

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 130/2010**

**Coram: Dr. Pramod Deo, Chairperson  
Shri V.S.Verma, Member**

**Date of Hearing: 8.7.2010**

**Date of Order: 28.10.2010**

**In the matter of**

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission charges with respect to transmission system being established by East-North Interconnection company Limited.

**And in the matter of**

East-North Interconnection company Limited, New Delhi

..... **Applicant**

**The following were present:**

1. Shri Prabjot Singh Bhullar, Advocate for the petitioner
2. Shri S.K.Sinha, ENICL
3. Shri T.A.Reddy, ENCIL
4. Shri Padmjit Singh, HPPC

**ORDER**

The Applicant, East-North Interconnection Company Limited (ENCIL) has filed the present application under section 63 of the Electricity Act, 2003 (the Act) for adoption of tariff in respect of the following elements:

- (a) Bongaigaon-Siliguri 400 kV transmission line-217.417 kms
- (b) Purnea-Biharsharif 400kV transmission line-209.893 kms



2. The applicant has submitted that the Central Government in exercise of powers under section 63 of the Act has notified the "Tariff Based Competitive Bidding Guidelines for Transmission Service" (hereinafter "the Guidelines") vide Government of India Ministry of Power Resolution No.11/5/2005-PG(i) dated 17.4.2006. The applicant has further submitted that East North interconnection company Limited (ENICL) in its capacity as BPC (prior to its acquisition by the successful bidder) initiated the bid process on 20.10.2008 and completed the process on 12.10.2009 in accordance with the Guidelines. M/s Sterlite Technology Limited (STL) has been selected as the successful bidder having quoted the lowest levelised transmission charge. Accordingly, a Letter of Intent (LOI) was issued by the BPC on 7.1.2010 to STL, the successful bidder. STL has accomplished all the milestones required in the terms of Request for Proposal (RFP) and the Letter of Intent including acquisition of ENICL. After acquisition, ENICL has approached the Commission for adoption of tariff. The applicant has made the following prayers:

- (a) Allow the Application and adopt the transmission Charges to be paid by the Long Term Transmission Customers to ENCIL with respect to the Transmission Project;
- (b) Approve the modification in the non-escalable Transmission charges as prayed for in para 12 of the Application and direct the LTTCs to pay the same to the Applicant; and

(c) Pass such other order(s) as the Commission may deem fit and proper in the facts and circumstances of the case.

3. The Commission in Record of Proceedings of 18.5.2010 had directed to issue notice to all Long Term Transmission Customers (LTCs) and the applicant was also directed to serve copies of the application on the LTCs. Reply to the petition has been filed by Haryana Power Purchase Committee on behalf of Uttar Haryana Vijli Vitaran Nigam Limited and Dakshin Haryana Vijli Vitaran Nigam Limited. The matter was heard on 8.7.2010. The representative of HPPC raised several objections as enumerated in our order dated 4.8.2010. The Commission in the same order dated 4.8.2010 had directed the concerned officer of the Power Finance Corporation who had headed the BPC to file an affidavit explaining the different stages of the bidding process and a certificate that transparency in the bidding process and selection of the successful bidder has been maintained in accordance with the Guidelines. The applicant was directed to file the documentary evidence regarding the original acquisition price and the revised acquisition price including the reasons therefor and how the applicant was entitled for relief as per para 12.1.1 of the TSA. Replies have been filed by the applicant vide its affidavit dated 12.8.2010 and by Shri C Gangopadhyay, Executive Director of Power Finance Corporation and the Chairman of ENICL, on behalf of Bid Process Coordinator vide affidavit of the same date.



