

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 193/TL/2013

Coram:

**Shri M. Deena Dayalan, Member
Shri A.K.Singhal, Member**

Date of Hearing: 15.10.2013

Date of Order: 21.11.2013

In the matter of

Application under Section 14 read with Section 15 (1) of the Electricity Act, 2003 for grant of transmission license to Vizag Transmission Limited.

And

In the matter of

Vizag Transmission Limited

c/o/GM I/C (TBCB & RC),

Power Grid Corporation of India Limited, Saudamini, Plot No. 2, Sector-29

Gurgaon-122 001

.....**Petitioner**

Vs

1. Tamil Nadu Generation and Distribution Company Limited (TANGEDCO),
NPKRR Malligai, 144, Anna Salai, Chennai 600 002
2. Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL),
H.No. 2-5-3 1/2, Vidyut Bhawan, APNPDCL, Corporate Office, Nakkal Gutta,
Hanamkonda, Warangal-506 001
3. Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL),
3rd Floor, Corporation Office P & T Colony, Seethmmadhara, Vishakhapatnam-530
013
4. Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL),
Srinivassa Kalyana Mandapam Backside, Tiruchanoor Road, Kesavayan Gunta
Tirupati-517 501
5. Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL),



6-1-50, Corporate Office, Mint Compound, Hyderabad- 500 063

6. Bangalore Electricity Supply Company Limited (BESCOM),
K.R.Circle, Bangalore-560 001
7. Gulbarga Electricity Supply Company Limited (GESCOM),
Station Main Road, Gulbarga
8. Hubli Electricity Supply Company Limited (HESCOM),
Navanagar, PB Road, Hubli
9. Mangalore Electricity Supply Company Limited (MESCOM),
Paradigm Plaza, AB Shetty Circle, Mangalore-575 001
10. Chamundeshwari Electricity Supply Company Limited (CESCOM),
927, LJ Avenue, Ground Floor, New Kantharaj Urs Road,
Saraswatipuram, Mysore-570 009
11. Kerala State Electricity Board (KSEB),
Vaidyuthi Bhavanam, Pattom, Trivandrum-695 004
12. Electricity Department, Govt. of Puducherry (PED), Puducherry-695 004
13. Electricity Department, Govt. of Goa (GED), Vidyut Bhawan, Panaji,
Goa-403 001
14. Lanco Kondapalli Power Limited (LKPL),
Plot No. 4 Software Units layout, HITEC City, Madhapur, Hyderabad-500 081
15. Central Transmission Utility (CTU),
Saudamini, Plot No. 2, Sector 29, Gurgaon
16. Power Company of Karnataka Limited,
5th Floor, KPTCL Building, Kaveri Bhawan, Bangalore-560 009 ...**Respondents**

REC Transmission Projects Company Limited,
Core-4, SCOPE Complex, 7 Lodhi Road,
New Delhi-110 003

Proforma Respondents

The following were present:

Shri B. Vamsi, VTL
Shri S. Ravi, VTL



Shri Debassish Das, Advocate, RECTPCL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri A.M. Pavgi, PGCIL
Shri Sumod Thomas, PGCIL

ORDER

The petitioner, Vizag Transmission Limited has filed this application under Section 14 read with Section 15(1) of the Electricity Act, 2003 (the Act) to undertake the business of establishing, commissioning, operation and maintenance of the transmission systems comprising the following elements :-

Sl.No	Transmission Lines	Completion Target	Conductor per phase
1.	(i) Srikakulam PP – Vemagiri-II Pooling Station 765kV D/C line	36 months from effective date	Hexa Zebra ACSR or equivalent AAAC conductor and Transmission line design should be corresponding to 85o C conductor temperature operation.
2.	(ii) Khammam (Existing) – Nagarjuna Sagar 400 kV D/C line.	28 months from effective date	Twin Moose ACSR or equivalent AAAC conductor and Transmission line design should be corresponding to 85o C conductor temperature operation.

