

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

**IA No.18/2003
in
Petition No. 124/2002**

In the matter of

Seeking directions in Petition No.124/2002 - Bid against Request for Proposal (RfP) document for implementation of 400 kV D/C Bina-Nagda-Dehgam Transmission Line through IPTC route.

And in the matter of

Power Grid Corporation of India Ltd.

.....Petitioner

The following were present

1. Shri Bhanu Bhushan, Director (O), PGCIL
2. Shri Ashwani Jain, AGM, PGCIL
3. Shri Akhil Kumar, PGCIL
4. Shri V.M. Kaul, PGCIL
5. Shri Ajay, Kalpataru-TNB Consortium
6. Shri K.V. Mani, Kalpataru-TNB Consortium
7. Shri Alwi Abdul Rehman, Kalpataru-TNB Consortium
8. Shri P.G. Punator, KPTL
9. Shri Y. Aggarwal, KPTL
10. Shri Ali, TNB

**ORDER
(DATE OF HEARING : 25-6-2003)**

The petitioner, in its capacity as the Central Transmission Utility had invited bids for implementation of 400 kV Bina-Nagda and Nagda-Dehgam Transmission Line through IPTC route. Based on the qualifying requirements contained in the RfQ document, four parties were shortlisted by the petitioner. However, only one valid proposal, by Consortium of M/s KPTL India with M/s Tenaga Nasional Berhad,

Malaysia (the Consortium, for short) was received for implementation of the project. The petitioner had placed necessary facts before the Commission through Petition No.124/2002 with prayer to allow it to proceed with evaluation of the proposal. On consideration of the facts brought on record, the Commission allowed the petitioner to proceed further with the evaluation of the proposal received from the Consortium.

2. An Interlocutory Application (No.18/2003) was filed by the petitioner on 5.5.2003. It has been stated that on evaluation of the price bid, at the Transmission Service Charges quoted by the Consortium have been found to be higher by 75% to 80% than those in case the transmission line is implemented by the petitioner through its own resources. The petitioner prayed for further guidance and directions in the light of the above and also deviations by the Consortium in respect of necessary and non-negotiable conditions as stated in the application. The petitioner has not given its own views, leaving thereby a decision to the Commission. The Commission has already notified regulations, which prescribe the procedure for grant of transmission license. These regulations do not envisage any guidelines or directions to be issued to the Central Transmission Utility at an interlocutory stage in the proceedings for grant of transmission license.

3. Nevertheless, we issued notice to the petitioner as also the Consortium on the application and have heard their representatives. A reply to the application has been filed by the Consortium immediately before start of the hearing, a copy of which has also been served on the petitioner in the courtroom only. In its reply, the Consortium has raised a number of issues on the evaluation criteria adopted by the petitioner for evaluation of the bid submitted by the Consortium. As the petitioner did not have the

before hand knowledge of the issues raised, it could not respond to them. In response to a query from Bench, Shri Bhanu Bhushan Director (Operations) in the petitioner company informed that the comparison has been made based on the estimated cost and the actual cost estimated by the petitioner may be higher. Thus, the costs considered by the petitioner for comparison of the bid submitted by the petitioner cannot be said to be realistic. There is a need to look into this matter.

4. The proceedings before the Commission were conducted under Section 27C of the Indian Electricity Act, 1910, since repealed through the Electricity Act, 2003.

5. The Electricity Act, 2003 has come into force with effect from 10.6.2003, Section 15 of which lays down the procedure for grant of license which includes transmission license. In accordance with the revised procedure, any person desirous of obtaining license is required to file an application before the Commission in the form and manner specified by the Commission and shall be accompanied by such fee as may be prescribed by the Central Government. In the face of these legal provisions also, we cannot pass any order on the application filed by the petitioner. Therefore, the Consortium, is at liberty to file an appropriate application for grant of transmission license in accordance with the revised procedure. However, it would be appropriated if the petitioner and the Consortium mutually discuss the issues raised with a view to resolving them, before the parties approach the Commission again.

6. The Commission has so far not specified under Section 15 of the Electricity Act, 2003 the form and the manner in which the application may be made. The Central Government too has not prescribed the fee for the application for grant of

license. The Commission in its Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of transmission license and other related matters) Regulations, 2003 notified under Section 27C of the Indian Electricity Act, 1910, has prescribed the form of application and also the amount of fee for making such an application. The Consortium may, in case it decides to make an application for grant of transmission license use the said form for application prescribed in these regulations and also pay the fee prescribed therein. The fee so paid shall be adjusted against the fee that may ultimately be prescribed by the Central Government.

7. No other order needs to be passed on IA No.18/2003, which shall stand disposed of with the above observations.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(G.S. RAJAMANI)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 30th June 2003