

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 122/2012
With I.A. No. 8/2013**

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

**Date of Hearing: 09.04.2013
Date of Order: 09.05.2013**

In the matter of

Application for adoption of transmission charges under Section 63 of the Electricity Act, 2003 for Nagapattinam-Madhugiri Transmission Company Limited to establish transmission system associated with IPPs of Nagapattinam/Cuddalore Area: Package-A.

And in the matter of

Power Grid Corporation of India Limited, Gurgaon	Petitioner
Vs	
IL & FS Tamil Nadu Power Company Limited, Chennai	Respondent

Parties Present:

Shri M.G.Ramchandran, Advocate, PGCIL
Shri U.K. Tyagi, PGCIL
Shri B.Vamsi, PGCIL
Shri RVMM Rao, PGCIL
Shri Sumod Tom Thomas, PGCIL
Shri Y.K.Sehgal, CTU
Shri Dilip Rozeker, CTU
Shri Param Kumar Mishra, Advocate
Shri Piyush Joshi, Advocate
Ms. Nimisha Dutta, Advocate
ShriYadava, Advocate
Shri Hazig Beg, ITPCL
Shri S.C. Misra, ITPCL
Shri V. L. Dua, ITPCL

ORDER

In the present application made on 4.4.2012 under Section 63 of the Electricity Act the applicant has prayed as under:

- “(a) Approve the adoption of Transmission Charges for the Project discovered through competitive bidding process.*
- (b) Allow the transmission system associated with IPPs of Nagapattinam/ Cuddalore Area: Package-A to be part of Transmission Service Agreement approved by the Hon’ble Commission under PoC Charges Regulations (Sharing of Inter-state Transmission Charges and Losses Regulations 2010).*
- (c) Pass such other order/orders, as may be deemed fit and proper in the facts and circumstances of the case.”*

2. The applicant has submitted that Ministry of Power vide its notification dated 15.3.2011 notified PFC Consulting Ltd as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the transmission system associated with IPPs of Nagapattinam/Cuddalore Area- Package-A (the transmission system) for evacuation of power from the generating stations being set up by IPPs in Nagapattinam/Cuddalore Area on Build, Own, Operate and Maintain (BOOM) basis through the international tariff-based competitive bidding route. The transmission system comprises the following elements, namely –

- (a) Nagapattinam Pooling Station - Salem 765 kV D/C transmission line, and
- (b) Salem - Madhugiri 765 kV S/C transmission line.

3. On 20.5.2011, the Bid Process Coordinator incorporated the Nagapattinam - Madhugiri Transmission Company Ltd as its wholly owned subsidiary to take steps

for execution of the transmission system and subsequently to act as the Transmission Service Provider after being acquired by the successful bidder.

4. The applicant has submitted that PFC Consulting Ltd, (PFCCL) as the Bid Process Coordinator invited bids for execution of the transmission system. The petitioner participated in the competitive bidding and was declared as the successful bidder against the quoted Annual Transmission Charges as given in Annexure 'A' to this order. Accordingly, the Letter of Intent (LoI) dated 6.3.2012 was issued by the Bid Process Coordinator in favour of the petitioner. In keeping with the conditions stipulated in the bid documents, the petitioner on 29.3.2012 acquired the Nagapattinam-Madhugiri Transmission Company Ltd as its wholly owned subsidiary after executing the Share Purchase Agreement and also furnished the Contract Performance Guarantee in favour of the respondent which is one of the IPPs in the process of setting up a coal-based thermal power station (2 X 600 MW + 3 X 800 MW) at Chidambaram Taluk, Cuddalore District in the State of Tamil Nadu. In accordance with provisions of bid documents and the LoI issued in its favour, the petitioner has prayed for adoption of the transmission charges for the project which has been discovered through the process of competitive bidding.

5. On receipt of the present application, the Commission by its letter dated 4.5.2012 directed the Bid Process Coordinator to submit the complete process of competitive bidding supported by documents, on affidavit. The necessary details have been filed by the Bid Process Coordinator under affidavit dated 16.5.2012.

6. We heard learned counsel for the petitioner. At the hearing, learned counsel reiterated the prayers made in the petition. We now proceed to examine whether the transmission charges have been arrived at in accordance with Section 63 of the Electricity Act, 2003.