2. The petitioner has made the following prayers:

(a) Grant Transmission License to the Applicant ;

(b) Allow the Transmission System for System Strengthening in Southern Region for import of power from Eastern Region 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.'



3. Ministry of Power. Government of India initiated a scheme for development of transmission projects through private sector participation for System Strengthening in Southern Region for Import of Power from Eastern Region. The said project was to be awarded to developers selected on the basis of the tariff based competitive bidding process. The applicant has submitted that the Central Government in exercise of the powers under Section 63 of the Act has notified the "Tariff Based Competitive Bidding Guidelines for Transmission Service" (hereinafter referred to as "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 REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) was notified by Government of India Ministry of Power vide Notification No. 15/1/2011-Trans dated 4.1.2013 as the Bid Process Coordinator (hereinafter referred to as "BPC") for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the transmission system for System Strengthening in Southern Region for import of power from Eastern Region on Build, Own, Operate and Maintain (BOOM) basis through competitive bidding in accordance with the Guidelines. The applicant was incorporated on 30.11.2011 by RECTPCL as its wholly owned subsidiary to initiate work on the project to build, own, operate and maintain the transmission system for System Strengthening in Southern Region for import of power from Eastern Region and to act as the Transmission Service Provider (TSP) after being acquired by the successful bidder.

4. The petitioner has submitted that RECTPCL in its capacity as the BPC invited bids from the prospective bidders for issue of Request for Qualification (RfQ) to



qualify/shortlist the bidders for participation in the next stage of bidding i.e Request for Proposal (RfP) as part of the process for selection of Transmission Service Provider (TSP) in accordance with the Guidelines. The bidder selected in accordance with the bidding process was required to acquire one hundred percent of equity shares in the Vizag Transmission System Limited, New Delhi and then assume the responsibility of the TSP to establish the transmission project and to provide transmission service on long-term basis to the following Long Term Transmission Customers (LTTCs) of the project, namely:

Sl. No.	Name of the Long Term Transmission Customers
1.	Andhra Pradesh
(i)	Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL)
(ii)	Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL)
(iii)	Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL)
(iv)	Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL)
2.	Karnataka
	Power Company of Karnataka Limited (PCKL) (PCKL to sign TSA on behalf of following Discoms)
(i)	Bangalore Electricity Supply Company Limited (BESCOM)
(ii)	Gulbarga Electricity Supply Company Limited (GESCOM)
(iii)	Hubli Electricity Supply Company Limited (HESCOM)
(iv)	Mangalore Electricity Supply Company Limited (MESCOM)
(v)	Chamundeshwari Electricity Supply Company Limited (CESCOM)
3.	Kerala State Electricity Board (KSEB)
4.	Tamil Nadu Generation and Distribution Company Limited (TANGEDCO)
5.	Electricity Department, Govt. of Puducherry, Puducherry
6	Electricity Department, Govt. of Goa, Goa
7.	Lanco Kondapalli Power Limited, Hyderabad

5. Section 14 of the Act provides that the Appropriate Commission may, on an application made to under Section 15 of the Act, grant a transmission license to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The applicant has been incorporated under the Companies Act, 1956.

The main object of the application is as under:

“ To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction..... and objectives laid down by the Central Government from time to time”.

6. Section 15(1) of the Act provides that every application under Section 14 shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed. The Central Commission has specified the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2008 (hereinafter referred to as 'Transmission Licence Regulations'). Regulation 3 of the Transmission Licence Regulations provide that the Empowered Committee shall identify the projects included in the transmission plan to be developed under the guidelines for competitive bidding. Regulation 4 of the Transmission License Regulations provide that in case of projects identified by the Empowered Committee for development under the guidelines for competitive bidding, selection of the project developer shall be made in accordance with the procedure laid down in the guidelines. Regulation 6 of the Transmission Licence Regulations provide that eligibility for grant of licence shall be to a person selected through the process under the guidelines for competitive bidding, The



transmission project under consideration has been identified by the Empowered Committee and the selection of the project developer, M/s. Vizag Transmission Limited has been made in accordance with the guidelines for competitive bidding.