4. The present application has been filed under section 63 of the Act for adoption of tariff in respect of the transmission elements mentioned in para 1 of this order. Section 63 of the Act provides as under:

“63. Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

5. The salient features of the Guidelines issued by the Central Government under section 63 of the Act vide Resolution No.11/5/2005-PG(i) dated 17.4.2006 are discussed in brief as under:

a)The Guidelines are applicable for procurement of transmission services for transmission of electricity through tariff based competitive bidding and for selection of transmission service provider for new transmission lines and to build, own, maintain and operate the specified transmission system elements.

b)For procurement of transmission services, required for inter-State transmission, the Central Government shall notify any Central Government Organisation or any Central Public Sector Undertaking as the Bid Process Coordinator (BPC) who would be responsible for coordinating the bid process.

c)The BPC shall prepare the bid documentation in accordance with the Guidelines and obtain approval of the Appropriate Commission or alternatively, the BPC can use the standard bid documents

notified by the Ministry of Power. Approval of the Appropriate Commission would be necessary if any material deviation is proposed to be made in the Standard Bid Documents. Intimation about the initiation of the bid process shall be sent by the BPC to the Appropriate Commission.

- d) For procurement of transmission charges under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualifications (RFQ) and Request for Proposal (RFP) or adopt a single stage two envelope tender process combining both RFQ and RFP processes.
- e) RFQ or combined RFQ and RFP notice shall be issued in at least two national newspapers, website of the BPC and the appropriate Government and preferably in the trade magazines also to provide wide publicity. For the purpose of issue of RFQ minimum conditions to be met by the bidder shall be specified in the RFQ notice. The bidding shall be by way of International Competitive Bidding.
- f) Standard documentation to be provided in the RFQ stage shall include definitions of requirements including the details of location and technical qualifications for each component of the transmission lines, construction milestones, and financial requirements to be met by the bidders; proposed Transmission Service Agreement; period of validity of offer of bidder; conditions as specified by the Appropriate Commission for being eligible to obtain a transmission licence; and

other technical and safety criteria to be met by the bidder/TSP including the provisions of IEGC.

g) Standard documentations to be provided by BPC in the RFP shall include specified target dates/months for commissioning and commercial operations and start of providing transmission services; TSA proposed to be entered with the selected bidder; bid evaluation methodology to be adopted by the BPC; Discount Factor to be used for evaluation of the bids; specification regarding the bid bond and project completion guarantee to be furnished by the bidders; proposed indemnification agreement between the TSP and the utilities; amount of contract performance guarantee as percentage of the project cost; and the liquidated damages that would apply in the case of delay in start of providing the transmission services.

h) To ensure competitiveness, the minimum number of qualified bidders will be two. The BPC shall constitute a committee for evaluation of the bids with at least one member from Central Electricity Authority (CEA) and the concerned Regional Power Committees. The member from CEA shall have expertise in the cost engineering of transmission projects. The bids shall be opened in public and the representative of the bidders shall be allowed to remain present. The technical bids shall be scored to ensure that only the bids that meet the minimum technical criteria set out in the RFQ shall be considered for further

evaluation on the transmission charge bids. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same. The bidder who has quoted the lowest transmission charge as per the evaluation procedure shall be considered for the award.

- i) The Guidelines provide for suggested time tables for the bid process. The timeline suggested for a two stage bid process is 240 days and single stage two envelope bid process is 180 days. The BPC is empowered to give extended time-frame based on the prevailing circumstances and such alterations shall not be construed as the deviation from the Guidelines.
- j) The selected bidder shall make an application for grant of transmission licence to the Appropriate Commission within one month of selection. The TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid document before the RFP stage.
- k) The BPC shall make evaluation of the bid public by indicating the terms of the winning bid and anonymous comparison of all other bids. All contracts signed with the successful bidder shall also be made public. The final TSA alongwith the certification of BPC shall be

forwarded to the Appropriate Commission for adoption of tariff in terms of section 63 of the Act.

6. In the light of the above provisions of the Guidelines, we have examined in the succeeding paragraphs the transparent process of international competitive bidding adopted in the present case for selection of the successful bidder and lowest levelised transmission charges, after taking into account the submissions of the applicant, the Bid Process Coordinator and HPPC.

