

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No.171 of 2010

**Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

Date of Hearing: 19-10-2010

Date of Order: 24-11-2010

In the matter of:

Application for grant of Transmission Licence to North Karanpura Transmission Company Limited

And

In the matter of:

North Karanpura Transmission Company Ltd, New Delhi ... **Petitioner**P

Vs

1. Gujarat Urja Vikas Nigam Limited, Vadodara
2. Maharashtra State Electricity Distribution Company Limited, Mumbai
3. Madhya Pradesh Power Distribution Company Limited, Jabalpur
4. Madhya Pradesh Audyokik Kendra Vikas Nigam Limited, Indore
5. Chhatisgarh State Power Distribution Company Limited, Raipur
6. Goa State Electricity Department, Govt. of Goa, Goa
7. Electricity Department, Daman
8. Electricity Department, Silvassa
9. Power Grid Corporation of India Ltd., New Delhi
10. Heavy Water Project, Mumbai
11. Jindal Power Ltd., Chhattisgarh
12. Torrent Power Ltd., Ahmedabad
13. PTC India Ltd., New Delhi
14. Adani Power Ltd., Gurgaon
15. Rajasthan Power Procurement Centre, Jaipur
16. BSES Yamuna Power Ltd., Delhi
17. BSES Rajdhani Power Ltd., New Delhi
18. North Delhi Power Ltd., Delhi
19. New Delhi Municipal Council, New Delhi
20. Uttarakhand Power Corporation Ltd., Dehradun
21. Paschimachal Vidyt Vitran Nigam Ltd., Meerut



22. Poorvanchal Vidyut Vitran Nigam Ltd., Varanasi
23. Dakshinanchal Vidyut Vitran Nigam Ltd., Agra
24. Madhyanchal Vidyut Vitran Nigam Ltd., Lucknow
25. Kanpur Electricity Supply Company Ltd., Kanpur
26. North Central Railway, Allahabad
27. Haryana Power Purchase Centre, Panchkula
28. Punjab State Electricity Board, Patiala
29. Power Development Department, Jammu
30. Himachal Pradesh State Electricity Board, Shimla
31. Electricity Department, Chandigarh

..... Respondents

Advocates/Representatives present:

1. Shri LN Mishra, RPTL
2. Shri Kiran Alla, RPTL
3. Shri V K Singh, RPTL
4. Shri V Thyagarajan, PGCIL
5. Shri Vijay Kumar, PGCIL
6. Shri Mukesh Khanna, PGCIL
7. Shri Padamjit Singh, HPPC
8. Shri TPS Bawa, HPPC

ORDER

The Applicant, North Karanpura Transmission Company Limited, has filed this application under Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2009 (hereinafter “transmission licence regulations”) for grant of transmission licence to build, own, operate and maintain the Transmission System-System Strengthening in Northern Region for import of power from North Karanpura and other projects outside the Northern Region and System Strengthening in Western Region for import of power from North Karanpura and other projects outside the Western Region and also for power



evaluation from projects within Western Region (hereinafter referred to as “the project”) consisting of the following elements:

(a)Transmission Lines:-

S. No.	Name (End-point Location)	Voltage class (kV)	Length (Km)	Type (S/C or D/C)
1	Sipat/Korba (Pooling)-Seoni	765 kV	334	S/C
2	Lucknow – Bareilly	765 kV	220	S/C
3	Bareilly- Meerut	765 kV	240	S/C
4	Agra- Gurgaon (ITP)	400 kV	220	D/C
5	Gurgaon- Gurgaon	400 kV	20	D/C

(b) Sub-stations

S. No.	Name (Location)	Voltage Level (kV)	Transformer (Nos. and MVA capacity)	Reactive/capacitive compensation (device with MVAR capacity)	No. of bays
1	Gurgaon	400/220 kV	2 Nos X 500 MVA	2 Nos Switchable Reactors X 50 MVAR	10

(c)Commissioning Schedule

S. No.	Scope of Work	Completion Target
1	Sipat/Korba(Pooling)-Seoni 765 kV S/C Line	36 months
2	Lucknow-Bareilly 765 kV S/C Line	42 months
3	Bareilly-Meerut 765 kV S/C Line	42 months
4	Agra-Gurgaon(ITP)-400 kV Quad D/C line	30 months
5	Gurgaon(ITP)-Gurgaon(PG) 400 kV Quad D/C Line	30 months
6	Gurgaon(ITP) 400/220 kV GIS Substation	30 months