7. 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.”

8. Government of India, Ministry of Power has notified 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. The salient features of the Guidelines 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 Organization 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 Indian Electricity Grid Code (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

along with the certification of BPC shall be forwarded to the Appropriate Commission for adoption of tariff in terms of section 63 of the Act.

9. In the light of the above provisions of the Guidelines, we have examined in the succeeding paragraphs the process of international competitive bidding adopted in the present case for arriving at the lowest levelized transmission charges and for selection of the successful bidder.

10. PFCCCL was notified by Government of India, Ministry of Power vide Notification No. 15/1/2011-Trans dated 15.3.2011 as the Bid Process Coordinator for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the project on Build, Own, Operate and Maintain (BOOM) basis through tariff based competitive bidding process.

11. Nagapattinam-Madhugiri Transmission Company Ltd. was incorporated on 19.8.2011 under the Companies Act, 1956 as a wholly owned subsidiary of PFC Consulting Limited with the objective to establish the transmission system for "Transmission System Associated with IPPs of Nagapattinam/Cuddalore Area- Package-A" on Build, Own, Operate and Maintain basis and to act as the Transmission Service Provider after being acquired by the successful bidder. The main object of the application company in its Memorandum of Associations are as under:

"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”.

12. PFCCCL as the BPC prepared the bidding documents such as REQ and RFP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India. The BPC started the process of selection of TSP with the publication of Global Invitation for Qualification on 28.5.2011 for selection of developer on 'Build, Own, Operate and Maintain (BOOM) basis for the project. The RFQ notice was published on 28.5.2011 in all editions of the Economic Times, Nav Bharat Times, Times of India and Financial Times with the last date of submission of response to RFQ as 12.7.2011.

13. The scope of the project as per the Request for Proposal (RFP) which is also part of the Transmission Line Agreement is as under:

Transmission system for "Transmission System Associated with IPPs of Nagapattinam/Cuddalore Area-Package-A"			
S. No.	Transmission line	Completion Target	Conductor per phase
1.	Nagapattinam Pooling Station-Salem 765 kV D/C line	36 months from effective date	6xzebra ACSR or AAAC, Transmission line design should be corresponding to 85 ^o C conductor temperature operation
2.	Salem-Mahugiri 765 kV S/C line	36 months from effective date	6xzebra ACSR or AAAC, Transmission line design should be corresponding to 85 ^o C conductor temperature operation

14. The identified Long Term Transmission Customers (LTTC) of the project is IL&FS Tamil Nadu Power Company Limited.

15. Responses to the RFQ were received from twenty two bidders on 12.7.2011

as the details given below:

S.No	Participants
1.	NCC Infrastructure Holdings Limited
2.	Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)
3.	GMR Energy Limited
4.	Patel-Simplex Consortium
5.	Madhucon Projects Limited
6.	Power grid Corporation of India Limited
7.	Ranhil-B.S.Transcom Consortium
8.	Sterlite Grid Limited
9.	Adani Power Limited
10.	L&T Infrastructure Development Projects Ltd.
11.	IVRCL Assets and holdings Ltd.
12.	Lanco Infratech Limited
13.	EMCO-IEDCL Consortium
14.	Konaseema-ICOMM Consortitum
15.	Reliance Power Transmission Ltd.
16.	Oriental Structural Engineers Pvt. Ltd.
17.	Torrent Power Limited
18.	Elecnor-KEC Consortium
19.	NSL Energy Venture Pvt. Ltd.-Deepak Cable (India) Ltd. Consortitum
20.	Instalaciones Inobensa S.A.
21.	Cobra Instalacines Y Servicious S.A.-NKG Infrastructure Ltd. Consortitum
22.	DSC Limited

16. The petitioner has submitted that out of the said twenty two bidders, 18

bidders got qualified of RFP stage as under:

S.No	Participants
1.	NCC Infrastructure Holdings Limited
2.	Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)
3.	GMR Energy Limited
4.	Patel-Simplex Consortium
5.	Madhucon Projects Limited
6.	Power grid Corporation of India Limited
7.	Ranhil-B.S.Transcom Consortium
8.	Sterlite Grid Limited
9.	Adani Power Limited