7. East North interconnection company Limited (ENICL) was incorporated on 1.2.2007 under the Companies Act, 1956 as a wholly owned subsidiary of Power Finance Corporation Ltd. with the objective to “plan, promote and develop an integrated and efficient power transmission system network in all its respects including planning, investigations, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-station, load dispatch stations and communication facilities and appurtenant works, coordination of integration operation of regional and national grid system, execution of turn key jobs for other utilities/organizations, wheeling of power, purchase and sale of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”. ENICL was also notified by Government of India, Ministry of Power vide



Notification No. 11/12/2006-PG dated 26.6.2007 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the transmission system for transmission scheme "for enabling import of NER/ER surplus power by NR" through tariff based competitive bidding process.

8. ENICL as the BPC prepared the bidding documents such as RFQ and RFP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India on 28.1.2008 as amended on 18.9.2008 and project specific inputs furnished by Central Electricity Authority. The BPC started the process of selection of TSP with the publication of Global Invitation for Qualification on 20.10.2008 for selection of developer on 'build, own, operate and maintain' basis for the transmission system for "scheme for enabling import of NER/ER surplus power by NR". The RFQ notice was published on 20.10.2008 in all editions of Economic Times, Nav Bharat Times, Business Standard and Financial Times with the last date of submission of Response to RFQ as 4.12.2008 which was extended on the request of the prospective bidders till 5.1.2009. Intimation regarding the initiation of the bid process was given to the Commission in accordance with para 4.2 of the Guidelines vide its letter No.03:14: ITP: 07-ENICL-RFQ dated 20.10.2008.

9. The Transmission Service Provider(TSP) would be required to establish the transmission system on 'build, own, operate and maintain' basis and

provide service to the following Long Term Transmission Customers (LITCs),  
namely:-

S.No.	Name of distribution licensee	Allocated capacity (MW)
1.	Jodhpur Vidyut Vitran Nigam Ltd.	48.44
2.	Jaipur Vidyut Vitran Nigam Ltd.	62.28
3.	Ajmer Vidyut Vitran Nigam Ltd.	62.28
4.	BSES Yamuna Power Ltd.(BYPL)	132.275
5.	BSES Rajdhani Power Ltd. (BRPL)	201.211
6.	North Delhi Power Ltd. (NDPL)	137.431
7.	New Delhi Municipal Corporation (NDMC)	20.082
8.	Uttarakhand Power Corporation Ltd.	22
9.	Paschimanchal Vidyut Vitran Nigam Ltd.	453
10.	Dakshnanchal Vidyut Vitran Nigam Ltd.	
11.	Purvanchal Vidyut Vitran Nigam Ltd.	
12.	Madhyanchal Vidyut Vitran Nigam Ltd.	
13.	Uttar Haryuana Bijli Vitran Nigam Ltd.	
14.	Dakshin Haryana Bijli Vitran Nigam Ltd .	133
15.	Punjab State Electricity Board	237
16.	Power Development Department (PDD) & J & K	175
17.	Himachal Pradesh State Electricity Board	21
18.	UT Chandigarh	5

10. Responses to the RFQ were received from sixteen bidders on 5.1.2010

as per the details given below:

- a) CESC Limited
- b) JSW Energy Limited
- c) Reliance Power Transmission Limited
- d) L & T Transco Private Limited
- e) Sterlite Technologies Limited
- f) Jindal Power Limited
- g) Essar Power Limited
- h) GMR Energy Limited
- i) Powerlinks Transmission Limited
- j) Instalaciones Inabensa S.A.
- k) Cobra Instalaciones Y Services S.A.
- l) Isolux Corsan Concesiones
- m) Lanco Deepak Consortium
- n) GPEC Private Ltd-Gammon India Ltd (Consortium)
- o) GVK-Kalpataru (Consortium)
- p)NCC-MAYTAS Consortium

11. As per the decision of the Empowered Committee on Transmission, the Bid Evaluation Committee comprising of the following was constituted:

