

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 96/MP/2023

Coram:

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

Date of Order: 5th October, 2023

In the matter of

Petition to allow transfer/sell of spare 2 Nos. of 220 kV bays and 1 no. 400 kV tower to BSPTC at mutually agreed consideration, terms and conditions for gainful utilisation of idle assets, and (ii) modification in Transmission Licence No.12/Transmission/2010/CERC dated 10th January, 2019 granted to Cross Border Power Transmission Company Limited for 400 kV D/C Muzaffarpur-Sursand Transmission Line, 2 Nos. 400 kV line bays & 2 Nos. 220 kV Line bays at Muzaffarpur sub-station of Powergrid.

And

In the matter of

Cross Border Power Transmission Company Limited,

1st floor, Corporate Office Tower,
Ambience Mall Complex, Ambience Island, NH-8,
Gurgaon122001, Haryana

....**Petitioner**

Vs

1. Power Grid Corporation of India Limited,

“Saudamini” Plot No. 2, Sector-29, Near IFFCO Chowk,
Gurgaon122001, Haryana

2. Bihar State Power Transmission Company Limited,

Vidyut Bhawan, Bailey Road, Patna-800021, Bihar

3. Central Transmission Utility of India Limited,

“Saudamini” Plot No. 2, Sector-29, Near IFFCO Chowk,
Gurgaon122001, Haryana

4. Member Secretary (Planning)

Central Electricity Authority

36, Sector 5, Ramkrishna Puram, New Delhi-110066

.....**Respondents**



Parties Present:

Shri Sathish Kumar, CBPTCL
Shri B. Dash, CBPTCL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL
Ms. Priyansi Jadiya, CTUIL

ORDER

The Petitioner, Cross Boarder Power Transmission Company Limited (hereinafter referred to as "CBPTCL"), has filed the present Petition for seeking permission to transfer /sell two nos. of 220 kV line bays and one no. of 400 kV tower to Bihar State Power Transmission Company Limited (BSPTCL) at mutually agreed consideration, terms and conditions for the gainful utilization of the idle assets and modification of the transmission licence No. 12/Transmission/2010/CERC dated 10.1.2019 granted for the 400 kV D/C Muzaffarpur-Sursand transmission line, 2 nos. of 400 kV D/C Muzaffarpur-Sursand Transmission Line, 2 nos. 400 kV line bays & 2 nos. 220 kV line bays at Muzaffarpur sub-station of Power Grid. The Petitioner has made the following prayers:

“(a) The Commission may allow to transfer/ sell of spare 2 nos. 220 kV bays and one no. 400 kV tower to BSPTC at mutually agreed consideration, terms and conditions for gainful utilization of ideal assets; and

(b) The Commission will be pleased to modify the transmission licence issued to Cross Border Power Transmission Company Limited by deleting 2 no line bays at an early date.”

Background

2. By order dated 1.12.2010, Cross Border Power Transmission Company Limited was granted a transmission licence in accordance with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission licence



and other related matters) Regulations, 2009 as amended from time to time for the establishing, commissioning, operating and maintaining of the following Transmission System:

(a) **Transmission Lines:**

S. No.	Name (end points location)	Voltage Class (kV)	Length (Km)	Type (S/C or D/C)
1.	Muzaffarpur-Sursand (Portion of the line falling in Indian territory)	400 kV to be initially charged at 220 kV	90 Km	D/C Twin Moose

(b) **Sub-stations:**

S. No.	Name (Locations)	Voltage Class (kV)	No. of Bays
1	Bay Extension work at Muzaffarpur Substation of Power Grid	220	2

3. Vide order dated 10.1.2019, the transmission licence granted to the Petitioner was amended/modified. The relevant portions of the order dated 10.1.2019 are extracted as under:

“10. We have considered the submissions of the Petitioner and perused documents on record. Central Electricity Authority vide its letter dated 29.5.2018 has granted approval to the Petitioner under Section 68(1) of Electricity Act, 2003 for the bays. CTU vide its letter dated 23.5.2018 has recommended for modification of transmission licence as proposed by the Petitioner. We are prime facie of the view that the Petitioner has fulfilled all the conditions and has obtained all the approvals for modification of transmission licence.