10.	L&T Infrastructure Development Projects Ltd.
11.	IVRCL Assets and holdings Ltd.
12.	Lanco Infratech Limited
13.	EMCO-IEDCL Consortium
14.	Konaseema-ICOMM Consortitum
15.	Reliance Power Transmission Ltd.
16.	Oriental Structural Engineers Pvt. Ltd.
17.	Torrent Power Limited
18.	Elecnor-KEC Consortium

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

- (a) Shri A. Pandey, GM, SBI Capital Markets ... Chairman
- (b) Shri S.Akshaya Kumar, Director (Transmission), TANTRANSCO....Member
- (c) Shri P. Srirama Rao, Director (Grid Operations), APTRANSCOMember
- (d) Shri N.C.Jain, Chief Engineer (F & CA) ...Member
- (e) Shri S.K.Ray Mohapatra, Director (SETD) ...Member
- (f) Chairman of SPV of REC, TPCL/PFCCL ...Member

18. The responses to the RFQ were opened 12.7.2011 in the presence of Bid Evaluation Committee and the representative of the bidders. Evaluation was under by PFCCL and present to the Bid Evaluation Committee which recommended the following 18 bidders as qualified at RFQ stage:

1. NCC Infrastructure Holdings Limited
2. Ind-Barath Power Infra Ltd-Megha Engineering & astructures ltd. (JV)
3. GMR Energy Limited
4. Patel-Simplex Consortium
5. Madhucon Projects Limited
6. Power grid Corporation of India Limited
7. Ranhil-B.S.Transcom Consortium
8. Sterlite Grid Limited
9. Adani Power Limited
10. L&T Infrastructure Development Projects Ltd.
11. IVRCL Assets and holdings Ltd.
12. Lanco Infratech Limited
13. EMCO-IEDCL Consortium
14. Konaseema-ICOMM Consortium
15. Reliance Power Transmission Ltd.
16. Oriental Structural Engineers Pvt. Ltd.

17. Torrent Power Limited
18. Elecnor-KEC Consortium

19. Out of 18 bidders, responses were received from five bidders and bids were opened on 10.2.2012 in the presence of Bid Evaluation Committee and the representatives of the bidders. The RFP (Non-Financial) Bids were evaluated. The Bid Evaluation Committee had recommended all following five bidders as responsive for opening of financial bids:

1. Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)
2. IVRCL Assets and holdings Ltd.
3. NCC Infrastructure Holdings Limited
4. Power grid Corporation of India Limited.
5. Sterlite Grid Limited

20. The RFP (Financial) bids were opened on 29.2.2012 in the presence of Bid Evaluation Committee and the representatives of the bidders. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Power Grid Corporation of India Limited with the lowest evaluated annual levelised transmission charges of Rs. 987.02 million as the successful bidder. Para 2, 3 to 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 quoted escalable transmission charges, as read out for all the five (5) Bidders at the bid opening are attached, as Annexure-I. All the Bidders have quoted the tariff in the requisite format, duly signed by the authorised signatory, as per the RFP document without any deviations or conditions.

2.The Bid Evaluation Committee observed that in case of all the five (5) 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. Further, the Bid Evaluation Committee discussed the 'Error as indicated in the evaluation excel sheet and re-

examined the ratio of the minimum and maximum quoted transmission charges during the term of the TSA for being not less than 0.7, as specified in the RfP document, for all the five Bidders and the ratios calculated for all the Bidders are as follows:

	Name of the Bidder	Quoted Transmission Charges during term of TSA (Rs. Million)		Ratio
		Minimum	Maximum	
1.	Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)	1401.16	1750.00	0.80
2.	IVRCL Assets and holdings Ltd.	1752.20	2486.90	0.70
3.	NCC Infrastructure Holdings Limited	1640.25	2326.60	0.70
4.	Power grid Corporation of India Limited	830.60	1186.57	0.70
5.	Sterlite Grid Limited	1985.75	2825.53	0.70

The Bid Evaluation Committee took note of the above ratios and observed that all the Bidders are in compliance to the requirement as specified in the RfP document. The Evaluation report is attached as Annexure-II.