2. The applicant has submitted that Rural Electrification Corporation Transmission Projects Company Limited (RECTPCL) was notified by Government of India, Ministry of Power vide Notification No. F.No.11/12/2006-PG dated 26.6.2007 as the Bid Process Coordinator (BPC) for the purpose of selection of a Transmission Service Provider (TSP) to establish the project on Build, Own, Operate and Maintain (BOOM) basis through tariff-based competitive bidding following the process laid down in the “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter “the Guidelines”) issued vide Government of India, Ministry of Power, Resolution No.11/5/2005-PG(i) dated 17.4.2006. North Karanpura Transmission Company Limited having its registered office at New Delhi was incorporated on 23.4.2007 by RECTPCL as its wholly owned subsidiary to initiate the work on the project and subsequently to act as Transmission Service Provider (TSP) after being acquired by the successful bidder. The Applicant has submitted that subsequent to the process of competitive bidding conducted by the Bid Process Coordinator, Reliance Power Transmission Limited (RPTL) has emerged as the successful bidder and the Letter of Intent was issued to it by the BPC on 18.12.2009. Subsequently the Applicant has been acquired by the successful bidder on 20.5.2010 after execution of the Share Purchase Agreement (SPA) and completing all procedural requirements specified in the bid documents. Accordingly, the Applicant as the TSP has approached the Commission in a separate petition for adoption of tariff. The present petition has been filed with the following prayers:

“1. Grant Transmission License to North Karanpura Transmission Company Limited, the TSP to build, own, operate and maintain the transmission system/network for the project.



2. Pass such other relief as Commission deems fit and appropriate under the circumstances of the case and in the interest of justice.”

3. The BPC initiated the bid process on 6.10.2008 and completed the process on 18.12.2009 as per the Guidelines. Bid evaluation Committee appointed by the BPC in its minutes of the meeting dated 14.12.2009 certified M/s Reliance Power Transmission Ltd. as the Successful Bidder with the lowest Levelised Transmission Charges of Rs 2580.0051 Millions per annum for the project. The identified Long Term Transmission Customers of the project with whom Transmission Service Agreements have been signed by the applicant are as under:

(a) Western Region

1. Gujarat Urja Vikas Nigam Limited)
2. Maharashtra State Electricity Distribution Company Limited
3. Madhya Pradesh Power Distribution Company Limited
4. Madhya Pradesh Audyokik Kendra Vikas Nigam Limited
5. Chhathishgarh State Power Distribution Company Limited
6. Goa State Electricity Department, Govt. of Goa
7. Electricity Department, Union Territory of Daman & Diu
8. Electricity Department, Union Territory of Dadra Nagar Haveli
9. Power Grid Corporation of India Limited
10. Heavy Water Project, Department of Atomic Energy
11. Jindal Power Limited.
12. Torrent Power Limited.
13. PTC India Limited.
14. Adani Power Limited.

(b) Northern Region

15. Rajasthan Power Procurement Centre
16. BSES Yamuna Power Ltd.
17. BSES Rajdhani Power Ltd.
18. North Delhi Power Ltd.
19. New Delhi Municipal Council.
20. Uttarakhand Power Corporation Ltd.
21. Paschimachal Vidyut Vitran Nigam Ltd.
22. Poorvanchal Vidyut Vitran Nigam Ltd.
23. Dakshinanchal Vidyut Vitran Nigam Ltd.
24. Madhyanchal Vidyut Vitran Nigam Ltd.
25. Kanpur Electricity Supply Company Ltd.
26. North Central Railway.
27. Haryana Power Purchase Centre.
28. Punjab State Electricity Board.
29. Power Development Department.
30. Himachal Pradesh State Electricity Board.
31. Electricity Department, Union Territory of Chandigarh
32. Power Grid Corporation of India Limited

5. Consequent to its selection as the lowest bidder, Letter of Intent (LOI) was issued to M/s Reliance Power Transmission Ltd by the BPC on 18.12.2009 which has been accepted by RPTL. Under the terms of Request for Proposal (RFP) and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide contract performance guarantee in favour of Long Term Transmission Customers (LTTC).
- (b) Execute Share Purchase Agreement
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of East-North Interconnection Company Ltd. from Power Finance Corporation along with its related assets and liabilities.
- (d) To execute RFP project document including transmission service agreement with LTTCs.
- (e) Make application to the Central Commission for adoption of transmission charges
- (F) To apply to the Commission for grant of transmission licence.

6. The applicant has submitted that in terms of the LOI, RPTL had furnished the Performance Guarantee to each of the Long Term Transmission Customers on 17.5.2009 and acquired hundred percent equity holding in North Karanpura Transmission Company Limited on 20.5.2010 in terms of the Share Purchase Agreement.

