

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 131/2010**

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

**Date of Hearing: 9.9.2010**

**Date of Order: 28.10.2010**

**In the matter of**

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003 for grant of Transmission Licence to 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, ENICL
2. Shri P.S.Bhullar, Advocate, ENICL
3. Shri S.K.Sinha, ENICL
4. Shri T.A.Reddy, ENICL
5. Shri Padmjit Singh, HPPC
6. Shri T.P.Bawa, HPPC

**ORDER**

The Applicant, East-North Interconnection Company Limited has filed this petition under Section 14 read with Section 15(1) of the Electricity Act, 2003 (the Act) for grant of Transmission Licence to undertake the business



of establishing, commissioning, operation and maintenance of the following transmission lines for the "scheme for enabling import of NER/ER surplus power by NR" (hereinafter referred to as "transmission system") on 'build, own, operate and maintain' basis:

- (a) Bongaigaon Siliguri 400 kV Quad D/C transmission line: 217.417 kms
- (b) Purnea-Biharsharif 400 kV Quad D/C 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 Bid Process Coordinator (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 Bid Process Coordinator (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 in a separate petition. The present petition has been filed for grant of transmission licence. We had examined



the application of the applicant in the light of the provisions of the Electricity Act, 2003 (the Act) and provisions 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 (hereinafter 'transmission licence regulations').

We had in our order dated 16.8.2010 directed as under:

"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 transmission system 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 aforesaid. The objections or suggestions, if any, be filed by any person before the Commission."

3. Clauses (15) and (16) of Regulation 7 of transmission licence regulations provide as under:

"(15) The Commission may after consideration of the further suggestions and objections, if any, received in response to the public notice aforesaid, grant licence as nearly as practicable in Form-III attached to these regulations or for reasons to be recorded in writing, reject the application if such application is not in accordance with the provisions of the Act, the rules or regulations made thereunder or any other law for the time being in force or for any other valid reasons.

(16) The Commission may, before granting licence or rejecting the application, provide an opportunity to the applicant, the Central Transmission Utility, the Long-term customers, or the person who has filed suggestions and objections, or any other person:

Provided further that the applicant shall always be given a reasonable opportunity of being heard before rejecting the application."



4. In response to the public notice, no objections/suggestions have been received. During the course of the hearing on 9.9.2010, the representative of Haryana Power Purchase Committee on behalf of Uttar Haryana Viji Vitaran Nigam Limited and Dakshin Haryana Viji Vitaran Nigam Limited, both Long Term Transmission Customers of the transmission system, raised the following points:

(a) A transmission line normally includes shunt reactor and the bays. However, there is some amount of ambiguity in case of the transmission system which may be clarified.

(b) Regulation 7(7) requires the Central Transmission Utility to give its recommendation within one month. The recommendation of the CTU enclosed by the applicant in its reply dated 7.7.2010 is not a speaking recommendation and CTU may be asked to give the basis of its recommendations.

(c) In the petition it has been stated that the bidder was cleared at the RFQ stage on the basis of its relationship with Sterlite Industries Ltd and the said relationship 'remains valid till date'. This relationship should remain valid for the full period of the contract/agreement. The petitioner should ensure that the commitment is for the total period of the contract.

(d) In the reply of 7.7.2010, the applicant has stated that it has given undertaking not to carry out trading and has further submitted that if directed, it would amend the Memorandum of Association to delete



'trading' from its objects. The applicant may be directed to delete 'tranding' from its object.

(e) The Bid Process Coordinator should be asked to certify that the applicant has been selected through a transparent process of competitive bidding as required under section 63 of the Act.

5. In reply to the first point, the representative of the applicant clarified that in the case of the subject transmission line, the line bay of which the line reactor is a part will be constructed by PGCIL and is therefore outside the scope of work. As regards the other points, the learned counsel for the applicant submitted that these points were raised in Petition No.130/2010 by the representative of HPPC and in compliance with the directions of the Commission, PFC and the applicant have filed the required information.