11. Since, the Petitioner’s company meets the requirements of the Act and the Transmission Licence Regulations for the modification of transmission licence, we direct that transmission licence granted to the Petitioner, namely, Cross Border Power Transmission Company Limited, be amended to undertake the business of modifying, establishing, commissioning, operating and maintaining of the Transmission System as under:



(a) **Transmission Line:**

Sl. No.	Name (end points location)	Voltage Class (kV)	Length (Km)	Type (S/C or D/C)	Remarks
1	Muzaffarpur-Sursand	400 kV	90 Km	D/C Twin Moose	Under operation

(b) **Sub-stations:**(Modified)

Sl. No.	Name (Locations)	Voltage Class (kV)	No. of bays	Remarks
1.	Bay Extension work at Muzaffarpur Substation of Power Grid	400	2	New
2.	Bay Extension work	220	2	Existing

4. The main objectives of the Petitioner's Company *inter-alia* include engaging in the business of building, maintaining and operating transmission systems between India and neighbouring countries like Nepal, Bhutan, Bangladesh, Myanmar, Sri Lanka, and Pakistan for the purpose of export and import of electricity, transmission of data and other related business. In order to promote cross border trade and transfer of electricity, a Joint meeting between the Indian delegation consisting of officials from the Ministry of Power, Government of India, CEA, POWERGRID, IL&FS and PTC India Limited and the Nepalese delegation consisting of officials of the Nepal Electricity Authority was held on 17.9.2017 at Kathmandu in which it was unequivocally decided that in order to facilitate transaction of electricity over the Power Exchange, initially one 400 kV D/C inter-connection between Dhalkebar in Nepal to Muzaffarpur(PG) in India will be implemented and as the Nepal grid was not having a 400 kV system, the line will be initially charged at 220 kV.

Submissions of the Petitioner

5. The Petitioner, has mainly submitted as under:



(a) BSPTCL has been constructing two 220 kV transmission lines, namely, (i) 220 kV Muzaffarpur-Garaul transmission line, and (ii) 220 kV Muzaffarpur-Chapra (new), Garaul transmission line. For the termination of these two transmission lines, BSPTCL has a requirement of the 4 nos. 220 kV bays at Muzaffarpur sub-station of POWERGRID. BSPTCL has implemented two nos. 220 kV GIS bays at Muzaffarpur sub-station. For the balance of two nos. of 220 kV bays, BSPTCL approached the Standing Committee on Power System Planning in the Eastern Region for the requisite approvals.

(b) The 18th Standing Committee Meeting on Power System Planning in Eastern Region held on 13.6.2016 noted that BSPTCL may utilize 2 nos. 220 kV AIS Bays of Cross Border Transmission Limited (in Short 'CPTC') which would become vacant after the commissioning of the 400 kV Muzaffarpur-Dhalkebar transmission line at 400 kV voltage level based on a commercial agreement between CPTC & BSPTCL.

(c) CPTC vide its letter dated 23.11.2018 informed BSPTCL that after commissioning the Muzaffarpur-Dhalkebar transmission line at its rated voltage of 400 kV by December 2019, two nos. of 220 kV bays and 5 nos. of 400 kV towers would be vacant and shall be available to the interested parties for the gainful utilization on lease or outright transfer.

(d) In the 2nd meeting of the Eastern Region Standing Committee on Transmission (ERSCT) held on 5.7.2029, CEA suggested that 'BSPTCL could explore the possibility of utilization of the 2 nos. 220 kV line bays of CPTC. In the meeting, it was also observed that the commercial matters in this regard, if any, may be settled bilaterally between CPTC and BSTPCL.

(e) BSPTCL vide its letter dated 8.2.2021 informed that based on the request of CPTC to explore the possibility of utilization of 2 nos. 220 kV AIS bays and five nos. 400 kV tower of CPTC either on the lease or outright transfer basis, BSPTCL would require the 2 nos. 220 kV AIS bays and one no. 400 kV tower for termination of its transmission lines which are under construction. Accordingly, BSPTCL requested CPTC to give its consent for the handover of 2 nos. 220 kV



AIS bays and one no. 400 kV tower for termination of one no. 220 kV transmission line at Muzaffarpur.

(f) CPTC and BSPTCL convened a meeting on 8.3.2021. CPTC, vide its letter dated 15.3.2021, informed that the 400 kV Muzaffarpur-Dhalkebar transmission line has been charged at 400 kV voltage level on 11.11.2020 and is now available for gainful utilization.

(g) BSPTCL, vide its letter dated 23.5.2022 to Chief Engineer (PSPA-II), CEA, referred to the discussions held on 5.1.2022 and requested that (i) CPTC may be asked to submit its final proposal for outright sell/ transfer of 2 nos. 220 kV bays and one no. 400 kV tower, (ii) in case the above is not agreeable by the management, CEA may instruct CPTC to allow BSPTCL to use the spare bays for the intervening period as construction of two new bays may take some time and (iii) to direct PGCIL to allocate space for 2 nos. 220 kV GIS bays at Muzaffarpur sub-station.

