

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 323/TT/2013

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K.Singhal, Member

Date of Hearing : 27.02.2014

Date of Order : 20.05.2014

In the matter of

Application under Section 63 of the Electricity Act, 2003 for the adoption of Tariff (Transmission Charges) in respect of the Transmission System being established by Darbhanga-Motihari Transmission Company Limited (DMTCL), New Delhi (A wholly owned subsidiary of Essel Infraprojects Limited) under Tariff Based Competitive Bidding process.

And

In the matter of

Darbhanga - Motihari Transmission Company Limited
Essel House, B-10, Lawrence Road,
Industrial Area,
New Delhi 110 035

..... **Petitioner**

Vs

1. Maithan Power Limited
MA-5, Gogna Colony,
Maithan Dam Post Office,
Dist:Dhanbad,
Jharkhand- 828207

2. Grid Corporation of Orissa Limited
Shahid Nagar,
Bhubaneshwar- 751007

3. Bihar State Electricity Board



Vidyut Bhawan, Bailey Road,
Patna- 800001

4. Power Grid Corporation of India Limited
HVDC Pusauli, 5th Floor,
Alankar Palace, Boring Road,
Patna- 800001

5. Damodar Valley Corporation,
DVC Tower
Maniktala, Civic Tower,
VIP Road, Kolkata- 700054

6. Power Department., Govt. of Sikkim
Kazi Road, Gangtok- 737101

7. Jharkhand State Electricity Board
in front of Main Secretariat,
Doranda, Ranchi- 834002

8. West Bengal State Electricity Distribution Company Limited
Bidyut Bhawan,
Bidhan Nagar, Block DJ,
Sector II, Saltlake City,
Kolkata- 700091

.... Respondents

The following were present:

1. Shri Debasish Das, DMTCL
2. Shri Mohit Jain, DMTCL
3. Shri Amit Kumar, DMTCL
4. Shri Rajesh Kumar Shahi, PFC

ORDER

The petitioner, Darbhanga-Motihari Transmission Company Limited has filed the present petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as the 'Act') for adoption of tariff (Transmission Charges) in respect of



transmission system for "Eastern Region System Strengthening Scheme-VI"
(hereinafter referred to as 'the Project') comprising of the following elements:

S.No.	Name of the Transmission Element	Completion Target	Conductor per phase
1.	<p>a) Creation of 2x500 MVA, 400/220 kV GIS Substation at Darbhanga* with space for future extension (1x500MVA) and</p> <p>(i) 400kV Line bays – 2 Nos. (ii) 400 kV ICT bays – 2 Nos. (iii) 220kV Line bays – 7 Nos. (iv) 220 kV ICT bays – 2 Nos. (v) Space for Future bays – 7 Nos. 400kV and 6 Nos. 220 kV (vi) 125 MVAR bus reactor- 2 Nos. (vii) Bus reactor bays – 2 Nos. *The Darbhanga S/S to located near Darbhanga town.</p>	30 months from effective date.	
	<p>(b) Muzaffarpur (PG)-Darbhanga 400 kV D/C line with triple snowbird conductor</p>	30 months from effective date.	Triple Snowbird or equivalent AAAC. The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC
2.	<p>a) Creation of 2x200 MVA, 400/132 kV GIS Substation at Mothihari* with space for future extension (1x200 MVA) and</p> <p>(i) 400 kV Line bays – 4 Nos. (ii) 400kV ICT bays – 2 Nos. (iii) 132kV Line bays – 6 Nos. (iv) 132kV ICT bays – 2 Nos. (v) Space for Future bays - 5 Nos. 400kV and 5 Nos. 132 kV (vi) 125 MVAR bus reactor – 2 Nos. (vii) Bus reactor bays – 2 Nos. *The Mothihari sub-station to</p>	32 months from effective date	

	located near Mothihari town		
	b) LILO of Barh – Gorakhpur 400 kV D/C line at Mothihari, 400 kV 2xD/C quad	32 months from effective date	Quad Moose or equivalent AAAC. The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC
	c) 2x80 MVAR Line reactors (Switchable) at Mothihari end (with 600 ohm NGR) for Barh-Mothihari section	32 months from effective date	
	d) 2x50 MVAR Line reactors (fixed) at Mothihari end (with 400 NGR) for Mothihari-Gorakhpur section	32 months from effective date	

2. The petitioner 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 petitioner has further submitted that Ministry of Power vide its vide S.O. 82 (E) dated 8 October, 2012 notified PFC Consulting Limited (PFCCCL) as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the “Transmission System for Eastern Region System Strengthening Scheme-VI” on Build, Own, Operate and Maintain (BOOM) basis through competitive bidding in accordance with Guidelines.

