

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K.Singhal, Member**

Petition No. 321/TL/2013

**Date of Hearing: 08.07.2014
Date of order : 14.07.2014**

In the matter of

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

And

In the matter of

Patran Transmission Company Limited
Room No, 409, 4th Floor Skipper Corner
88 Nehru Place,
New Delhi-110019

....**Petitioner**

1. Haryana Power Purchase Centre
Shakti Bhawan, Energy Exchange
Room No 446, Top Floor,
Sector-6, Panchkula-134109
Haryana
2. Punjab State Power Corporation Limited
Shed No T-1-A, Thermal Design,
Near 22 No. Phatak,
Patiala, Punjab
3. Himachal Sorang Power Private Limited
D-7, Sector-1, Lane-1, 2nd Floor
New Shimla, Shimla-171009
Himachal Pradesh



4. Adani Power Limited
3th Floor, Achalraj
Opposite Mayors Bungalow
Law garden, Ahmedabad-380006, Gujarat
5. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath
Jaipur-302005
Rajasthan
6. Ajmer Vidyut Vitran Nigam Limited
Old Power House, Hathi Bhata
Jaipur Road,
Ajmer, Rajasthan
7. Jodhpur Vidyut Vitran Nigam Ltd
400 kV, GSS Building,
Ajmer Road, Heerapur,
Jodhpur, Rajasthan
8. Lanco Anpara Limited
Plot No 397, Udyog Vihar
Phase-3, Gurgaon-122016
Haryana
9. Power Development Department
Govt. of Jammu & Kashmir
SLDC Building, 1st Floor
Gladani Power House
Narwal, Jammu
Jammu & Kashmir
10. Lanco Green Power Private Ltd
Plot No 397, Udyog Vihar
Phase- III, Gurgaon-122016
Haryana
11. North Central Railway
DRM Office
Nawab Yusuf Road
Allahabad
Uttar Pradesh
12. Ad Hydro Power Limited
Bhilwara Towers,

A-12, Sec-1
Noida-201301
Uttar Pradesh

13. Jaiprakash Power Ventures Limited
A Block, Sector-128
Noida-201304
Uttar Pradesh
14. BSES Yamuna Power Limited
2nd Floor, B Block
Shakti Kiran Building
(Near Karkardooma Court)
New Delhi
15. BSES Rajdhani Power Limited
BSES Bhawan, 2nd Floor
B Block, Behind Nehru Place Bus Terminal
Nehru Place
New Delhi-110019
16. Tata Power Delhi Distribution Limited
33 kV sub-station Building,
Hudson Lane, Kingsway Camp,
New Delhi-110019
17. New Delhi Municipal Corporation
Palika Kendra, Sansad Marg
New Delhi-110 001
18. Union Territory of Chandigarh
Div-11, Opposite Transport Nagar
Industrial Phase-1
Chandigarh
19. Power Grid Corporation of India Limited
B-9, Qutab Institutional Area
Katwaria Sarai, New Delhi-110016
20. Uttar Pradesh Power Corporation Limited
14th Floor, Shakti Bhawan
Ext Building, 14, Ashok Marg
Lucknow
Uttar Pradesh
21. PTC India Limited

2nd Floor, NBCC Tower
15, Bhikaji Cama Place
New Delhi-110066

22. Uttaranchal Power Corporation Limited
Urja Bhawan, Kanwali Road
Near Balli Wala Chowk
Dehradun, Uttarakhand

23. Himachal Pradesh State Electricity Board
Vidyut Bhawan, Kumar House Complex
Building No. 11, Shimla,
Himachal Pradesh

24. PFC Consulting Ltd
First Floor, "Urjanidhi",
1, Barakhamba Lane,
Connaught Place
New Delhi-110001

...Respondents

The following were present:

Shri Anand Ganeshan, Advocate for the petitioner
Shri Sanjay Nayak, PFCCL

ORDER

The petitioner, Patran Transmission Company Limited has filed this petition under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (the Act) to undertake the business of establishing and operation of the transmission system for "Patran 400 kV sub-station" (hereinafter referred to as "Transmission system") on 'Build, Own, Operate and Maintain' (BOOM) basis, comprising the following elements:

