
Sardar Patel Vidyut Bhawan, Race Course, Vadodara, Gujarat-390007
7. The Chairperson, M.P. Power Management Company Ltd,
Shakti Bhawan, MPSEB colony, Rampur, Jabalpur, Madhya Pradesh 482008
8. The Chairperson, BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place, New Delhi - 110019
9. The Chairperson, BSES Yamuna Power Ltd.
2nd Floor, Shakti Kiran Building, Karkardooma, New Delhi - 110092
10. The Chairperson, New Delhi Municipal Council,
NDMC, New Delhi - 110001
11. The Chairperson, TATA Power Delhi Distribution Ltd.
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009
12. The Chairperson, Power Development Department, Civil Secretariat, Jammu - 180001
13. The Chairperson, Rajasthan Urja Vikas Nigam Ltd. (on behalf of following discoms)
Shed No. 5/4, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur- 302005
 - (i) Ajmer Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road, Ajmer- 305004
 - (ii) Jodhpur Vidyut Vitran Nigam Ltd
New Power House, Industrial Area, Jodhpur 342003
 - (iii) Jaipur Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Janpath, Jaipur 302005


पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

पावरग्रिड वाराणसी ट्रांसमिशन सिस्टम लिमिटेड  **पावरग्रिड**
POWERGRID VARANASI TRANSMISSION SYSTEM LIMITED **POWERGRID**

[A 100% wholly owned subsidiary of Power Grid Corporation of India Ltd (POWERGRID)]
 C/o पावरग्रिड, सी-27/210, कैलगढ़ हाउस, जगतगंज, हिन्दुस्तान टाइम्स कैम्पस, वाराणसी-221002, उत्तर प्रदेश

14. The Chairperson, Uttarakhand Power Corporation Ltd.
Victoria Cross Vijeyta Gabar Singh Urja Bhawan,
Kanwali Road, Balliwala Chowk, Dehradun 248001
15. The Chairman, Uttar Pradesh Power Corporation Ltd.
7th Floor, Shakti Bhawan, 14 Ashok Marg, Lucknow 226001
16. The Chairperson, Electricity Wing of Engineering Department
Union Territory of Chandigarh, OP Circle, 5th Floor, New Deluxe Building, Sector 9, Chandigarh
160009
17. The Chairperson, Himachal Pradesh State Electricity Board Ltd,
Vidyut Bhawan, Shimla 171004
18. The Chairperson, Haryana Power Purchase Centre
Shakti Bhawan, Sector 6, Panchkula 134109
19. The Chairperson, Punjab State Power Corporation Ltd
Thermal Sheds, T1-A, Patiala -147001


 C.E.O./Project In-Charge
 P.V.T.S.L.
 VARANASI

पंजीकृत कार्यालय / Registered Office

बी-9, कुतुब इंस्टीट्यूशनल एरिया, कटवारिया सराय, नई दिल्ली - 110016

B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110016

Calculation of revised annual non-escalable transmission charges of PVTSL
(on account of Change in Law events)

1) As per Cl.No.12.2.1 of TSA (copy placed at local reference), the relief pertaining to "Change in Law" stipulates as follows :

12.2 Relief for Change in Law

12.2.1 During Construction Period:

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be governed by the formula given below:

*-For every cumulative increase/decrease of **Rupees Two Crore Eighty Seven Lakh Only (Rs.2,87,00,000/-)** in the cost of the Project up to the Scheduled COD of the Project, the increase/decrease in non-escalable Transmission Charges shall be an amount equal to **0.313 percent (0.313%)** of the Non-Escalable Transmission Charges.*

- | | | |
|---|---|---|
| 2) Total increase in cost as per Auditor's certificate | : | 12.5657 Cr |
| 3) Accordingly, the increase in annual non-escalable transmission charges of PVTSL approved CERC vide Order dated 05.09.2018 in Petition No. 120/ AT/2018 | : | 0.313 * (12.5657/2.87)
i.e. 1.37 ⁰ % per year |