7. Regulation 7 of the Transmission Licence Regulations provides for the procedure for grant of transmission licence as under:

“(1) The application for grant of transmission licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fees as may be prescribed by the Central Government from time to time.

(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.

(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.

(4) Before making an application, the applicant shall serve a copy of the application on each of the long-term customers of the project and shall submit evidence to that effect along with the application and shall also post the complete application along with annexures and enclosures on its website, the particulars of which shall be given in the application.

(5) The application shall be kept on the website till such time the licence is issued or the application is rejected by the Commission.

(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.

(7) The applicant shall, within 7 days after making the application, publish a notice of its application in Form-II attached to these regulations, in at least two daily newspapers, one in English language and one in vernacular language, having circulation in each State or Union Territory where an element of the project or a long-term customer is situate, in the same language as of the daily newspaper in which the notice of the application is published.

(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of



the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.

(9) In the notice published in the newspapers under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated) with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice,

(10) The applicant shall within 15 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the newspapers in which the notice has been published and the date and place of their publication and shall also file before the Commission the relevant copies of the newspapers, in original, in which the notice has been published.

(11) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:

Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant;

Provided further that these recommendations of the Central Transmission Utility shall not be binding on the Commission.

(12) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by him, within 45 days of serving copy of the application on the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.

(13) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant transmission licence or for reasons to be recorded in writing, reject the application.”



8. The petitioner has approached the Commission by a separate application for adoption of transmission charges in respect of the transmission system which is presently under consideration of the Commission and order in that petition will be issued separately. The petitioner has filed the present application for grant of transmission licence in accordance with the Transmission Licence Regulations. The petitioner has submitted proof of service of the copies of the application on the LTTC and Central Transmission Utility and proof of web posting of the complete application. The petitioner has further undertaken to pay the applicable licence fee upon the grant of Transmission Licence in terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The petitioner has prayed for grant of transmission licence to Vizag Transmission Limited with respect to the transmission system as per details given in para 1 above.

9. The petitioner has made the application as per Form-1 and paid the fee of ₹ one lakh as prescribed by the Government. On perusal of the application, it is revealed that the petitioner has served copy of the application on the Long Term Transmission Customer (LTTC) for the project which is scheduled to be commissioned 36 and 28 months from the effective date under the TSA. The levelised tariff charges quoted by the petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is ₹ 2311.34 million/annum. The petitioner has also enclosed copies of the Bid Evaluation Committee recommendations for selection of the Power Grid Corporation



of India Limited as the selected bidder. The BPC has enclosed proof of making public the final result of evaluation of bids for the project as per the Guidelines.

10. The petitioner has vide its affidavit dated 12.9.2013 has placed on record the relevant copies of the newspapers in original in which the notice of its application has been published. The petitioner has published the notices in the Hindu Business Line and Andhra Bhoomi having publication from Hyderabad, Vijayawada, Nellore, Visakhapattanam, Rajahmundry, Anantpur and Karimnagar. The petitioner has complied with the requirement of Regulation 7 (7) of Transmission Licence Regulations.

11. In response to the application, no reply has been received from the respondents. No objection has been received from the general public in response to the public notice. During the hearing on 15.10.2013, learned counsel for TANGEDCO had sought one week time to file the reply to the petition which was allowed. However, no reply has been filed by TANGEDCO.

12. The petition was heard on 15.10.2013. The Commission in the Record of Proceeding had directed the petitioner to file an affidavit to the effect that the execution of the transmission project shall not be delayed due to time taken in obtaining statutory clearances required under the RfP and Transmission Service Agreement or adjudication of any claim of the petitioner arising under the TSA.



