

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.176/2011 (Suo-motu)

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

DATE OF ORDER: 14.9.2011

In the matter of

Tariff of Western Region System Strengthening Scheme-II (Project B and C) after concession period of 25 years.

And

In the matter of

Western Region Transmission (Maharashtra) Pvt. Ltd., Mumbai
Western Region Transmission (Gujarat) Pvt. Ltd., Mumbai**Petitioner**
Vs

Power Grid Corporation of India Limited, Gurgaon
Maharashtra State Electricity Distribution Company Ltd., Mumbai
Gujarat Urja Vikas Nigam Ltd., Vadodra
Chattisgarh State Electricity Board, Raipur
Electricity Department, Govt . of Goa, Panaji
Electricity Department, Admn. Of Daman and Diu, Daman
Electricity Department, Dadra and Nagar Haveli, Silvassa
Madhya Pradesh Audyogikkendra Vikas Nigam Ltd., Indore
M.P.Power Trading Co. Ltd., Jabalpur**Respondents/Beneficiaries**

ORDER

M/s Reliance Energy Transmission Ltd. (RETL) was selected as the Independent Private Transmission Company (IPTC) to establish six transmission lines in Maharashtra associated with Western Region System Strengthening



Scheme-II- Project B and three transmission lines in Gujarat associated with Western Region System Strengthening Scheme-II-Project C (hereinafter referred to as "WRSSS-II Project B and Project C") through International Competitive Tariff Based Bidding. The Commission in its orders dated 30.12.2008 in Petition Nos. 27/2008 and 28/2008 granted licence for transmission of electricity to Western Region Transmission (Maharashtra) Pvt. Ltd. and Western Region Transmission (Gujarat) Pvt. Ltd.

2. The Commission has received a letter dated 12.8.2011 from Ministry of Power, seeking a confirmation that the operator would get tariff based on the quoted 'buy-out' price of ₹ 5 crores after the expiry of 25 years for which the tariff has been discovered through competitive bidding and transmission licence has been issued to the respondents. The basis for seeking such confirmation is as under:

(a) As per the bidding documents the estimated cost of the project was ₹ 1891.40 crore for both the projects (₹ 1257.40 crore for Project-B and ₹ 634.00 crore for project-C) and the bidders were required to quote the buy-out price at the end of concession period of 25 years, which could not be higher than 10% of cost estimate. All bidders quoted the 'buy-out' price within the prescribed limit. Selection was based on least NPV of tariff quoted for 22 years and quoted 'buy-out' price considered together. RETL which had quoted ₹ 5 crore (₹ 3.30 crore

for Project-B and ₹ 1.70 crore for Project-C) as the 'buy-out' price at the end of concession period was selected as the L-I bidder for the projects.

(b) As per the draft Power Transmission Agreement, PGCIL had huge contingent liability under 'buy-out' provisions on the occurrence of specified events during construction, operation and beyond concession period and this required prior approval of Public Private Appraisal Committee (PPAC). In order to match the transmission lines with the rising requirement of evacuation of power and to arrest any further delay, the model was changed from BOOT to BOO in line with the intent of the recommendations of Khurana Committee.

(c) In the meeting taken by the Secretary (Power) on 6.8.2007 regarding migration from BOOT to BOO model, it was decided that "since no relaxation from notified conditions was being made, and only hardening of the contract conditions for the L1 bidder would take place by removal of the 'buy-out' provision, re-tendering would not be required". Hardening of the contract conditions for L-1 bidder included all the three phases of the project, namely construction, operation and after concession period. In other words, while migrating from BOOT to BOO, buy-out price of ₹ 5 crore quoted by RETL, beyond the initial concession period of 25 years, would be kept

in view by Central Commission while fixing the tariff of the project after the concession period. This was all least NPV quoted for 22 years and quoted Buy-out price considered together.

(d)RETL had quoted ₹ 5 crore as the 'buy-out' price at the end of concession period. Since L1 bidder was selected based on the least NPV of tariff quoted for 22 years and quoted 'buy-out' price considered together, RETL should be entitled to Return on Equity on the quoted buy-out price of ₹ 5 crore after the concession period.

3. The Commission was apprised by PGCIL in its letter dated 4.10.2007 that both PGCIL and RETL have agreed to delete 'buy-out' provisions specified in the Competitive Bidding Documents to resolve the PPPAC questions since RETL has emerged as the lowest bidder in both the projects after considering deletion of the 'buy-out' provision. PGCIL had sought concurrence/approval of the Commission to the modification in the Implementation Agreement and Power Transmission Agreement for dispensing with 'buy-out' arrangement. The Commission in its order dated 29.10.2007 in Petition No. 8/2007 Suo-motu had directed as under:

"we note from the minutes of meeting taken by Secretary (Power) on 6.8.2007 that the question as to whether the deletion of the 'buy-out' provisions would warrant any re-tendering was duly deliberated in the meeting, and it was concluded that "since no relaxation from the notified conditions was being made, and only a hardening of the contract conditions for the L1 bidder would take place by removal of the 'buy-out' provision, re-tendering would not be required.

In view of the above, and the fact that the projects have already been delayed considerably, we direct the concerned parties to proceed further expeditiously."

4. It is apparent from the above that the Commission has not adverted to the tariff of the projects after expiry of the period 22 years for which the tariff has been discovered through the tariff based competitive bidding. The Commission intends to hear the petitioners and the beneficiaries regarding determination of tariff after the concession period of 25 years based on the 'buy-out' price quoted by RETL for both the projects before clarification is provided to the Ministry of Power with reference to the letter dated 12.8.2011.

5. In view of the above, we direct issue of notices to the Western Region Transmission (Maharashtra) Pvt. Ltd. and Western Region Transmission (Gujarat) Pvt. Ltd. and beneficiaries of the projects and Power Grid Corporation of India Ltd. The parties are at liberty to file their submission, if any, by 25.9.2011.

6. List this petition for hearing and directions on 4.10.2011.

Sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON