

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 207 of 2011**

**Coram : Shri S Jayaraman, Member  
Shri V.S.Verma, Member  
Shri M. Deena Dayalan, Member**

**Date of hearing: 10.1.2012**

**Date of Order: 21.3.2012**

**In the matter of**

Approval under Central Electricity Regulatory Commission (Grant of Regulatory Approval for execution of Inter-State Transmission Scheme to Central Transmission Utility) Regulations, 2010 read with Central Electricity Regulatory Commission (Grant of Connectivity, Long term and Medium term Open Access to the Inter- State Transmission and Related Matters) Regulations,2009, for grant of regulatory approval for execution of Transmission system required in connection with grant of long term access to group of developers.

**And**

**In the matter of**

Power Grid Corporation of India Limited, Gurgaon

.....**Petitioner**

Vs

- 1) Vandana Vidhyut Ltd, Raipur
- 2) Torrent Energy Limited, Ahemedabad
- 3) M/s BALCO Ltd,
- 4) Bihar State Electricity Board, Patna
- 5) West Bengal State Electricity Board, Calcutta
- 6) Grid Corporation of Orissa Ltd, Bhubaneswar
- 7) Damodar Valley Corporation, Calcutta
- 8) Power Department, Govt. of Sikkim, Gangtok
- 9) Jharkhand State Electricity Board, Ranchi
- 10) Assam State Electricity Board, Guwahati
- 11) Meghalaya State Electricity Board, Shillong
- 12) Government of Arunachal Pradesh, Itanagar
- 13) Power & Electricity Department, Government of Mizoram, Aizwal
- 14) Electricity Department, Govt. of Manipur, Imphal
- 15) Department of Power, Govt. of Nagaland, Kohima
- 16) Tripura State Electricity Corporation Ltd., Agartala
- 17) Rajasthan Rajya Vidyut Prasaran Nigam Ltd, Jaipur
- 18) Ajmer Vidyut Vitran nigam Ltd, Ajmmer
- 19) Jaipur Vidyut Vitran Nigam Ltd, Jaipur

- 20) Jodhpur Vidyut Vitran Nigam Ltd, Jodhpur
- 21) Himachal Pradesh State Electricity Board, Shimla
- 22) Punjab State Electricity Board, Patiala
- 23) Haryana Power Purchase Centre, Panchkula
- 24) Power Development Department, Government of Jammu & Kashmir, Jammu
- 25) Uttar Pradesh Power Corporation Ltd, Lucknow
- 26) Delhi Transco Ltd, New Delhi
- 27) Chandigarh Administration, Chandigarh
- 28) Uttarkhand Power Corporation Ltd, Dehradun
- 29) BSES Yamuna Power Ltd, New Delhi
- 30) BSES Rajdhani Power Ltd, New Delhi
- 31) North Delhi Power Ltd, New Delhi
- 32) NDMC, Mezzanine Floor, New Delhi
- 33) North Central Railway, Allahabad
- 34) Karnataka Power Transmission Corporation Ltd, Bangalore
- 35) Bangalore Electricity Supply Company Ltd, Bangalore
- 36) Gulbarga Electricity Supply Company Limited , Gulberga
- 37) Hubli Electricity Supply Company Limited ,Hubli
- 38) Mangalore Electricity Supply Company Limited, Mangalore
- 39) Chamundeshwari Electricity Supply Corporation Limited, Mysore
- 40) Transmission Corporation of Andhra Pradesh Ltd, Hyderabad
- 41) Eastern Power Distribution Company of Andhra Pradesh Limited, Visakhapatnam
- 42) Southern Power Distribution Company of Andhra Pradesh Limited, Tirupati
- 43) Central Power Distribution Company of Andhra Pradesh Limited, Hyderabad
- 44) Northern Power Distribution Company of Andhra Pradesh Limited, Warangal
- 45) Kerala State Electricity Board, Thiruvnnthapuram
- 46) Tamil Nadu Electricity Board, Chennai
- 47) Electricity Department ,Government of Pondicherry, Pondichery
- 48) Electricity Department, Govt. of Goa, Panji
- 49) Madhya Pradesh Tradeco, Jabablpur
- 50) Madhya Pradesh Audyogik Kandra Vikas Nigam, Indore
- 51) Maharashtra State Electricity Distribution Co Ltd, Mumbai
- 52) Gujarat Urja Vikas Nigam Ltd, Baroda
- 53) Electricity Department, Daman & Diu
- 54) Electricity Department, Administration of Dadra & Nagar Haveli, Silvasa
- 55) Chhattisgarh State Electricity Board, Raipur

