

“DRAFT PROCEDURE FOR GRANT OF TRANSMISSION LICENSE”

CENTRAL ELECTRICITY REGULATORY COMMISSION

New Delhi, dated

NOTIFICATION

1. In exercise of the powers conferred under sub-section (3) of Section 27C of the amended Indian Electricity Act, 1910 the Central Commission is empowered for grant of transmission license which may authorise the transmission licensee to construct, maintain and operate any inter-state transmission system under the direction, control and supervision of the Central Transmission Utility. Under sub-sections (c) & (d) of Section 13 of the Electricity Regulatory Commissions Act, 1998 the Commission is vested with power of regulation of inter-state transmission of energy including tariff of transmission utilities and to promote competition, efficiency and economy in the activities of the electricity industry. The section 27C(4) of amended Indian Electricity Act, 1910 stipulates that the application for obtaining transmission license is first required to be approved by the CTU in such a manner as may be notified by the Central Commission before consideration of application for grant of license by the Commission. In pursuance of powers vested under the Act, the Commission is issuing following procedure for grant of transmission license to be followed by the CTU.

2. PROCEDURE

- (i) The CTU shall follow the planning policy laid down in Indian Electricity Grid Code (IEGC) and identify the elements of ISTS, which may be constructed by agencies other than POWERGRID. In order to generate open competition the CTU shall evolve a transparent procedure and get it approved by the Commission for selection of projects to be taken up by other agencies vis-à-vis POWERGRID.

- (ii) In order to promote competition the major transmission projects may be well structured and packaged into reasonably sized (cost-wise) distinct segments and package-wise bids may be invited.
- (iii) POWERGRID shall seek in-principle clearance from CEA and shall consult beneficiaries concerned for execution of identified transmission project by other agencies. Once such proposal is finalised, the CTU shall make a public announcement of its intentions of seeking participation of agencies other than POWERGRID for construction of identified elements of ISTS.
- (iv) Two routes viz. competitive route and Joint Venture Company (JVC) route may be adopted for implementation of the identified transmission projects by agencies other than POWERGRID.
- (v) The CTU shall evolve a procedure for assessing the performance of Licensee and submit the same for approval of the Commission. The CTU shall report to the Commission the progress of construction of such projects on a quarterly basis. Subsequent to commissioning of the project, the CTU shall assess performance of the Licensee as per the approved procedure on annual basis and submit its report to the Commission on or before 30th June.

2.1 Competitive Route:

- (i) Selection of the implementing agency shall be through open competitive process. NIT (Notice Inviting Tenders) shall be issued inviting global participation on open tender basis. For selection of agency, Request for Qualification (RfQ) and Request for Proposal (RfP) stages shall be followed. The bidding process shall enter into next stage only if a minimum of three valid bids are available for these two stages. The bid documents shall clearly state that implementing agency would be responsible to finance, construct, own, operate and maintain the transmission system and the entire transmission capacity would be made available to POWERGRID for which Annual Transmission Service Charges (TSC)

- would be paid by POWERGRID who in turn shall recover the same from beneficiaries. After the completion of the period of agreement, the implementing agency has to transfer the transmission system to POWERGRID for a nominal consideration as stipulated in the Agreements.
- (ii) The CTU shall prepare general RfQ and RfP documents and submit the same for approval of the Commission. These general documents shall be adopted for bidding process and in case of deviation, prior approval of the Commission should be obtained.
 - (iii) The RfQ documents will contain comprehensive project details and the scope of services to be rendered. The document for Request for Qualification (RfQ) shall be priced document. At least two months period shall be allowed to interested parties (Bidders) for submitting their bids for qualification .
 - (iv) The main selection criteria under RfQ stage shall be the past experience demonstrated by the concerned parties/companies in construction & maintenance of transmission system (lines & sub-stations), mobilisation of necessary resources including long term finances through various tie-ups.
 - (v) The CTU shall screen the bids received under RfQ stage for selecting the qualified parties. Thereafter the 'Request for Proposal' (RfP) document shall be issued to the qualified parties. The scope of service to be rendered, obligations of the bidder and equity in respect of allocation of risks and obligations shall be clearly defined in this RfP document. The RfP document shall also contain the technical specification of the project based on DPR, interface issues, drafts of Implementation Agreement & Transmission Service Agreement (TSA), Transmission License document (including the relevant application form for Transmission License) and procedure for bid evaluation. An amount towards 'Project Implementation Guarantee Deposit' would be stipulated in the bid document, which the bidder shall be required to furnish immediately on selection. The said deposit shall be appropriated by CTU in case the selected bidder fails to

- reach financial closure or fails to complete the project within stipulated time frame.
- (vi) The RfP stage shall be through competitive bidding wherein the bidders shall be asked to quote the annual Transmission Service Charges (TSC) which shall be payable to them at a normative level of performance to be approved by the Commission. The preference for annual TSC on the levelised pattern for the entire period of agreement may be indicated in the RfP document but at the same time the prospective bidder may be given the option of quoting annual TSC on other pattern (i.e, front loaded or back loaded). The reasonable discounting rate based on which Net Present Value (NPV) of the quoted tariff pattern would be worked out for evaluation of bids, is to be specified in the RfP document. The bidders shall be given three (3) months time to submit their detailed proposals under RfP stage.
 - (vii) The decision in regard to final selection of the implementing agency shall be made on the basis of NPV (Net Present Value) of the annual TSC quoted by the bidders. No deviation proposed by the bidder shall be accepted in respect of performance level and specified formulae for incentives and penalties. The annual TSC estimated by the POWERGRID at the DPR stage of the project, shall form the basis for checking the reasonability of the bids during their evaluation. This process of evaluation shall be undertaken by CTU and details of evaluation be put up to the Commission. The CTU shall formally recommend to the Commission the selected implementing agency and forward the application of the said agency in the prescribed format for grant of License. The Commission, during the process, may call for additional details, if necessary.
 - (viii) Commission may invite objections/comments through public notice and a hearing may be held before a final decision is taken. Commission may, if necessary, issue suitable directives to CTU after the hearing.
 - (ix) Commission after satisfying itself with the fairness of the entire process, shall issue Letter of Intent (LoI) for issuance of transmission license. The

Commission shall grant License after the prospective Licensee has deposited the License fee as notified by the Commission.

2.2 JV Route:

- (i) A Joint Venture (JV) route shall be considered only under such conditions where it is observed that either risks are high enough to inhibit response to open competition or there is no/appropriate response or the commissioning of transmission project has become extremely critical. CTU shall apprise the Commission about conditions under which JVC route is proposed for transmission projects identified for execution by other agencies and proceed further only after seeking approval of the Commission. In case of JV route, POWERGRID should have enough equity holding in JVC to exercise effective control over its functioning.
- (ii) The CTU shall formally inform the Commission about the Joint Venture Company (JVC) and forward the application of the said JVC in the prescribed format for grant of License along with its recommendation.
- (iii) Commission may invite objections/comments through public notice and a hearing may be held before a final decision is taken. Commission may, if necessary, issue suitable directives to CTU after the hearing.
- (iv) Commission after satisfying itself with the fairness of the entire process, shall issue Letter of Intent (LoI) for issuance of transmission license. The Commission shall grant License after the prospective Licensee has deposited the License fee as notified by the Commission.
- (v) The annual TSC for JVC shall be on cost plus basis based on the tariff notification of the Commission. The final completed capital cost of the transmission project executed by JVC would have to be approved by the Competent Authority and the Commission would thereafter issue appropriate orders for annual Transmission Service Charges (TSC).