

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri R. Krishnamoorthy, Member**

**Petition No. 8/2007
(Suo motu)**

In the matter of

Selection of bidders as prospective Independent Private Transmission Company(s) (IPTC) to establish the transmission lines associated with Western Region System Strengthening Scheme-II.

ORDER

The Commission has received a letter dated 4.10.2007 from Power Grid Corporation of India Ltd (PGCIL), regarding the transmission lines associated with the Western Region System Strengthening Scheme – II under Projects B & C, which were identified in the year 2005 for execution through Independent Private Transmission Company (IPTC) route.

2. According to this communication, Invitation for Selection (IFS) of IPTC was issued on 21.11.2005, and after issuance of amendment No.8 to Request for Selection (RfS) documents on 29.9.2006, bids were received on 9.10.2006. The tariff proposals were opened on 20.11.2006, and on their evaluation, Reliance Energy Transmission Ltd (RETL) has been ranked as the lowest bidder in both the Projects. Further progress is reported to have been held up due to non-resolution of the question regarding applicability of the guidelines dated 12.1.2006 and the clarification dated 31.1.2007 issued by Ministry of Finance concerning approval of Public – Private Participation Appraisal Committee

(PPPAC) to projects involving public-private participation. PGCIL has forwarded copies of the following documents, namely::

- (i) Ministry of Finance clarification dated 31.1.2007,
- (ii) PGCIL letter dated 5.3.2007 to Ministry of Power,
- (iii) Ministry of Power letter dated 14.8.2007,
- (iv) Minutes of meeting taken by Secretary (Power) on 6.8.2007,
- (v) Report of A.K. Khurana Committee,
- (vi) PGCIL letter dated 6.9.2007 to Ministry of Power,
- (vii) Record note of discussions between PGCIL and RETL held on 29.8.2007,
- (viii) PGCIL letter dated 14.9.2007 to Ministry of Power, and
- (ix) Ministry of Power letter dated 21.9.2007 to PGCIL.

3. It is seen from the above that based on the directions of Ministry of Power, PGCIL and RETL have agreed to delete the “buy-out” provisions specified in the competitive bidding documents, to resolve the PPPAC question. It has been ascertained by PGCIL that the ranking of RETL as the lowest bidder in both the Projects remains unchanged even after considering deletion of the “buy-out” provision.

4. As a consequence of the agreement to delete the “buy-out” provisions, PGCIL has suggested modifications in the Implementation Agreement (IA) and the Power Transmission Agreement (PTA), earlier termed as Transmission Service Provider Agreement (TSPA), forming part of the bid documents. PGCIL has sought concurrence/approval of the Commission to the modification in IA and PTA and dispensing with “buy out” arrangement. Similarly, based on the report

of the A.K. Khurana Committee, PGCIL has recommended incorporation of Payment Security Mechanism in the agreements.

5. We note from the minutes of meeting taken by Secretary (Power) on 6.8.2007 that the question as to whether the deletion of the buy-out provisions would warrant any re-tendering was duly deliberated in the meeting, and it was concluded that “since no relaxation from the notified conditions was being made, and only a hardening of the contract conditions for the L1 bidder would take place by removal of the buy-out provision, re-tendering would not be required.”

In view of the above, and the fact that the projects have already been delayed considerably, we direct the concerned parties to proceed further expeditiously.

6. We are reserving our views on the payment security mechanism (PSM) recommended in para 4(iv) of the A.K. Khurana Committee’s report. While the parties may presently proceed with finalization of Implementation Agreement and Power Transmission Agreement as per modifications proposed in the Annexure – VIII and IX to the PGCIL letter dated 4.10.2007, we expect a more appropriate PSM to emerge before the projects get commissioned. This should not hold up the progress on these projects, since the question of PSM can arise only after the projects get to the commercial operation stage.

Sd/-
(R. KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated 29th October, 2007