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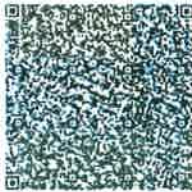
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL09510571820461V
Certificate Issued Date	: 23-May-2023 01:45 PM
Account Reference	: IMPACC (IV)/ dl732103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL73210389239634473222V
Purchased by	: POWERGRID VARANASI TRANSMISSION SYSTEMS LIMITED
Description of Document	: Article 48(c) Power of attorney - GPA
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: POWERGRID VARANASI TRANSMISSION SYSTEMS LIMITED
Second Party	: Not Applicable
Stamp Duty Paid By	: POWERGRID VARANASI TRANSMISSION SYSTEMS LIMITED
Stamp Duty Amount(Rs.)	: 50 (Fifty only)



Please write or type below this line

General Power of Attorney

Know all men by these presents, we POWERGRID Varanasi Transmission System Limited (hereinafter referred to as PVTSL which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, and assigns) having its Registered Office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi – 110 016 do hereby constitute, appoint and authorize Shri S K Rai, Project In-charge (CEO) of PVTSL residing at 3/207 Vijayant Khand Gomti Nagar, Lucknow, Uttar Pradesh - 226010 as our true and lawful attorney, to do in our name and our behalf, all of the acts or things hereinafter mentioned, that is to say:-

Statutory Alert:

- 1 The authenticity of this Stamp certificate should be verified at www.shrcstamp.com or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website Mobile App renders it invalid.
- 2 The onus of checking the legitimacy is on the users of the certificate.
- 3 In case of any discrepancy please inform the Competent Authority

P.V.T.S.L.
VARANASI

1. To constitute, and defend legal cases, sign and verify plaints, written statements, petitions and objections, memorandum of appeal, claims, affidavits, applications, re-applications and pleadings of all kinds and to file them in Central Electricity Regulatory Commission (CERC), State Electricity Regulatory Commissions (SERCs), Appellate Tribunal for Electricity (ATE), Civil, Criminal or Revenue courts, Arbitration, Labour Court, Industrial Tribunal, High Court and Supreme Court, whether having original or appellate jurisdiction and before Government or Local Authorities or Registration Authorities, Tax Authorities, Tribunals, etc.
2. To appear, before various Courts / Tribunals / CERC / SERCs / Appellate Tribunal for Electricity.
3. To appoint any Advocate, Vakil, Pleader, Solicitor or any other legal practitioner as Attorney to appear and conduct case proceedings on behalf of the company and to sign Vakalatnama.
4. To compromise, compound or withdraw cases from any Court / Tribunal / CERC / SERCs / Appellate Tribunal for Electricity.
5. To file petitions/applications or affidavits before the Supreme Court/ High Court/ CERC/ SERCs/ Appellate Tribunal for Electricity and to obtain the copies of documents, papers, records, etc.
6. To file and receive back documents, to deposit and withdraw money from Courts, Tribunal, Registrar's Office and other Government or Local Authorities and to issue valid receipts thereof.
7. To apply for and obtain refund of stamp duty or court fee, etc.
8. To issue notices and accept service of any summons, notices or orders issued by any Court / Tribunal / CERC / SERCs / Appellate Tribunal for Electricity on behalf of the Company.
9. To execute deeds, agreements, bonds and other documents and returns in connection with the affairs of the company and file them or cause to be filed for Registration, whenever necessary.
10. To issue Project Authority Certificate(s) in respect of contracts for Load Despatch & Communication Systems, Transmission Systems etc. and to lodge claims with the Railways, Transporters, Shipping Agents and Clearing Agents and to settle/compromise such claims.
11. To lodge claims with the Insurance companies, to settle/compromise such claims and on satisfactory settlement thereof, to issue letters of subrogation/power of attorney in favour of Insurance companies.
12. To execute sign and file applications, undertakings, agreements etc. to or with the Central / State Government(s) / Body(ies) to obtain 'right of way' or any of other Right(s) / Privilege(s) etc.
13. To execute, sign and file applications, undertakings, agreements, bills, documents etc. to or with the Central / State Government(s) / Body(ies) and other authorities/ entities including Central Transmission Utility (CTU)/ GRID Controller of India Limited/ Central