- |  |              |
|--|--------------|
| (a) Representative of SBI/MD, SBICAPS                                  | ...Chairman  |
| (b) Shri RK Sharma, Member(Trans) BSEB                                 | ... Member   |
| (c) Shri Dibakar Gohain, MD, Assam Electricity Grid<br>Company Limited | ....Member   |
| (d) Shri Niraj Gulati, CE/SO & Commercial, HVPNL                       | ....Member   |
| (e) Shri Karnail Singh, Chief Engineer(SETD), CEA                      | .... Member  |
| (f) Shri U.S. Sharma, Chief Engineer(F & CA) CEA                       | .... Member  |
| (g) Shri Jawahar Lal, Director (Trans) UPPCL                           | .... Member  |
| (h) CEO of the SPV   | ... Convenor |

12. The responses to the RFQ were opened on 5.1.2009 in the presence of the Bid Evaluation Committee and the representative of the bidders. Evaluation was taken up with the help of Bid Process Management Consultant M/s PriceWaterHouseCooper Pvt Ltd. and Review Consultant, M/s SREI Infrastructure Finance Limited and presented to the Bid Evaluation Committee which recommended eight out of the sixteen bidders as qualified at RFQ stage as per the details given below:

- a) CESC Limited
- b) JSW Energy Limited
- c) Reliance Power Transmission Limited
- d) L & T Transco Private Limited
- e) Sterlite Technologies Limited
- f) Jindal Power Limited
- g) Essar Power Limited
- h) Lanco Deepak Consortium

13. The eight bidders qualified at the RFQ stage were requested to obtain the Request for Proposals (RFP) documents with effect from 20.4.2009. The RFP documents were purchased by seven bidders listed in para 12 except Essar Power Limited. In compliance with the requirement of RFP documents, the Acquisition Price of Rs.22.20 crores was intimated to all bidders who purchased the RFP documents. RFP bids comprising of Non-Financial Bids and Financial Bids were submitted on 15.9.2009 by three out of seven bidders who had purchased the RFP documents such as (1) Reliance Power Transmission Limited; (2) Sterlite Technologies Limited; and (3) Lanco Deepak Consortium. In page 6 of the petition, it was mentioned that 4 bids were qualified but three bids were opened. HPPC had submitted that this apparent discrepancy needed to be explained for the purpose of transparency. We had directed the concerned officer of Power Finance Corporation who had headed the BPC to meet the objection of PFC. Shri Gangopadhyay, ex-Chairman, ENICL in his affidavit has submitted that only three bidders purchased the RFP documents. Therefore the question of 4 bidders being qualified at RFQ stage does not arise.

14. The RFP (Non-Financial) Bids of all the three bidders were opened on 15.9.2009 in the presence of Bid Evaluation Committee and the representatives of the bidders. The Bid Process Management Consultant carried out the responsive check of the non-financial bids in accordance with the conditions of RFP which was reviewed by the Bid Review Consultant and all bids were recommended as responsive for opening of financial bids.

The RFP (Financial) bids were opened on 9.10.2010 in the presence of Bid Evaluation Committee and the representatives of the bidders. The evaluation of the RFP bids was carried out by the Bid Process Management Consultant and the Bid Review Consultant based on the financial model provided to the bidders alongwith the RFP documents. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Sterlite Technologies Limited with the lowest evaluated annual levelised transmission charges of Rs.1,187.95 million as the successful bidder. Paras 2, 3 and 5 of the Minutes of the Bid Evaluation Committee which are relevant are extracted as under:

“2. As per the provisions of the RFP documents, the quoted tariff for each bidder was read out and also displayed on a screen. The quoted non-escalable transmission charges and the quoted escalable transmission charges, as read out for all the three bidders at the bid opening are attached as Annexure-II. All the bidders have quoted the tariff in the requisite format, duly signed by the authorized signatory, as per the RFP documents without any deviations or conditions. The ratio of the minimum and maximum quoted transmission charges during the term of the TSA is not less than 0.7 and is as per the requirement of the RFP documents. In addition it was also observed that in case of all the three bidders, the quoted escalable transmission charges do not exceed 15% of the corresponding quoted non-escalable transmission charges for each of the corresponding contract year.