.....Respondents

**Counsels/parties present:**

- 1) Shri Rakesh Prasad, PGCIL
- 2) Smt. Manju Gupta, PGCIL
- 3) Shri Manoj Dubey, Advocate, MPPTCL
- 4) Shri R.B. Sharma, Advocate, BSEB, BSES and JSEB
- 5) Shri S.C. Talegaonka, VVL

## ORDER

The petitioner, Power Grid Corporation of India Limited (PGCIL) has made the following prayers in the petition:

- (a) Grant Regulatory approval for taking up implementation of identified transmission systems at Encl -3 (i) by Powergrid at Encl – 3 (ii) by CTU / Transmission Licenses as decided by Empowered Committee for transmission of power from IPPs/ Long-term Access (LTA) applicants who have been granted LTA.
- (b) Grant approval for inclusion of the assets for which the transmission charges are to be recovered through the Point of Connection charge methodology or any other sharing mechanism notified by CERC from time to time.
- (c) Grant approval for inclusion of system at encl 3 (i), 3(ii) under Schedule 2 of TSA approved by CERC.

2. The petitioner has submitted that the Long-term Access (LTA) was granted to the LTA Applicants in the Western Region for which the Associated Transmission Systems required for transmission of power were identified after discussion in concerned Standing Committee Meetings/Regional Power Committee forums of Western Region. The petitioner has submitted the list of identified Transmission Systems and the name of the persons who have been granted LTA under:

- (a) **Supplementary transmission scheme for upcoming IPP Projects in Chhattisgarh:** M/s Vandana Vidyut Ltd (VVL) and M/s. BALCO Ltd are the LTA applicants for the scheme which is proposed to be developed at an estimated cost of

₹ 114.18 crore. Agreements for Long term Access and payment of transmission charges are being signed by the above LTA applicants as well as the beneficiary of the transmission system, Chhatishgarh State Power Transmission Company Limited (CSPTCL). CSPTCL has agreed to share 35% of the transmission charges.

**(b) Transmission System Strengthening in WR:** Torrent Power Limited is the LTA applicant of the transmission strengthening scheme which is being developed at an estimated cost of ₹ 177.72 Crore. Agreements for Long Term Access and payment of transmission charges are in the process of signing by the LTA applicant.

3. The petitioner has submitted that the Associated Transmission System and System Strengthening Scheme were identified after discussions in the Standing Committee Meetings on Transmission/ Regional Power Committee of Western Region. The petitioner has further submitted that in accordance with the decision taken in the 27<sup>th</sup> Meeting of the Empowered Committee on Transmission held on 6.9.2011, the above Associated Transmission System and System Strengthening Scheme shall be implemented by the petitioner on cost plus basis.

4. During the hearing of the petition on 10.1.2012, the learned counsel for the Madhya Pradesh Power Trading Company Ltd. (MPPTCL) submitted that the exemption from tariff based competitive bidding has been granted by Government of India only for up-gradation/strengthening of existing transmission lines and sub-stations. The decision of the Empowered Committee to execute this scheme on cost plus basis is not in conformity with the Government of India letter dated 9.12.2010. With regard to transmission system strengthening in the Western Region, the learned counsel submitted that Torrent Energy Ltd has only acquired part of the land and is yet to obtain the environmental clearance etc. for the project. The representative of Reliance Power Transmission Limited (RPTL) submitted that the

decision of the Empowered Committee to execute the project which was based on the exemption provided by Ministry of Power in its order dated 9.12.2010, has been withdrawn as mentioned in para 7.1.6 of the Tariff Policy by an amendment dated 8.7.2011. The information provided by CTU in this regard to the Empowered Committee and decision taken by it on the date of meeting are based on a clause which did not exist on the date of decision by the Empowered Committee. Moreover, the petition is based only on the recommendation of Empowered Committee and the same is not covered under Regulation 3 of Central Electricity Regulatory Commission (Grant of Regulatory Approval for execution of inter-State Transmission Scheme to CTU) Regulations, 2010.