13. The petitioner vide its affidavit dated 29.10.2013 has submitted as under:

"4. That it is submitted that as per the Request for Proposal under the Bidding process, the definition of " RFP Project Documents" shall mean the Transmission Service Agreement (TSA) and the Share Purchase Agreement (SPA). It is submitted that the pre-signed Transmission Service Agreement (TSA) between the Transmission Service Provider (TSP) and the Long Term Transmission Customers (LTTCs) has been provided by the Bid Process Coordinator as part of the RFP Project documents for the bidders to participate in the tariff based competitive bidding process.

All the bidders were required to submit their bid on the terms and conditions contained in the RFP and the RFP Project Documents. Accordingly, the successful participant bidder viz., POWERGRID had also submitted an undertaking as per the prescribed format of the BPC which inter-alia states as under:

We have submitted the Bid on the terms and conditions contained in the RFP and the RFP Project Documents. Further, the Financial Bid submitted by us is strictly as per the format provides in Annexure-4 of the RFP, without mentioning any deviations, conditions, assumptions or notes in the said Annexure."

14. We are of the view that the affidavit filed by the petitioner is not in compliance with our directions in the ROP dated 15.10.2013. The purpose of our direction is to ensure that the petitioner after being granted licence is faithfully implementing the project as per the time line specified and is not delaying the project on account of delay in obtaining the statutory clearances or adjudication of any claim arising out of the TSA. The petitioner is expected to plan the implementation of different activities associated with the development of the transmission system in such a manner that the delays in getting statutory clearances, etc. do not affect the implementation schedule. Submission of the undertaking during the bidding process is not an embargo on the petitioner to submit the affidavit as directed by the Commission. Accordingly, the petitioner is further directed to submit the required affidavit by 30.11.2013.



15. As per para 12.1 of the Guidelines, finally selected bidder shall make an application for grant of transmission licence within one month of selection. Power Grid Corporation of India Limited was declared as the successful bidder and Lol was issued on 31.7.2013. BPC vide letter dated 30.8.2013 extended the last date for completion of various activities including making the application for grant of transmission licence. as stipulated in the Final RFP from 29.8.2013 to 2.9.2013. Accordingly, the applicant has filed the application for grant of transmission licence on 2.9.2013.

16. The petitioner has served a copy of the application on the Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence regulations. The CTU in its letter dated 23.9.2013 has recommended for grant of transmission license to M/s Vizag Transmission Ltd. Relevant portion of recommendations is extracted hereunder:

"2. REC Transmission Projects Company Ltd. was notified as Bid Process Coordinator (BPC) by Government of India for the purpose of selection of Transmission Service Provider (TSP) to establish the above referred project on BOOM basis. Bid Evaluation Committee appointed by the BPC has certified M/s Powergrid Corporation of India Limited as successful bidder with lowest levelised transmission charges. M/s Powergrid Corporation of India Limited acquired Vizag Transmission Limited after execution of the Share Purchase Agreement (SPA) on 30.8.2013.

In line with Section 15 (4) of the Electricity Act, 2003 and details furnished by M/s Vizag Transmission Ltd., POWERGRID as CTU recommends grant of transmission license to M/s Vizag Transmission Ltd for the scope as described at para 1."

17. Power Grid Corporation of India Limited (PGCIL) has been selected as the successful bidder on the basis of the tariff based competitive bidding as per the guidelines issued by the Government of India, Ministry of Power and has been issued with the Lol by the BPC. PGCIL on 29.8.2013 has furnished the Contract Performance



Guarantee of ₹ 45 crore to the identified LTTCs in accordance with clause 2.21 of RFP documents and PGCIL has acquired the SPV on 30.8.2013 after execution of Share Purchase Agreement. Thus, the petitioner has complied with the requirements of the RfP and Transmission Service Agreement. The CTU has also recommended the case of the petitioner for grant of transmission licence. Considering all the material on record, we are *prima facie* of the view that the petitioner satisfies the conditions for grant of inter-state transmission licence under Section 15 of the Act read with Transmission Licence Regulations for 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 by 6.12.2013.

18. The petition shall be listed for hearing on 12.12.2013 for further directions.

Sd/-

(A.K.Singhal)
Member

sd/-

(M. Deena Dayalan)
Member