3. The levelised tariff has been worked out using the financial model provided as an excel sheet to the bidders alongwith the RFP documents and considering the indices declared by CERC in accordance with the provisions of the RFP documents. The levelised transmission charges have been worked out based on the methodology specified in the RFP document and by using the index published by the CERC as per their notification No.Eco 1/2009-CERC dated 27.3.2009, and as prevailing on the day seven days prior to the bid deadline(15 September 2009).

4.....

5. As per the above and based on the evaluation carried out by the consultants(M/s M/s Pricewaterhousecoopers Private Limited and M/s SREI Infrastructure Finance Limited), the computed levelised tariff of M/s Sterlite Technologies Limited is the lowest and is accordingly based on the ranking given below, is declared as the successful bidder, and ENCIL is authorized to

issue the Letter of Intent(LOI) to M/s Sterlite Technologies Limited(L1), after ensuring that all provisions of the RFP for issue of LOI are met.

Name of the Bidder	Levelised Tariff (Rs. million)	Ranking of Bidders based on levelised Tariff
Sterlite Technologies Limited	1187.95	L1
Lanco Deepak Consortium	1676.92	L2
Reliance Power Transmission Limited	2400.04	L3

15. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of Power Finance Corporation the final results of the evaluation of the bids, indicating the lowest levelised transmission charges of Rs.1187.95 million/annum and anonymous comparison of the other bids.

16. Shri C Gangopadhyay, Executive Director, Power Finance Corporation and ex-Chairman of ENICL, the Bid Process Coordinator has certified on affidavit that "the selection of Sterlite Technologies Limited pursuant to the aforesaid bidding process was in accordance with the Guidelines and the Standard Bidding Documents(SBDs) issued by Ministry of Power."

17. One of the objections taken by the representative of HPPC is that in page 208 of the petition, it has been stated that the bidder was cleared at the RFQ stage on the basis of its relationship with Sterlite Industries Limited and the said relationship 'remains valid till date'. He had urged that the applicant should ensure that the commitment remains for the total period of the contract. Shri Gangopadhyay, Chairman of BPC has clarified that the

Applicant is governed by the provisions of "Equity lock-in Commitment" as set out in para 18.2 of the Transmission Service Agreement so as to protect the interest of the LTTCs. The applicant in its affidavit has submitted that the applicant was required to meet the qualification criteria prescribed in para 2.1.7 of the RFQ documents throughout the bidding process and until the execution of the TSA. Clause 18.2 of the TSA prescribes that paid up equity share capital of the successful bidder in the applicant company shall not be less than (a) fifty one percent upto the period of two years from the COD of the project and (b) twenty-six percent for a period of three years thereafter. The applicant has submitted that it has met the qualification criteria set out in the RFQ and RFP documents throughout the bidding process and on date is in compliance with the provisions of the TSA.

18. We have perused Article 18.2 of the TSA and notice that the successful bidder has acquired 100% stake in the applicant company on its acquisition and is bound by the 'equity lock-in commitment' provisions of Article 18.2 of the TSA which protects the interests of the LTTCs. We further notice that clause 18.2.3 of the TSA provides that all transfers of shareholding of ENICL by any of the entities referred to in Articles 18.2.1 and 18.2.2 of TSA (Affiliate, Parent Company or Ultimate Parent Company) shall be after prior written permission from the Lead Long Term Transmission Customer. Article 18.2.6 also provides that the TSP shall be responsible to report within thirty days from the occurrence of any event that would result in any change in the equity holding structure from that existed as on the date of signing of the

Share Purchase Agreement and in such events, the Lead Long Term Transmission Customer would reserve the right to ascertain the equity holding structure and to call for all such required documents/information/clarification as may be required. In our view the provisions in the TSA adequately protects the interests of the LTTCs.