7. Section 14 of the Act provides that the Appropriate Commission may, on an application made to under section 15 of the Electricity Act, 2003 (the Act) grant licence to any person to transmit electricity as a transmission licence in any area as may be specified in the licence. The word 'person' has been defined in section 2(48) of the Act to include any company or body associate or body or association of individuals whether

incorporated or not or artificial juridical person. The Applicant has been incorporated under the Companies Act, 1956 and as such is eligible to make application for licence. Section 15(1) of the Act provides that every application under section 14 shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied such fees as may be prescribed. The Central Commission has specified the transmission licence regulations. Regulation 3 of the transmission licence regulations provide that the Empowered Committee shall identify the projects included in the transmission plan to be developed under the guidelines for competitive bidding. Regulation 4 of transmission licence regulations provides that in case of projects identified by the Empowered Committee for development under the guidelines for competitive bidding, selection of the project developer shall be made in accordance with the procedure laid down in the guidelines. The transmission project under consideration has been identified by the Empowered Committee. Ministry of Power, Government of India has accorded approval under section 68 of the Act vide letter dated 8.12.2008 which was provided to RPTL on 20.5.2010. The selection of the project developer, M/s Reliance Power Transmission Ltd, has thus been made in accordance with the guidelines for competitive bidding.

8. Regulation 7 of the transmission licence regulations provides for the procedure for grant of transmission licence as under:

“(1) The application for grant of licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fee as may be prescribed by the Central Government from time to time.

(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.

(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.

(4) Before making an application, the applicant shall serve a copy of the application on each of the long-term customers of the project and shall submit evidence to that effect along with the application and shall also post the complete application along with annexures and enclosures on its web site, the particulars of which shall be given in the application.

(5) The application shall be kept on the web site till such time the licence is issued or the application is rejected by the Commission.

(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.

(7) The applicant shall, within 7 days after making the application, publish a notice of its application in Form-II attached to these regulations, in at least two daily newspapers, one in English language and one in vernacular language, having circulation in each State or Union Territory where an element of the project or a long-term customer is situate, in the same language as of the daily newspaper in which the notice of the application is published.

(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.

(9) In the notice published in the newspapers under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated), with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice,

(10) The applicant shall within 15 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the newspapers in which the notice has been published and the date and place of their publication and shall also file before the Commission

the relevant copies of the newspapers, in original, in which the notice has been published.

(11) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:

Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant;

Provided further that the recommendations of the Central Transmission Utility shall not be binding on the Commission.

(12) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notices in the newspapers, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.

(13) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant the licence or for reasons to be recorded in writing, reject the application.”

9. The Applicant has made the present application in Form 1 for grant of transmission licence in accordance with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2009 (hereinafter “transmission licence regulations”). The Applicant has submitted proof of service of the copies of the application on the LTTCs and Central Transmission Utility and proof of web posting of the complete application. The Applicant has further given an undertaking dated 6.9.2010 that it shall not engage in trading/sale or purchase of electricity till the time it is a transmission licensee and shall abide by all applicable laws. The applicant has also placed on record a copy of the amended Memorandum of Association deleting “sale and purchase of power” from its objectives.

The levelised tariff charges quoted by the Applicant which have been recommended by the Bid Evaluation Committee for acceptance is Rs.2085.0051 million per annum. The Applicant has also enclosed copies of the Bid Evaluation Committee recommendations for selection of the Applicant as the selected bidder and proof of making the evaluation report public by the Bid Process Coordinator as per the Guidelines. The Applicant has prayed for grant of transmission licence with respect to the transmission system as per the details given in para 1 above.

10. The Applicant vide its affidavit dated 24.6.2010 has placed on record the relevant copies of the newspapers in original in which notice of its application has been published. The Applicant has published the notices in Gujarat, Maharashtra, Madhya Pradesh, Chandigarh, Goa, Daman & Diu, Dadra & Nagar Haveli, Haryana, Delhi, Rajasthan, Uttar Pradesh, Punjab, Jammu & Kashmir, Himachal Pradesh and Chandigarh both in English and Hindi/local language. The Applicant has complied with the requirement of Regulation 7(7) of transmission licence regulations.

11. In response to the application, Haryana Power Purchase Committee (HPPC) has filed replies vide affidavits dated 22.7.2010 and 27.9.2010. No objection has been received from the general public in response to the public notice.

12. During the hearing of the petition, the representative of the HPPC reiterated the objections raised in its affidavits dated 22.7.2010 and 27.9.2010. Basically the objections relate to the following:

- (a) In the Transmission Service Agreement, there is no provision of safeguard to ensure coordination with PGCIL system for upgradation of Meerut, Lucknow and Bareilly substations of PGCIL to match with 765 kV Lucknow-Bareilly-Meerut line. The CTU should give confirmation for timely upgradation of Lucknow, Bareilly and Meerut sub-stations from 400 kV to 765 kV so that transmission elements to be constructed by the applicant are not stranded due to non-upgradation of these sub-stations.
- (b) At Ser No. 6(d) in Schedule 2 of the TSA, handwritten specifications for sub-station have been given. These should be initialed by the parties signing the TSA. BPC needs to clarify whether these technical specifications were part of tender document or final Request for Proposal. The CTU should give its recommendation under regulation 7(11) of transmission licence regulations on the aspect of substation specifications keeping in view the change in fault level due to new sub-station.
- (c) The completion schedule is vague. The effective date should be 20.5.2010, the date of acquisition of the applicant by the successful bidder.