4. The levelised tariff has been worked out using the financial model provided as on excel sheet to the Bidders along with the RFP document and considering the indices declared by CERC in accordance with the provisions of the RFP document. 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 2/2011-CERC dated October 07, 2011 and EcoT1/2012-CERC dated February 01, 2012 and as prevailing on the day seven days prior to the bid deadline (February 10,2012)

5. Based on the evaluation of the RfP (Financial) Bids carried out, the levelized transmission charges are as follows:

S. No.	Bidder	Levelized Transmission Charges (in Indian Rupees Million per annum)
1.	Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)	1529.44
2.	IVRCL Assets and holdings Ltd.	2085.92
3.	NCC Infrastructure Holdings Limited	2082.51
4.	Power grid Corporation of India Limited	987.02
5.	Sterlite Grid Limited	2389.54

6. As per the above and based on the evaluation carried out, the computed levelized Transmission Charges of M/s Power Grid Corporation of India Limited is the lowest and accordingly, based on the ranking given below, is declared as the Successful Bidder, and the BPC, PFC Consulting Limited, may issue the Letter of Intent (LoI) to M/s Power Grid Corporation of India Limited (L-I Bidder):

Name of the Bidder	Levelized Transmission Charges (in Indian Rupees Million per annum)	Ranking of Bidder based on Levelized Tariffs
Power grid Corporation of India Limited	987.02	L-1
Ind-Barath Power Infra Ltd-Megha Engineering & Infrastructures Ltd. (JV)	1529.44	L-2
NCC Infrastructure Holdings Limited	2082.51	L-3
IVRCL Assets and holdings Ltd.	2085.92	L-4
Sterlite Grid Limited	2389.94	L-5

7. The Bid Evaluation Committee also certifies and confirms that the Evaluation of the Responses to RFQ to RFP Bids has been carried out in accordance with the provisions of the Guidelines and the Standard Bid Documents (RFQ & RFP) and the rates quoted by the lowest evaluated bidder i.e. Power Grid Corporation of India Limited is aligned to the prevailing prices."

21. The Bid Evaluation Committee has also certified and confirmed that the Evaluation of the responses to RFQ and RFP Bids has been carried out in accordance with the provisions of the Guidelines and Bid Documents (RFQ and RFP).

22. Letter of Intent was issued by the BPC 6.3.2012 to the successful bidder i.e Power Grid Corporation of India Limited (hereinafter 'the successful bidder').

23. In accordance with the terms of the RFP and Letter of Intent, the successful bidder is required to accomplish the following tasks:

- (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 Nagapattinam-Madhugiri Transmission Company Limited from PFCCL, along with all its related assets and liabilities;
- (d) Execute the RFP project Documents including the Transmission Service Agreement with LTTC;
- (e) Make an application to the Central Electricity Regulatory Commission for adoption of charges under Section 63 of the Electricity Act, 2003;
- (f) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

24. The successful bidder has furnished the Performance Guarantee to the Long Term Transmission Customer of the project and has acquired hundred percent equity holding in the petitioner company on 29.3.2012 after execution of the Share Purchase Agreement and completing all procedural requirements specified in the bid documents.

25. In the light of the discussions in the preceding paragraphs, we are satisfied that selection of the successful bidder and the process of arriving at the levellised tariff of the project through competitive bidding has been carried out by the Bid Process Coordinator through a transparent process in accordance with the Guidelines and Standard Bid Documents. The Bid Evaluation Committee has certified that the process is in conformity with the MOP Guidelines. Accordingly, we adopt the levellised transmission charges for the project as per the Appendix to this order.

26. 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 shall 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.