S. No.	Transmission elements	Completion Target	Conductors per Phase
1.	Creation of 2x500 MVA, 400/220 kV sub-station at Patran with (i) 6 Nos.400 kV Bays (ii) 8 Nos.220 kV Bays Space for spare Bays (6	30 months from effective date (25.10.2013)	

	Nos. 400 kV & 6 Nos. 220 kV)		
2.	LILO of both circuits of Patiala-Kaithal 400 kV D/C at Patran	30 months from effective date (25.10.2013)	Triple Snowbird or equivalent AAAC. The transmission line should have to be designed for a maximum operating conductor temperature of 85 ⁰ C

2. The petitioner has submitted that Government of India, Ministry of Power, vide its Resolution No. 11/5/2005-PG(i) dated 17.4.2006 notified the 'Guidelines for encouraging competition in development of Transmission Projects and competitive bidding for Transmission Service' and 'Tariff based competitive bidding guidelines for Transmission Service' (hereinafter referred to as "the Guidelines") under Section 63 of the Act. In accordance with the Guidelines, the PFC Consulting Limited (PFCCL) was notified by Government of India, Ministry of Power vide Notification No. S.O. 82 (E) dated 8.10.2012 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the 'Transmission System for Patran 400 kV sub-station' (hereinafter referred to as Project)" through tariff based competitive bidding process. The petitioner was incorporated on 19.12.2012 by PFCCL as its wholly owned subsidiary to initiate work on the project to build, own, operate and maintain the transmission system for Patran 400 kV sub-station and to act as the Transmission Service Provider (TSP) after being acquired by the successful bidder.

3. The petitioner has submitted that PFCCL in its capacity as 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 of selection of 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 Patran Transmission Company 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:

S. No.	Name of Long Term Transmission Customers
1.	AD Hydro Power Limited
2.	Haryana Power Purchase Centre
3.	Punjab State Power Corporation Limited
4.	Himachal Sorang Power Pvt. Limited
5.	Adani Power Limited
6.	Jaipur Vidyut Vitran Nigam Limited
7.	Ajmer Vidyut Vitran Nigam Limited
8.	Jodhpur Vidyut Vitran Nigam Limited
9.	Lanco Anpara Power Limited
10.	Lanco Green Power Pvt. Ltd.
11.	Power Development Department, Govt of Jammu and Kashmir
12.	North Central Railway, Allahabad
13.	Jaiprakash Power Ventures Limited
14.	BSES Yamuna Power Limited
15.	BSES Rajdhani Power Limited
16.	Tata Power Delhi Distribution Company Limited
17.	New Delhi Municipal Corporation
18.	UTC-Chandigarh
19.	Power Grid Corporation of India Limited , HVDC Dadri
20.	Power Grid Corporation of India Limited, HVDC Rihand
21.	U.P. Power Corporation Limited
22.	PTC (Budhil), PTC India Limited

23.	PTC (Everest), PTC India Limited
24.	Uttaranchal Power Corporation Limited
25.	Himachal Pradesh State Electricity Board

4. The petitioner has submitted that four bidders submitted their bids at Request for Proposal (RfP) stage. Bid Evaluation Committee carried out the responsiveness check of the non-financial bids in accordance with the conditions of RfP and recommended all four bidders as responsive for opening the financial bids. After opening the financial bids, the Bid Evaluation Committee assessed the bids and submitted the Bid Evaluation Report dated 16.9.2013. As per the Bid Evaluation Report, M/s Techno Electric and Engineering Company Limited emerged as the successful bidder with the lowest levelized transmission charges of ₹ 274.00 million/annum.

5. The Commission after considering the application of the petitioner in the light of the provisions of the Electricity Act, 2003 and Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the Transmission Licence Regulations') *prima facie* proposed to grant licence to the petitioner.