5. RETL in its affidavit dated 12.1.2012 has elaborated that Ministry of Power, Govt. of India has issued clarification dated 9.12.2010 on para 7.1.6 of the Tariff Policy regarding applicability of tariff based competitive bidding for the projects in generation and transmission sector, exempting the following transmission projects of STUs/ CTU:

- (i) The upgradation/ strengthening of the “existing transmission lines” and associated sub-stations
- (ii) Projects for which BPTA(s)/ TSA(s) have been signed on or before 5<sup>th</sup> January, 2011.

Further vide Gazette Notification dated 8<sup>th</sup> July, 2011, sub-clause 6 and 7 of para 7.1 of the Tariff Policy has been replaced as under:

“7.1 (6) Investment by transmission developer including CTU/STUs after the period of five years or when the Regulatory Commission is satisfied that the situation is right to introduce such competition (as referred to in clause 5.1) would also be determined on the basis of competitive bidding.

However, in the following case the exemptions from competitive bidding route may be adopted:

- (i) First two experimental works for 1200 kV HVDC line.
- (ii) Works required to be done to cater to an urgent situation or which are required in a compressed time schedule by CTU/STUs as decided by the Central Government on a case to case basis.

- (iii) The intra-State transmission project by STUs will be exempted from competitive bidding route for further 2 years beyond 06/01/2011.”

RPTL has submitted that after issue of Notification dated 8<sup>th</sup> July, 2011, exemption of the CTU from competitive bidding for execution of upgradation/ strengthening of the “existing transmission lines” and associated sub-stations is no more available. RETL has submitted that the petitioner has sought approval of implementation of transmission systems based on the corrigendum to the minutes of 27<sup>th</sup> Empowered Committee which was based on the provision of the Tariff Policy which was no more in force on the date of the meeting of the Empowered Committee.

6. RPTL has submitted that based on the information provided by the petitioner to the Empowered Committee and decision taken by the Empowered Committee are based on a clause which did not exist on the date of the meeting and are premised wrongly and not tenable. RPTL has prayed that regulatory approval to the subject transmission system may not be granted for the following reasons :

- (i) This petition is based on premise emerging from factually wrong information submitted by Powergrid to the Empowered Committee.
- (ii) The petition is based only the recommendation of Empowered Committee which is not covered under Regulation 3 of the CERC (Grant of Regulatory Approval for execution of intra-State Transmission Scheme to CTU) Regulations, 2010.
- (iii) These petitions under the consideration of the Commission are in violation of the extant guidelines on competitive bidding and amended Tariff Policy required to be adhered to as advised by the Commission in order dated 13/12/2011 in Petition No. 154/2011.

7. The petitioner in its rejoinder vide affidavit dated 1.2.2012 has submitted that the issue of competitive bidding route for PSU/CPSUs beyond five years after the implementation of Tariff Policy as provided in Para 5.1 and 7.1 of the Tariff Policy was discussed in the meeting of Group of Ministers on Power Sector Issues held on 29.10.2010 and it was decided that for the sake of abundant clarity, Ministry of Power would issue a clarification on the exemptions permitted in the Tariff Policy for the expansion/upgradation of the projects, which was subsequently issued by Ministry of Power in its letter dated 9.12.2010. The letter at Serial No. 3 (B) (i) exempted the upgradation/strengthening of the existing transmission lines and associated sub-stations.

8. The petitioner has also submitted that the Govt. of India Gazette Notification dated 8.7.2011 does not provide further clarifications about upgradation/strengthening of transmission projects and therefore, the clarification issued by Ministry of Power vide letter dated 9.12.2010 on permitted exemptions in the Tariff Policy shall prevail. It has been further submitted that this Gazette Notification also includes the exemption of the intra-State transmission projects by the STUs from competitive bidding route for a further period of two years beyond 6.1.2011, which makes it clear that the other clarifications issued vide letter dated 9.12.2010, regarding exemption of transmission projects including the projects for which BPTAs/TsAs has been signed on or before 5.1.2011 also is valid.

9. Torrent Energy Ltd. (TEL) in its written submissions filed vide affidavit dated 25.1.2012 has submitted that the objections of MPPTCL regarding slow pace of acquiring of land and absence of environmental clearance or fuel linkages are not correct as TEL has already obtained the environmental clearance vide letters dated 24.10.2008, 12.10.2010 and 21.10.2011 and is in complete possession of complete land measuring 1107157.94 square metre for the project. Fuel linkage has been recommended by CEA. Ministry of Petroleum

& Natural Gas vide letter dated 1.10.2010 has communicated about the availability of gas for the project and allocations of gas would be considered as and when the project is ready for commissioning.