(h) CPTC, vide its letter dated 1.6.2022 to BSPTCL informed that the matter has been discussed by the Board of Directors of CPTC and consequently, CPTC has initiated action to take necessary clearance from the different agencies and regulators before transferring the subject assets at mutually agreed consideration and other terms and conditions, i.e., NOC/ clearance from NEA (Nepal Electricity Authority), PFC (Power Finance Corporation, the Financer), and CERC, the regulator.

(i) BSPTCL vide its letter dated 8.8.2022 informed that since its transmission line is expected to be commissioned by 31.8.2022, CPTC may allow BSPTCL to use the two nos. 220 kV bays at Muzaffarpur sub-station till the transfer of the assets is done to BSPTCL. Further, BSPTCL requested for final proposal for the outright sale/sale of the assets under consideration.

(j) On 1.8.2022, Nepal Electricity Authority accorded its consent to transfer the proposed assets i.e. 2 nos. 220 kV line bays along with one no 400 kV tower. On 3.11.2022, PFC gave its in-principle approval for the sale/transfer of assets to



BSTPCL. Therefore, it is mandatory on the part of the transmission licensee to get approval from the Commission prior to transferring any part of the utility, i.e. transmission system in terms of Section 17 (3) of the Electricity Act, 2003 (in Short 'the Act'). Accordingly, the Petitioner is seeking permission to allow CPTC to transfer/sell two nos. 220 kV line bays and one no. 400 kV tower to BSPTCL at mutually agreed consideration, terms and conditions for the gainful utilization of idle assets and to modify the transmission licence to remove 2 nos. 220 kV bays as under:

(a) Transmission Lines:

Sl. No.	Name (end points location)	Voltage Class (kV)	Length (Km)	Type (S/C or D/C)
1	Muzaffarpur-Sursand	400 kV	90 Km	D/C Twin Moose

(b) Sub-stations:

Sl. No.	Name (Locations)	Voltage Class (kV)	No. of bays
1	Bay Extension work at Muzaffarpur Substation of Power Grid	400 kV	2

Hearing Dated 3.8.2023

6. Notice was issued to the Respondents to file their replies. However, no reply has been filed by the Respondents. Vide Record of proceedings for the hearing dated 3.8.2023, the Petitioner was directed to confirm on an affidavit that the Petitioner has complied with the procedure/requirement laid down in Regulation 19 read with Regulation 7 of the Transmission Licence Regulations, 2009 read with the Commission's Order dated 22.1.2022 in Petition No. 1/SM/2022, a copy of the resolution passed by the empowered Board of Directors for outright sale/ transfer of assets (2 nos. 220 kV bays & one 400 kV tower) to BSPTCL, and a copy of the mutually agreed cost of outright sale/ transfer of assets & terms and conditions, thereof for the sale proposal in the instant Petition.



7. The Petitioner, vide its affidavit dated 31.8.2023, has submitted that it has complied with the requirement laid down in Regulation 19 read with Regulation 7 of the Transmission Licence Regulations, 2009 read with the Commission's Order dated 22.1.2022 in Petition No. 1/SM/2022. The Petitioner has placed on the record a copy of the Resolution of the Board of Directors of CPTC dated 17.1.2023 resolving the sale/transfer and an agreement signed on 10.3.2023 between the Petitioner and BSPTCL for the transfer/sale of the assets. As per the Agreement, transfer/sales shall be on the book values of assets on the date of transfer/sale.

Hearing Dated 22.9.2023

8. During the course of the hearing, the representative of the Petitioner submitted that the Petitioner has also filed an affidavit dated 31.8.2023 furnishing the information as called for by the Commission vide Record of Proceedings for the hearing dated 3.8.2023. After hearing the representative of the Petitioner, the Commission reserved the matter for the order.

Analysis and Decision

9. We have considered the submissions of the Petitioner. The Petitioner has approached the Commission under Section 17 (3) of the Act to seek prior permission for the transfer/sale of spare 2 nos. 220 kV bays and one no. 400 kV tower to BSPTCL at mutually agreed consideration, terms and conditions for the gainful utilization of ideal assets and consequently, for modification of the transmission licence granted to the Cross-Border Power Transmission Company Limited by deleting 2 nos. line bays.

10. Section 17 (3) of the Act provides as under:



“(3) No licensee shall be any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission.”

Under the above provisions, the licensee cannot transfer his utility to any other entity without the approval of the Commission.

11. In the 18th Standing Committee Meeting on Power System Planning in Eastern Region held on 13.6.2016, it was noted that BSPTCL may utilize 2 nos. 220 kV AIS bays of CPTC which would become vacant after commissioning of 400 kV Muzaffarpur-Dhalkebar transmission line at 400 kV voltage level based on a commercial agreement between CPTC & BSPTCL. The relevant portion of the minutes of the meeting of the said meeting dated 13.6.2016 is extracted as under:

“17.4. After further deliberations, members agreed for construction of 2 no 400 k V line bays at Muzaffarpur and construction of 400 k V D/c line section at Muzaffarpur end for termination of Muzaffarpur-Dhalkebar (Nepal) line (presently operated at 132 k V) at 400 k V bus by POWERGRID with tariff to be borne by Nepal.”

12. In the 2nd Meeting of the Eastern Region Standing Committee on Transmission held on 5.7.2019, CEA suggested that BSPTCL could explore the possibility of utilization of the 2 nos. 220 kV line bays of CPTC and commercial matters in this regard, if any, may be settled bilaterally between CPTC and BSTPCL. The relevant portion of the said minutes of the meeting are extracted as under:

“10.3 Director (PSPS-II), CEA informed that a meeting was held on 26.3.2019, wherein this proposal was discussed. In the meeting, the representative of CTU (POWERGRID) stated that space is available for 2 nos of 220 k V GIS bays at Muzaffarpur (PG) for termination of proposed Muzaffarpur-Goraul 220 k V D/C line.

10.4 After deliberations, the proposal for establishment of Goraul, 220/132/33k V, 2X160 MVA + 3X50 MVA GSS with connectivity as mentioned at para 10.2 was agreed for implementation under intra-State scheme of BSPTCL.

10.5 It was informed that M/s CPTC has implemented 2 no. 220 kV line bays at Muzaffarpur for termination of Muzaffarpur-Dhalkebar (Nepal) 400 kV D/C line (initially operated at 220 k V). The line is expected to be operated at rated voltage level of 400 kV. Upon 400 kV operation, the two no. 220 kV line bays would be vacant. Accordingly, it was suggested by CEA that BSPTCL could explore possibility of utilization of the



said 2 no. 220 kV line bays of M/s CPTCL. The Commercial matters in this regard, if any, may be settled bilaterally between M/s CPTC and BSPTCL.”

13. Nepal Electricity Authority, vide its letter dated 1.8.2022, granted no objection to the transfer of the proposed assets. The relevant portions of the no objection are extracted as under:

“Subject: No Objection Certificate

Dear Sir,

This is in reference to your letter Ref No. C/CPTC/NEA/2BAYS/22-23/01 dated May 24, 2022 regarding sale/transfer of spare assets (n nos. 220 k V bays and 1 no. 400 kV Tower) of CPTCL to BSPTCL

In this regard, Nepal Electricity Authority has no objection to the sale of two (2) nos. of 220 k V sub-station bays and one (1) no. of 400 kV tower of Cross Border Power Transmission Company to Bihar State Power transmission Company Limited as requested.”

14. The PFC, Financer of the project, vide its letter dated 3.11.2022 had accorded in-principle approval for the sale and transfer of assets to BSTPCL. Relevant portions of the said letter dated 3.11.2022 are extracted as under:

“This is in reference to your letter referred above requesting for no objection certificate (NOC)/approval for sale/transfer of spare assets of the project (2 nos 220 k v BAYS AND 1 NOS 400 K v tower) to BSPTCL.

In this regard, it is intimated that PFC has no objection for sale of spare assets (2 nos 220 k V bays and 1 no. 400 kV tower) of the above project by CPTCL, subject to payment of proportionate basis to PFC for reducing PFC loan amount (i.e 82.54% of sale amount to be paid to PFC, as per the last sanction availed by the Company) without prepayment charges. This amount shall be adjusted by PFC in the inverse order of maturity.

Further, PFC`s charge on all other project assets of CPTCL shall continue for the entire tenure of the PFC loan.”