27. The petitioner has also prayed that the transmission system be allowed as a part of Transmission Service Agreement approved under the Central Electricity Regulatory Commission (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010 (the 2010 regulations). Prior to acquisition of the Nagapattinam-Madhugiri Transmission Company Ltd by the petitioner, the former had entered into the Transmission Service Agreement (TSA) dated 2.2.2012 with the respondent. After pre-bid conference, it was clarified by the Bid Process Coordinator that TSA would merge with the TSA as notified by this Commission under the 2010 regulations. Thus, merger of the TSA signed by the parties with the TSA notified by this Commission is a condition of bid and bidding on all concerned. Further, this Commission in its order dated 13.12.2011 in Petition No.154/2011 has already clarified that the scheme under the High Capacity Transmission Corridor are part of the coordinated planning of transmission system by CTU and CEA and are part of the TSA approved by this Commission under the 2010 regulations. Accordingly, the petitioner's prayer in this regard is granted. It is however, clarified that till the generating station identify the long term beneficiaries of the project who will utilize

the transmission line for evacuation of power, the respondents shall have the liability to pay the transmission charges.

28. Next we come to issue of the pendency of the appeal before the National Green Tribunal. As per the pleading on record, certain individuals filed appeal before the National Green Tribunal impugning the environmental clearance granted to the respondent by Ministry of Environment and Forests for setting up the generation project. The Tribunal vide its judgment dated 23.5.2012 noted that number of major projects had been proposed in the close proximity of Cuddalore Industrial Area and Pichavaram Mangroves and directed Ministry of Environment and Forests to carry out Cumulative Impact Assessment study taking into account the assimilating and supportive capacity of the region. The Tribunal further directed Ministry of Environment and Forests to review of environment clearance granted to the respondent based on the Cumulative Impact Assessment study and stipulate any additional environmental conditions, if required. Meanwhile, the environment clearance granted in favour of the respondent was suspended by the Tribunal. It was urged by the petitioner that the suspension of the environmental clearance would have consequential impact on the completion schedule of the transmission system and that any change in the schedule would impact the cost of the transmission system and, the transmission charges payable in view of uncertainty of the time frame of actual materialization of the said generation project.

29. The respondent has submitted that there was no uncertainty in the implementation of the generation project. The respondent filed its affidavit signed on

24.8.2012 placing on record a copy of Ministry of Environment and Forests corrigendum dated 14.8.2012, in pursuance of the judgment of the Tribunal dated 24.5.2012. The Ministry, based on the recommendations of the Environment Assessment Committee (EAC), put certain additional conditions for compliance by the respondent, the project proponent, while retaining other conditions initially imposed. Thus, the generation project has been permitted to be continued.

30. The respondent in its affidavit dated 23.8.2012 has specifically prayed this Commission to issue appropriate directions to the petitioner that the work of implementation Project (Transmission System associated with IPP projects in Nagapattinam/Cuddalore Area) be continued as scheduled. This prayer was reiterated in the subsequent affidavit dated 31.8.2012 filed to place on record the order of the Tribunal dated 9.8.2012.

31. The petitioner vide its affidavit dated 6.9.2012 has submitted that CTU in its letter dated 25.6.2011 addressed to the NMTCL had informed that the issue of implementation of the transmission system associated with IPPs of Nagapattinam/Cuddalore Area: Package-A was discussed in the 29th meeting on the Empowered Committee on Transmission held on 15.6.2012 and Committee had recommended to hold the implementation of the subject transmission scheme till clarity on the materialization of the generation project. The applicant has prayed as under:

- (a) To provide a clear mandate for commencement of implementation of the transmission lines;

- (b) TSA to be modified to reflect the PoC framework during the pre-commissioning stage and post-commissioning stage;
- (c) To designate CTU as the representative of the DICs for the purpose of holding the CPG and direct IL&FS TPCL to forward CPG to CTU;
- (d) To provide assurance for payment of transmission charges by the LTTC or DICs irrespective of generation project coming up or not;
- (e) To extend the time line of 36 month of completion of the project based on the date of clear mandate by the CERC for implementation of the project;
- (f) To allow extension of the time up to 6 months for completion of activities lay down under Article 3.1.3 of the TSA, based on the date of clear mandate by the Commission for implementation of project; and
- (g) Grant relief towards time and cost changes including the cost incurred towards acquisition and other activities.