10. We have considered the submissions made by the parties. Para 5.3 of the National Electricity Policy notified by the Govt. of India under Section 3 of the Act vide Resolution 23/40/2004-R&R (Vol. II) dated 12.2.2005 recognizes the importance of adequately augmenting the transmission capacity keeping in view the massive increase planned in generation and for development of power market. The Policy further emphasizes the need for network expansion as under:

*“Network expansion should be planned and implemented keeping in view the anticipated transmission needs that would be incident on the system in the open access regime. Prior agreement with the beneficiaries would not be a pre-condition for network expansion. CTU/STU should undertake network expansion after identifying the requirements in consultation stakeholders and taking up the execution after due regulatory approvals.”*

From the above provision of the National Electricity Policy and Tariff Policy it emerges that in the absence of prior agreement with the beneficiaries, the CTU can undertake planned network expansion after taking regulatory approval if the network expansion has been identified in consonance with the National Electricity Plan and in consultation with the stakeholders.

11. Central Electricity Regulatory Commission (Grant of Regulatory Approval for execution of inter-State Transmission Scheme to Central Transmission Utility) Regulations, 2010 provides for regulatory approval for the following cases:

**"3. Scope and applicability**

- (1) These regulations shall apply to:
  - (i) an ISTS Scheme proposed by Central Transmission Utility, for which generators have sought long-term access as per the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access to the Inter-State Transmission and Related Matters) Regulations, 2009, and for which consultation with Central Electricity Authority and beneficiaries if



already identified has been held for setting up the ISTS Scheme, but for which Power Purchase Agreements with all the beneficiaries have not been signed on the date of application.

(ii)an ISTS Scheme for system strengthening / up-gradation, identified by Central Transmission Utility to enable reliable, efficient, co-ordinated and economical flow of electricity within and across the region for which consultation with Central Electricity Authority and beneficiaries if identified has been held.

- (2) These regulations shall not apply to ISTS Scheme, for which all the beneficiaries/respective STUs have signed Bulk Power Transmission Agreement to share the transmission charges."

12. In case of the transmission systems Supplementary transmission scheme for upcoming IPP Projects in Chhattisgarh, the petitioner has submitted that it is in the process of signing the BPTA with the generators and CSPTCL. Similarly, in case of Transmission System Strengthening in WR, the generator, TEL has made considerable progress in the matter of land acquisition, environmental clearance and fuel linkages. The petitioner has submitted that the agreement for long term access and payment of transmission charges are in the process of signing with the LTA applicant. Pending signing of PPAs with the beneficiaries, the petitioner has sought regulatory approval for the subject transmission system. Considering the progress of the generating stations, there is a requirement for the associated transmission system and system strengthening as mentioned in para 2 of this order. Accordingly, in terms of Regulation 3 of Central Electricity Regulatory Commission (Grant of Regulatory Approval for execution of inter-State Transmission Scheme to Central Transmission Utility) Regulations, 2010, we accord regulatory approval to the CTU for execution of the following transmission systems:

- (a) *Installation of 765/400 kV, 2X1500 MVA transformers at Dharamjaygarh/ Korba pooling station as Supplementary Transmission Scheme of upcoming IPP projects in Chhattisgarh as strengthening scheme.*
- (b) *400 kV D/C TEL(DGEN) TPS – Vadodra along with the bays*
- (c) *220 kV D/C Navsari (PG) - Bhestan along with the bays*

13. The petitioner has submitted that the transmission systems for which regulatory approval has been sought would be implemented by the CTU in accordance with the decision

of the Empowered Committee on Transmission. This has been objected to by RPTL and MPPTCL on the ground that the latest amendment to the Tariff Policy does not make any exception in case of CTU to execute the project on cost plus basis. We do not intend to enter into the controversy as to who shall implement the transmission systems for which the regulatory approval has been accorded. Suffice it to say that CTU shall be bound by the extant policy of the Government of India while implementing the transmission systems.

14. Petition No. 207 of 2011 is disposed of in terms of the above.

sd/-  
**(M.DEENA DAYALAN)**  
**MEMBER**

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

sd/-  
**(S. JAYARAMAN)**  
**MEMBER**