6. We have considered the objections/suggestion of HPPC and the clarification of the applicant thereto. The first point has been clarified by the representative of the applicant that the line reactor is not within the scope of work of the transmission system. As regards the recommendations of the CTU, section 15(4) of the Act and Regulation 7(11) of the transmission licence regulations provide that CTU shall send its recommendations, if any, to the Commission. Moreover, the recommendations of the CTU under section 15(4) of the Act are not binding on the Commission. In our view, the Central Transmission Utility



which has been entrusted with the function of planning and coordination relating to inter-State transmission of electricity under section 38(2) of the Act is competent to decide on the nature of recommendations that is required to be given under section 15(4) of the Act. We are not inclined to issue any direction in this regard. As regards the point at para 4 (d) is concerned, we have already issued the following directions in para 15 of our order dated 16.8.2010 in the present petition:

“15. The applicant has given an undertaking at para 11 of the application not to undertake trading in any form during the subsistence of the transmission licence if granted by the Commission. The applicant shall remain bound by the said undertaking and shall take necessary steps to amend its MoA in line with the requirement of section 41 of the Act.....”

The issues raised by the representative of HPPC in para 4(c) and (e), have been dealt with in our order in Petition No.130/2010.

8. To recapitulate, Sterlite Technologies Limited has emerged as the successful bidder through the transparent process of competitive bidding. The company has acquired the East North Interconnection Company Limited in terms of the Share Purchase Agreement and discharged other obligations in accordance with the terms of the RFP. The Commission has already adopted the transmission charges of the applicant company in terms of the Transmission Service Agreement under section 63 of the Act. In our order dated 16.8.2010, we had proposed to grant transmission licence to the applicant company and directed for issue of public notice. In response to public notice, no suggestions/objections have been received. The objections raised by HPPC during the hearing have been dealt with in



this order. We are satisfied that the applicant company meets the requirements of the Act and the transmission licence regulations for grant of transmission licence for the subject transmission system mentioned at para 1 of this order. Accordingly, we direct that a transmission licence be granted to East North Interconnection Company Limited for carrying out the business of transmission in electricity on 'build, own, operate and maintain' basis for the transmission system for "scheme for enabling import of NER/ER surplus power by NR" comprising Bongaigaon Siliguri 400 kV Quad D/C transmission line and Purnea-Biharsharif 400 kV Quad D/C transmission line.

9. The grant of transmission licence to the applicant is subject to the fulfillment of the following conditions throughout the period of licence:

(a) The transmission licence shall, unless revoked earlier, shall remain in force for a period of 25 years;

(b) If the useful life of the transmission system extends beyond the period of 25 years, the applicant may make an application two years before the expiry of initial period of licence for grant of licence for another term which shall be considered by the Commission in accordance with law;

(c) The applicant shall not enter into contract or otherwise engage in the business of trading in electricity during the period of subsistence of the transmission licence;

(d) The applicant shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008, as amended from time to time or any of other regulations in force. Delay in payment or non-payment of licence fee or a part thereof for a period exceeding sixty days shall be construed as breach of the terms and conditions of licence;

(e) The licensee shall comply with the directions of the National Load Despatch Centre under section 26 of the Act, or the Regional Load Despatch Centre under sub-section (3) of section 28 or sub-section (1) of section 29 of the Act, as may be issued from time to time for maintaining the availability of the transmission system;

(f) The applicant shall provide non-discriminatory open access to its transmission system for use by any other licensee, including a distribution licensee or an electricity trader, or generating company or any other person in accordance with the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, as amended from time to time;



(g) The applicant shall not undertake any other business for optimum utilization of the transmission system without prior intimation to the Commission and shall comply with the provisions of the Central Electricity Regulatory Commission (Sharing of revenue derived from utilization of transmission assets for other business) Regulations, 2007, as amended from time to time;

(h) The applicant shall remain bound by the provisions of the Act, the rules and regulations framed thereunder, in particular the transmission licence regulations, the Grid Code, the Standards specified by the Central Electricity Authority, orders and directions of the Commission issued from time to time.

10. Petition No.131 of 2010 is disposed of in terms of the above. We direct that copies of this order shall be endorsed to all Long Term Transmission Customers of the transmission system.

<b>Sd/-</b>	<b>Sd/-</b>	<b>Sd/</b>	<b>-Sd/-</b>
<b>(M.DEENA DAYALAN)</b>	<b>(V.S.VERMA)</b>	<b>(S.JAYARAMAN)</b>	<b>(Dr. PRAMOD DEO)</b>
<b>MEMBER</b>	<b>MEMBER</b>	<b>MEMBER</b>	<b>CHAIRPERSON</b>