- (d) As per schedule 2 of the Transmission Service Agreement, the schedule COD of 765 Lucknow-Bareilly and Lucknow- Meerut Transmission lines are to be matched with North Karanpura generation. Since the North Karanpura generating station is likely to be delayed and the transmission system is otherwise required, the condition in the TSA for matching with generation may be deleted.

- (e) The Memorandum of Association of the applicant company allows it to carry on the business of purchasing, importing, exporting and trading in power whereas the same is prohibited under the Act. The applicant may be asked to submit an affidavit that it will not be involved in trading in power and should be asked to amend its MoA.

13. The applicant in its consolidated reply dated 13.10.2010 filed in Petition No. 170/2010 and during the hearing of the application has clarified the objections as under:

- (a) Article 4.1(c) of the TSA puts an obligation on the Transmission Service Provider to enter into a Connection Agreement with CTU in accordance with the Grid Code. Article 6 of the TSA provides for the written procedure on connection and commissioning of the project. The coordination with CTU has been given due attention while evolving the scheme and shall be reinforced at the time of connection and commissioning under the project.

- (b) The handwritten specification under para 6(d) of schedule of the TSA was part of the amendment to the RFP document issued by the BPC vide letter dated 6.10.2009.
- (c) As the effective date is 20.5.2010, the commissioning schedule shall be reckoned from that date.
- (d) As regards delinking the commissioning of 765 Lucknow-Bareilly and Lucknow- Meerut Transmission lines from the North Karanpura generating station, the applicant has submitted that it is in agreement with HPPC on this point and proposes to take up the amendment to the TSA separately in terms of Clause 18.17 thereof after seeking consent of all parties to the TSA including HPPC.
- (e) The applicant has given an undertaking on 6.9.2010 on affidavit not to engage in trading or sale or purchase of electricity till it is a transmission licensee. The applicant made necessary amendment to Memorandum of Association and placed a copy thereof on record.

14. We have carefully considered the objections of HPPC and the replies of the Applicant. HPPC is one of the Long Term Transmission Customers of the project and has been consulted at different stages of the competitive bidding and has signed the Transmission Service Agreement. Most of the objections relate to various provisions of

the Transmission Service Agreement. We are of the view that the applicant has satisfactorily met the objections of HPPC. As regards trading as one of the objects in the MoA of the applicant company, the applicant has already placed on record an affidavit to the effect that it will not undertake trading till it is a transmission licensee and a copy of the amended MoA. We direct the Applicant to place on record the amended MoA duly approved by the Registrar of Companies.

15. The Applicant had served a copy of the application on Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 7(6) of the transmission licence regulations. The CTU in its letter dated 13.8.2010 has forwarded its recommendations in terms of Section 15(4) of the Act. In the recommendation it has been stated that the transmission assets for which licence is being sought was agreed by the constituents of the Northern Region in the 22nd SCM meeting held on 12.3.2007 and 26th Standing Committee on Power System Planning in Northern Region held on 13.10.2008 and 9th TCC and 10th NRPC meeting held on 13.10.2008. Similarly, the scheme was also agreed to by the constituents of Western Region in 27th SCM held on 30.7.2007 and 9th WRPC meeting held on 16.1.2009. It was also agreed by the beneficiaries that sharing of transmission charges beyond the pooling points of respective regions of Northern Region and Western Region shall be based on pooled transmission charges. The CTU has recommended under Section 15(4) of the Act for grant of Transmission Licence to North Karanpura Transmission Company Limited for the project.

16. The applicant has been selected on the basis of the tariff based competitive bidding as per the guidelines issued by Govt. of India, Ministry of Power. The applicant has been issued with the Lol as the selected bidder and has acquired 100% stake in the North Karanpura Transmission Company Limited which has been transferred to the applicant on 20.5.2010 in terms of the Share Purchase Agreement. The applicant has complied with the provisions of the transmission licence regulations for grant of inter-State transmission licence. We have considered the reply filed by HPCC and find that there is no objection for the grant of transmission licence to the applicant. The CTU has also recommended the applicant for grant of transmission licence. Considering all the materials on record, we are *prima facie* of the view that the applicant satisfies the conditions for grant of inter-State transmission licence for planning, construction, operation and maintenance of the project 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 to North Karanpura Transmission Company Limited. The objections or suggestions, if any, shall be filed by any person before the Commission by 10.12.2010.

17. List this petition on 16.12.2010 for further directions.

Sd/-	Sd/-	Sd/-	Sd/-
(M.Deena Dayalan) Member	(V.S.Verma) Member	(S.Jayaraman) Member	(Dr. Pramod Deo) Chairperson