[Signature]
C.E.O./Project In-Charge
P.V.T.S.L.
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[Signature]
 (Name to be filled in)

Electricity Authority (CEA)/ CERC with respect to Commissioning of the Project, realization of Transmission charges, to obtain 'right of way' or any of other Right(s) / Privilege(s) etc.

14. To execute Consultancy, Funding and other Agreements
15. To act as administrator for e-filing process with CERC and other Statutory authorities.
16. Generally, to do all lawful acts, necessary for the above-mentioned purposes.
17. To further delegate any of the aforesaid Powers except for SI Nos. 9, 10 & 13 to any of the officers/employees (not below the level of Manager) of Power Grid Corporation of India Limited as deemed fit subject to rules, policy etc. of PVTSL or law in force & overall supervision of Delegatee

The Company hereby agrees to ratify and confirm all and whatsoever the said Attorney shall lawfully do execute or perform or cause to be done, executed or performed in exercise of the power or authority conferred under and by virtue of this Power of Attorney.

..... X *[Signature]*

Signed by the within named
POWERGRID Varanasi Transmission System Limited
through the hand of **Shri B Anantha Sarma, Chairman (Part-time)**
Duly authorized by the Board to issue such Power of Attorney

Dated this 30th day of May, 2023

Accepted

[Signature]

Signature of Attorney

Name: Shri S K Rai
Designation: Project In-charge (CEO), POWERGRID Varanasi Transmission System Limited
Address: 3/207 Vijayant Khand Gomti Nagar, Lucknow, Uttar Pradesh - 226010

Attested

..... X *[Signature]*

(Signature of the Executant)

Name: **Shri B Anantha Sarma, Chairman (Part-time)**
Designation: Chairman (Part-time)
Address: B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi - 110 016

Signature and Stamp of Notary of the place of execution

WITNESS

For and on behalf of POWERGRID Varanasi Transmission System Ltd.

For POWERGRID Varanasi Transmission System Ltd.

[Signature]
Richi Mahajan
Company Secretary

[Signature]
DIRECTOR

For and on behalf of POWERGRID Varanasi Transmission System Ltd.

[Signature]
DIRECTOR



ATTESTED

[Signature]
NOTARY PUBLIC, DELHI

- 8 JUN 2023

C.E.O./Project In-charge
PVTSL
VARANASI
[Signature]

FORM-1

Particulars	
1. Name of the Petitioner	POWERGRID Varanasi Transmission System Limited
2. Address of the Petitioner	(Formerly known as WR-NR Power Transmission Limited) B-9, Qutub Institutional Area, Katwaria Sarai, New Delhi – 110016
3. Subject Matter	PETITION UNDER SECTIONS 63 AND 79 OF THE ELECTRICITY ACT, 2003 READ WITH REGULATION 86 OF THE CENTRAL ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 1999 FOR PROVIDING RELIEF UNDER FORCE MAJEURE, ARTICLE 11 AND CHANGE IN LAW, ARTICLE 12 OF TRANSMISSION SERVICE AGREEMENT DATED 27.04.2017, RELATED TO NEW WR-NR 765KV INTER-REGIONAL CORRIDOR.
4. Petition No., if any	
5. Details of generation assets (a) generation station/units (b) Capacity in MW (c) Date of commercial operation (d) Period for which fee paid (e) Amount of fee paid (f) Surcharge, if any	N.A.
6. Details of transmission assets (a) Transmission line and sub-stations (b) Date of commercial operation (c) Period for which fee paid (d) Amount of fee pad (e) Surcharge, if any	N.A.
7. Fee paid for Adoption of tariff for (a) Generation asset (b) Transmission asset	N.A.
8. Application fee for licence (a) Trading licence (b) Transmission licence (c) Period for which paid (d) Amount of fee paid	N.A.
9. Fee paid for Miscellaneous Petition	Yes
10. Fees paid for Interlocutory	N.A.