32. The applicant has also filed IA No.8/2013 with following prayers to:

- (a) Direct that the transmission project awarded to Power Grid under the Tariff Based Competitive Bidding be implemented with extension of time and with cost increase and cost over-run;
- (b) Extend the time for implementation of the project to 36 months from the date of grant of transmission licence, adoption of the tariff and allowing the cost increase and cost over-run;

- (c) Direct that the transmission charges shall be payable under the PoC regime by respondent and in the event of failure on the part of respondent, to pay such transmission charges, decide the course of recovery of all such transmission charges as the system is being planned as a coordinated scheme;
- (d) Direct that the transmission charges shall be payable even in the absence of the power project of respondent being commissioned by the time of the commissioning of the transmission system by the extended period and even in the circumstances where the Respondent is unable to evacuate the power for any reason whatsoever.

33. During the hearing of IA on 9.4.2013, learned counsel for the petitioner submitted that clarity is required regarding the implementation of the generation project in view of the order of the National Green Tribunal . Learned counsel for the respondent submitted that with the issue of Ministry of Environment and Forests corrigendum dated 14.8.2012, in compliance with the direction of the National Green Tribunal, the environmental issue has been settled and there is no uncertainty regarding execution of the project. Noting the statement of learned counsel of the respondent, we are of the view that the petitioner should go ahead with the execution of the transmission project.

34. In view of the above, we adopt the transmission charges of the transmission system which shall be charged by the petitioner as per the details given in the Schedule 9 of the TSA.

35. Certain issues have been raised by the petitioner in the affidavit dated 23.8.2012 and I.A.No. 8/2013 which are outside the scope of the petition which was filed for adoption of transmission tariff. Basically these are implementation issues and the petitioner should first try to resolve the issues in consultation with the respondent in terms of the TSA. In case the issues are not resolved, the petitioner is at liberty to approach the Commission in accordance with law.

36. The petition No.122/2012 with I.A is disposed of accordingly.

SD/-

(M. Deena Dayalan)
Member

SD/-

(V.S.Verma)
Member

SD/-

(Dr.Pramod Deo)
Chairperson

Annexure 'A'

Year (Term of Licence)	Commencement Date	End Date	Transmission Charges (Rs. in Millions)	
			Escalable	Non-escalable
1	6.4.2015	31.3.2016	874.83	18.56
2	1.4.2016	31.3.2017	1166.57	18.56
3	1.4.2017	31.3.2018	1144.81	18.56
4	1.4.2018	31.3.2019	1117.55	18.56
5	1.4.2019	31.3.2020	1091.34	18.56
6	1.4.2020	31.3.2021	1063.08	18.56
7	1.4.2021	31.3.2022	1035.94	18.56
8	1.4.2022	31.3.2023	1008.85	18.56
9	1.4.2023	31.3.2024	982.82	18.56
10	1.4.2024	31.3.2025	954.75	18.56
11	1.4.2025	31.3.2026	835.56	18.56
12	1.4.2026	31.3.2027	797.48	18.56
13	1.4.2027	31.3.2028	795.77	18.56
14	1.4.2028	31.3.2029	793.97	18.56
15	1.4.2029	31.3.2030	792.08	18.56
16	1.4.2030	31.3.2031	790.09	18.56
17	1.4.2031	31.3.2032	787.99	18.56
18	1.4.2032	31.3.2033	785.79	18.56
19	1.4.2033	31.3.2034	783.47	18.56
20	1.4.2034	31.3.2035	781.04	18.56
21	1.4.2035	31.3.2036	778.47	18.56
22	1.4.2036	31.3.2037	775.78	18.56
23	1.4.2037	31.3.2038	772.94	18.56
24	1.4.2038	31.3.2039	769.96	18.56
25	1.4.2039	31.3.2040	766.83	18.56
26	1.4.2040	31.3.2041	763.53	18.56
27	1.4.2041	31.3.2042	760.06	18.56
28	1.4.2042	31.3.2043	756.42	18.56
29	1.4.2043	31.3.2044	752.58	18.56
30	1.4.2044	31.3.2045	748.55	18.56
31	1.4.2045	31.3.2046	744.31	18.56
32	1.4.2046	31.3.2047	739.85	18.56
33	1.4.2047	31.3.2048	735.15	18.56
34	1.4.2048	31.3.2049	730.22	18.56
35	1.4.2049	31.3.2050	725.03	18.56
36	1.4.2050	35 th Anniversary of Scheduled COD	722.30	18.56