Relevant para of our order dated 5.6.2014 is extracted as under

"16. 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. TEECL has been selected on the basis of the tariff based competitive bidding as per the Guidelines issued by Government of India, Ministry of Power. Lol has been issued to TEECL by the BPC and TEECL has acquired 100% stake in the Patran Transmission Company Limited which has been transferred to the petitioner on 13.11.2013 after execution of Share Purchase Agreement. Thus, the petitioner has complied with the requirements of the RfP and Transmission Service Agreement. CTU has also recommended for grant of transmission

licence to the petitioner. 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 27.6.2014."

6. A public notice under Section 15 (5) of the Act was published on 18.6.2014 in all editions of Hindustan Times and Amar Ujala. No suggestions/objections have been received from the members of the public in response to the public notice. During the hearing on 8.7.2014, none appeared on behalf of any of the respondents.

7. The Commission, vide its order dated 5.6.2014, 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.

8. The petitioner, vide its affidavit dated 1.7.2014, has submitted that in terms of TSA, it would implement the project as per the provisions of Article 16.4 of TSA which is extracted as under:

"16.4. Parties to Perform Obligations: Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement."

9. The petitioner has further submitted that it shall not claim transmission charges for the time and cost over-run contrary to the provisions of TSA, the Act, bidding documents, relevant Regulations of the Commission.

10. We have considered the submission of the petitioner and perused documents on record.

11. 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.”

12. In our order dated 5.6.2014, we had proposed to grant transmission licence to the petitioner company and directed for issue of public notice. In response to the public notice, no suggestions/objections have been received. CTU in its letter dated 13.5.2014 has recommended under Section 15 (4) of the Act for grant of transmission licence to the petitioner. We are satisfied that the petitioner 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 transmission licence be granted to the petitioner, Patran Transmission Company Limited, to establish the transmission system for "Patran 400 kV sub-station " on BOOM basis as per the details given in para 1 above.

13. Scheduled COD of the transmission elements as per Schedule 3 of the TSA is 30 months from the effective date. It has been further mentioned in Schedule 3 that "the commissioning of the elements are inter linked hence complete commissioning is required for transmission charges recovery". We direct the petitioner to comply with the said provisions of the TSA.

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

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

(b) The transmission licensee shall comply with the provisions of the 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 or any subsequent enactment thereof during the period of subsistence of the licence.

(c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the project, the petitioner may make an application, two years before

the expiry of initial licence period, for grant of licence for another term in accordance with Regulation 13 (2) of the Transmission Licence Regulations which shall be considered by the Commission in accordance with law;

(d) The petitioner shall not enter into any contract for or otherwise engage in the business of trading in electricity during the period of subsistence of the transmission licence;

(e) The petitioner shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, as amended from time to time or any subsequent enactment thereof. 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 the licence;

(f) The petitioner 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;

(g) The petitioner shall remain bound by the Central Electricity Regulatory Commission (Standard of Performance of inter-State Transmission Licensees) Regulations, 2012 or subsequent enactment thereof.

(h) The petitioner 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 Act, Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 as amended from time to time and Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time;

(i) The petitioner 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;

(j) The petitioner shall remain bound by the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time;

(k) The petitioner 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;
and

(l) The petitioner shall ensure execution of the project as per the Schedule 3 of the TSA and shall remain bound by the provisions of Article 16.4 of the TSA and its affidavit dated 1.7.2014.

15. Central Electricity Authority shall monitor the execution of the project and bring to the notice of the Commission any lapse on the part of the licensee to meet the schedule for further appropriate action in accordance with the provisions of the Act and Transmission Licence Regulations.

16. Petition No. 321/TL/2013 is disposed of in terms of the above.

17. We direct that copies of this order shall be endorsed to all Long Term Transmission Customers of the transmission system and Central Electricity Authority.

Sd/-

(A.K.Singhal)
Member

sd/-

(M. Deena Dayalan)
Member

sd/-

(Gireesh B.Pradhan)
Chairperson