C.E.O./Project In-Charge
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Application	
11. Fee paid for Regulatory Compliance petition	N.A.
12. Fee paid for Miscellaneous Petition	N.A.
13. License fee for inter-State Trading (a) Category (b) Period (c) Amount of fee paid (d) Surcharge, if any	N.A.
14. License fee for inter-State Transmission (a) Expected/Actual transmission charge (b) Period (c) Amount of fee paid (d) Surcharge, if any	N.A.
15. Annual Registration Charge for Power Exchange (a) Period (b) Amount (c) Fee paid (d) Surcharge, if any	N.A.
16. Details of fee remitted (a) NEFT No./UTR No. (b) Date of remittance (c) Amount of remitted	 UTR No. SBIN324163064623 11.06.2024 Rs. 3,00,000/-


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

POWERGRID Varanasi Transmission System Limited



CERC

NEFT Advice For Payer

Beneficiary Bank Name	Bank of India (NEFT)
Beneficiary Details	
Beneficiary Name	CERCU
Beneficiary Account No.	BOI100624CERCA0178
NEFT Advice Date	10/06/2024 15:06:04
Beneficiary IFSC Code	BKID0SABPAI
Beneficiary Branch	Mumbai
Transaction Details	
Payer Name	WR NR Power Transmission Limit
NEFT Expiry Date	12/06/2024
SP Transaction Id	113501006240369947
Client Transaction Id	f8043c96e56bd1cf46da
Total Amount (*Inclusive of Service Tax)	300024
Pay Mode	NEFT
Transaction ID (Bank Reference No)	

Instructions:

कृपया दिए गए Total Amount की ही राशि का NEFT करें | कम या ज्यादा Amount का NEFT करने पर NEFT रिजेक्ट और रिफंड हो जायेगा |

Keep this copy with you for the future reference

Please visit your bank and request for only NEFT transfer (Not RTGS) using above advice

Please ensure to transfer exact amount as mentioned in Total Amount Any other amount will result in failure in updation of your transaction.


C.E.O./Project In-Charge
P.V.T.S.L.
VARANASI

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION**7TH TOWER B, WORLD TRADE CENTRE,
NAUROJI NAGAR, NEW DELHI – 110 029****PETITION NO. OF 2024****IN THE MATTER OF:**

POWERGRID Varansai Transmission System Limited - Petitioner

Versus

Uttar Pradesh Power Corporation Limited & Ors. - Respondents

VAKALATNAMA

I,S.K.Rai, working as Project -In-Charge in POWERGRID Varansai Transmission System Limited, the Petitioner in the above petition do hereby appoint and retain R Associates, namely, Ms. Poorva Saigal and Mr. Shubham Arya, Ms. Pallavi Saigal, Ms. Reeha Singh, and Mr. Devyanshu Sharma Advocate/s to appear, plead and act for me/us in the above petition/application and to conduct and prosecute all proceedings that may be taken in respect thereof and applications for return of documents, enter into compromise and to draw any moneys payable to me/us in the said proceeding also to appear in all applications for review and for leave to the Supreme Court of India in all applications for review of judgment.

Place: *LUCKNOW*Date: *20.06.2024*

Executed in my presence


Signature of the Party*C.E.O./Project In-Charge*
P.V.T.S.L.
VARANASI

"Accepted"

(Address for service on the Counsel for
Appellant/Respondent. Furnish
C-61, Jangpura Extension
New Delhi - 110014
Phone No. 011-40743543
Email: office@rassociates.in