19. Under the terms of the RFP and Letter of Intent dated 7.1.2010, the successful bidder is required to accomplish the following tasks within the time set out in the LOI or within the extended period as the BPC may allow in terms of proviso to clause 2.4 of the RFP:

- (a) Provide Contract Performance Guarantee in favour of the LTTCs;
- (b) Execute the Share Purchase Agreement;
- (c) Acquire for the acquisition price one hundred percent equity shareholding of ENCIL alongwith all its related assets and liabilities;
- (d) Execute the RFP project Documents including the Transmission Service Agreement with LTTCs;
- (e) Make an application to the Central Electricity Regulatory Commission for adoption of charges;
- (g) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

20. The applicant has submitted that in terms of the LOI, STL initiated the process of acquiring ENCIL within the time stipulated but the process got delayed due to delay in grant of approval by MOP to PFC For transfer of its



shareholdings in ENCIL to STL, delay in getting the TSA signed by all LTTCs, particularly North Central Railway, and lack of clarity on the break-up of allocated capacity of Uttar Pradesh and Haryana for the purposes of Contract Performance Guarantee. PFC in its letter dated 25.3.2010 intimated the STL that North Central Railway, Allahabad which has been named as a party to the TSA has zero allocation and therefore shall not be required to furnish any Contract Performance Guarantee to the Railways and since all other parties have signed the TSA, the TSA shall become effective from later of the dates on which STL discharges obligations set out in clause 2.1(b) and (c) of the TSA. PFC vide its letter dated 27.3.2010 intimated to STL the break-up of allocated capacities of Uttar Pradesh and Haryana for the purpose of issuance of Performance Guarantee and asked to furnish the same by 29.3.2010. PFC in its letter dated 27.3.2010 has intimated to STL the acquisition price of ENCIL as Rs.2356.72 lakh. Share Purchase Agreement was signed with M/s Sterlite Technologies Limited on 31.3.2010 and the East North Interconnection Company Limited was transferred to Sterlite Technologies Limited on 31.3.2010 at an Acquisition Price of Rs.2356.72 lakhs.

21. In the light of the discussion in the preceding paragraphs, we are satisfied that selection of the successful bidder and the process of arriving competitive bidding tariff of the transmission system mentioned in para 1 has been carried out by the Bid Process Coordinator through a transparent process in accordance with the Guidelines and Standard Bid Documents.



Accordingly we approve and adopt the transmission charges of the transmission system arrived through the process of competitive bidding to be charged by the applicant company from the LTTCs. The approved and adopted transmission charges are given at **Appendix** to this order. The sharing of the transmission charges by the LTTCs shall be governed by the provisions of TSA and subject to regulations of the Commission issued from time to time.

22. The tariff adopted for the transmission system is valid for a period of 25 years. The tariff of the transmission assets beyond the period of 25 years will be governed in accordance with the provisions of clause (4) of Regulation 13 of Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 as amended from time to time.

23. The applicant has submitted that the acquisition price intimated seven days prior to the bid deadline was Rs. 2200 lakhs but the same was modified to Rs.2356.72 lakh on 27.3.2010. The Applicant has submitted that the change in the acquisition price amounts to change in law, entitling ENCIL to relief set out in Article 12.2.1 and has prayed that the non-escalable transmission charges bid by STL be modified and additional non-escalable transmission charges be approved to be paid by the LTTCs. The Applicant has submitted that STL has acquired ENCIL in terms of the

Share Purchase Agreement dated 31.3.2010 and paid the acquisition price of Rs. 2356.72 lakh.

24. HPPC had submitted during the hearing that PFC be asked to clarify the reasons for increase in acquisition price which has been claimed on account of change in law. Shri Gangopadhyay, ex-Chairman ENICL in his affidavit dated 12.8.2010 has explained that the Acquisition Price of Rs.2200.00 lakhs was intimated to the bidders on 18.8.2009 considering the transfer of ENICL to the successful bidder by the end of November 2009. However due to the petition filed by GMR Energy Limited, one of the bidders disqualified at RFQ stage, in the High Court of Delhi, ENICL was transferred to the successful bidder, M/s Sterlite Technologies Limited on 31.3.2010. The increase of Rs.136.72 lakhs is due to increase in the administrative expenses from December 2009 to March 2010 which included the manpower efforts put in towards the court case, provision for legal expenses for the court case filed by GMR Energy Limited and the interest expenses on the expenditure incurred for the extended period.