15. The Board of Directors of CBPTCL in its 75th meeting held 17.1.2023 has approved the sale/transfer of 2 nos. 220 kV AIS bays and one no 400 kV tower to BSPTCL. The relevant portions of the minutes of the 75th meeting of the Board of Directors of CBPTCL are extracted as under:



“RESOLVED THAT the Board be and is hereby accorded approval to sale/transfer of 02 nos. 220 kV AIS bays and 01 no. 400 kV tower to Bihar State Power Transmission Company Limited (BSPTCL) at a sale consideration of book value as on the date of transfer or use, whichever is earlier, on terms and conditions mutually agreed between the parties (BSPTCL and CPTC)

RESOLVED FURTHER THAT Director-In-Charge and/or CEO and/or CS of the Company be and is hereby severally authorized to file necessary form with the Registrar of Companies and to do all such acts, things and deeds as may be required to give effect to this resolution without waiting for final approval of minutes of the meeting.”

16. CTUIL, vide its letter dated 10.2.2023, has recommended the modification of the transmission licence granted to the Petitioner company. Relevant portions of the recommendation are extracted as under:

“6. In the 2 meeting of Eastern Region Standing Committee on Transmission (ERSCT) hold on 05-07-2010, establishment of Muzaffarpur (POWERGRID) Goraul (BSPTC) 220kV D/c line under Intra-state by BSPTC was agreed Therein, it was informed that M/s CPTC has implemented 2 no. 220kV line bays at Muzaffarpur for termination of Muzaffarpur-Dhalkebar (Nepal) 400kV D/c line (initially operated at 220kV). The line is expected to be operated at rated voltage level of 400kV. Upon 400kV operation, the two no. 220kV line bays would be vacant. Accordingly, it was suggested by CEA that BSPTC could explore possibility of utilisation of the said 2 no. 220kV line bays of M/s CPTC. The commercial matters in this regard, if any, may be settled bilaterally between M/s CPTC and BSPTC Relevant extracts of the said minutes of meetings are enclosed at Annexure-III.

7. From the application it is gathered that 2 no. 400 kV line bays were put to commercial use w.e.f., 11-11-2020. Further, it is understood that after 400kV operation of Muzaffarpur-Dhalkebar link, M/s CPTC and M/s BSPTC through various meetings and communications have agreed for transfer/sell of spare 2 nos. 220kV line bays and one no. 400kV tower (vacated after 400kV operation of Muzaffarpur-Dhalkebar link) from M/s CPTC to Mis BSPTC. In this regard, M/s CPTC has already obtained NoC/clearance from Nepal Electricity Authority (NEA), who la beneficiary of this link and Power Finance Corporation (PFC), who is the financier.

8. In view of the above, in line with Section 15(4) of the Electricity Act, 2003, and based on details furnished by M/s CPTC, CTU recommends modification in already granted license to M/s CPTC in respect of transfer/sell of spare 2 nos. 220kV line bays at Muzaffarpur (POWERGRID) S/s and one no. 400kV tower from M/s CPTC to M/s BSPTC (vacated after 400kV operation of Muzaffarpur-Dhalkebar link).”

17. In light of the above discussion, it emerges that after the operation of the 400 kV Muzaffarpur-Dhalkebar link, BSPTC and CPTC in its various meetings referred to above and communications have agreed for transfer/sale of spare 2 nos. 220 kV line



bays and one no. 400 kV tower (vacated after 400 kV operation of Muzaffarpur-Dhalkebar link) from CPTC to BSPTC. CPTC has obtained NOC from the Nepal Electricity Authority, which is a beneficiary of this link and from the Power Finance Corporation, a financier for the transfer/sale of subject bays. CTUIL, vide its letter dated 10.2.2023, has recommended the modification of the transmission licence granted to the Petitioner in this regard. We are, *prime facie* of the view that the Petitioner has fulfilled all the conditions and has obtained the necessary approvals for the modification of the transmission licence.

18. Therefore, we accord approval in terms of Section 17 (3) of the Act for the transfer/ sale of spare 2 nos. 220 kV line bays and one no. 400 kV tower (vacated after 400 kV operation of Muzaffarpur-Dhalkebar link) by CPTC to BSPTC. Since the Petitioner's company meets the requirements of the Transmission Licence Regulations for the modification of the transmission licence, we direct that the transmission licence granted to the Petitioner, namely, Cross Border Power Transmission Company Limited, be amended accordingly. CBPTCL is directed to approach the Commission separately for issuance of the modified transmission licence.

19. All other terms and conditions specified in the order dated 10.1.2019 in Petition No. 195/MP/2018 remain unaltered. The transmission licensee shall comply with the provisions of the Act and Regulations issued by the Commission from time to time.

20. The Petition No. 96/MP/2023 is disposed of in terms of the above.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(Jishnu Barua)
Chairperson