25. The Commission in the order dated 4.8.2010 had directed the applicant to explain how it would be entitled to revised acquisition price when as per Article 12.1.1 of the TSA, the relief is allowable for every cumulative increase of Rs.4 crore whereas the increase in the acquisition price is only Rs.1.36 crore. The applicant has submitted that as per Article 12.2.1 of the TSA, during the construction period, the increase/decrease in

the cost of the Project in the Transmission Charges shall be governed by the following formula:

“For every cumulative increase/decrease of each Rupees Four Crores (Rs.4,00,00,000) in the cost of the Project upto the scheduled COD of the Project, the increase/decrease in non-escalable Transmission Charges will be an amount equal to 0.32 percent (0.32%) of the Non-Escalable Transmission charges.”

The applicant has submitted that as on date the increase in the acquisition price has impacted the cost of the project to the tune of 1.36 Crore and the applicant reserves the right to claim relief as and when the cumulative effect crosses Rs.4 crore benchmark or multiple thereof in terms of the TSA.

26. As per Article 12.1.1 of the Transmission Service Agreement, ‘Change in Law’ means the occurrence of any of the events after the date which is seven days prior to the Bid Deadline resulting into any additional recurring/non-recurring expenditure by the Transmission Service Provider or any income to the Transmission Service Provider. One such event for operation of change in law is ‘any change in the acquisition price’. Therefore, the applicant is entitled to recover the additional acquisition price of Rs.1.36 crore from the LTTCs. Since the relief is allowable for every cumulative increase of Rs.4 crore, the applicant cannot be allowed the relief for Rs.1.36 crore at this stage. The applicant is at liberty to claim the relief at appropriate point of time in accordance with law.

27. The Petition No.130/2010 is disposed in terms of the above. Copies of this order shall be endorsed to all Long Term Transmission Customers and Power Finance Corporation.

**Sd/-**  
**(V.S.VERMA)**  
**MEMBER**

**sd/-**  
**(DR. PRAMOD DEO)**  
**CHAIRPERSON**



## Appendix-1

Levelised Transmission Charges				
Year (Term of License)	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (Rs. in Millions)	Escalable Transmission Charges (Rs. in Millions)
1	(13-Apr-10)#	31-Mar-11		
2	01-Apr-11	31-Mar-12		
3	13-Oct-12	31-Mar-13	1181.65	58.61
4	01-Apr-13	31-Mar-14	1181.65	Same as Above
5	01-Apr-14	31-Mar-15	1181.65	Same as Above
6	01-Apr-15	31-Mar-16	1181.65	Same as Above
7	01-Apr-16	31-Mar-17	1181.65	Same as Above
8	01-Apr-17	31-Mar-18	1181.65	Same as Above
9	01-Apr-18	31-Mar-19	1181.65	Same as Above
10	01-Apr-19	31-Mar-20	1181.65	Same as Above
11	01-Apr-20	31-Mar-21	1181.65	Same as Above
12	01-Apr-21	31-Mar-22	1181.65	Same as Above
13	01-Apr-22	31-Mar-23	1181.65	Same as Above
14	01-Apr-23	31-Mar-24	1181.65	Same as Above
15	01-Apr-24	31-Mar-25	1181.65	Same as Above
16	01-Apr-25	31-Mar-26	1181.65	Same as Above
17	01-Apr-26	31-Mar-27	1181.65	Same as Above
18	01-Apr-27	31-Mar-28	1181.65	Same as Above
19	01-Apr-28	31-Mar-29	1181.65	Same as Above
20	01-Apr-29	31-Mar-30	1181.65	Same as Above
21	01-Apr-30	31-Mar-31	1181.65	Same as Above
22	01-Apr-31	31-Mar-32	1181.65	Same as Above
23	01-Apr-32	31-Mar-33	1181.65	Same as Above
24	01-Apr-33	31-Mar-34	1181.65	Same as Above
25	01-Apr-34	31-Mar-35	1181.65	Same as Above
26	01-Apr-35	25th Anniversary of the issue of licence	1181.65	Same as Above