3. On 18.12.2012, the BPC incorporated the Darbhanga-Motihari Transmission Company Limited as its wholly owned subsidiary to take steps for

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

4. The petitioner has submitted that PFCCL as BPC had initiated the process for selection of successful bidder in accordance with the “Guidelines for encouraging competition in development of Transmission Projects and competitive bidding for Transmission Service” and Guidelines issued by Ministry of Power, Government of India. The petitioner has submitted that the key milestones in the bidding process were as under:

S. No.	Events	Date
1.	Global Invitation for Tender	8.2.2013
2.	Submission of Request for Qualification	25.3.2013
3.	Notification of list of bidders qualified for submission of Request for Proposal	17.5.2013
4.	Issuance of Request for Proposal documents	27.5.2013
5.	Pre-bid meeting	26.6.2013
6.	Issuance of written clarifications/ amendments by BPC	2.7.2013
7.	Submission of Request for Proposal documents	8.10.2013
8.	Opening of Non-financial Bid	8.10.2013
9.	Opening of financial bids	15.10.2013
10.	Issuance of Letter of Intent to successful bidder	17.10.2013

5. The petitioner has submitted that BPC started the process with the publication of Global Invitation for qualification on 8.2.2013 for selection of a TSP for the project and to provide transmission service on long-term basis to the Long Term Transmission Customers (LTTCs). Intimation regarding the initiation of the

bidding process was given by the BPC to the Commission vide its letter dated 8.2.2013. A total of ten bidders had submitted their Request for Qualification (RfQ) on 25.3.2013 amongst which ten bidders were qualified for participation in the next stage of bidding i.e Request for Proposal (RfP). On 8.10.2013, RfPs were submitted by the following four bidders, whose financial bids were opened on 15.10.2013:

(i) Power Grid Corporation of India Limited;

(ii) Sterlite Grid Limited.

(iii) Techno Electric and Engineering Company Limited & Kalpataru Power Transmission limited Consortium; and

(iv) Essel Infraprojects Limited.

6. The petitioner has submitted that the bidding process concluded on 15.10.2013 when the Board of the BPC resolved that M/s Essel Infraprojects Limited (EIL) has quoted the lowest levelized transmission charges and was declared successful bidder. The Letter of Intent (LOI) dated 17.10.2013 was issued by the BPC to the successful bidder on 17.10.2013 which has been accepted by the successful bidder unconditionally. In keeping with the conditions stipulated in the bid documents, the petitioner on 10.12.2013 acquired the Darbhanga-Motihari Transmission Company Limited as its wholly owned subsidiary after executing the Share Purchase Agreement and also furnished the Contract Performance Guarantee of ₹ 21,30,00,000/- in favour of LTTCs.

7. The petitioner has submitted that the BPC, vide its clarifications issued on 2.7.2013, has clarified that the transmission charges shall be shared and recovered as per the applicable CERC Regulation which is at present the PoC



Mechanism under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010.

8. The petitioner has submitted that as per the executed Transmission Service Agreement (TSA) the transmission assets are to be developed by the TSP in line with the Scheduled Commercial Operation Date (COD) of each element of the project. Further, the quoted transmission charges shall be payable based on the percentage of the transmission charges that are recoverable on achieving scheduled COD of each element of the project given as under:

S. No.	Transmission elements	Scheduled COD months from effective date	Percentage quoted transmission charges recoverable on scheduled COD of the element of the project	Elements which are pre-required for declaring the commercial operation of the respective transmission element
1	<p>(a) Creation of 2x500 MVA, 400/220 kV GIS Substation at Darbhanga* with space for future extension (1x500 MVA)</p> <p>(i) 400 kV Line bays – 2 Nos.</p> <p>(ii) 400 kV ICT bays – 2 Nos.</p> <p>(iii) 220 kV Line bays – 7 Nos.</p> <p>(iv) 220 kV ICT bays – 2 Nos.</p> <p>(v) Space for Future bays-7 Nos. 400 kV and 6 Nos. 220 kV</p> <p>(vi) 125 MVAR bus reactor – 2 Nos.</p> <p>(vii) Bus reactor bays – 2 Nos.</p> <p>*The Darbhanga sub-station to be located near Darbhanga town</p> <p>(b) Muzaffarpur (PG) - Darbhanga 400 kV D/C line</p>	30 months	40.74%	<p>All elements required simultaneously for declaring commercial operation</p> <p>2 Nos. 400 kV line bays at Muzaffarpur (PG) to be implemented by POWERGRID</p>

	with triple snowbird conductor			
2	<p>(a) Creation of 2x200 MVA, 400/132 kV GIS Substation at Mothihari* with space for future extension (1x200 MVA)</p> <p>(i) 400 kV Line bays – 4 Nos. (ii) 400 kV ICT bays – 2 Nos. (iii) 132 kV Line bays – 6 Nos. (iv) 132 kV ICT bays – 2 Nos. (v) Space for Future bays - 5 Nos. 400 kV and 5 Nos. 132 kV (vi) 125 MVAR bus reactor – 2 Nos. (vii) Bus reactor bays – 2 Nos.</p> <p>*The Mothihari sub-station to be located near Mothihari town</p> <p>(b) LILO of Barh-Gorakhpur 400 kV D/C line at Mothihari, 400kV 2xD/C quad</p> <p>(c) 2x80 MVAR Line reactors (Switchable) at Mothihari end (with 600 ohm NGR) for Barh-Mothihari section</p> <p>(d) 2x50 MVAR Line reactors (fixed) at Mothihari end (with 400 NGR) for Mothihari-Gorakhpur section</p>	32 months	59.26% - -	All elements required simultaneously for declaring commercial operation.

9. In accordance with the provision of the bid documents and 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 as under.

“a. Adoption of Transmission Charges for the Project discovered through competitive bidding process;

b. Allow Transmission System “Eastern Region System Strengthening Scheme – VI” to be part of the Transmission Service Agreement approved by the Hon’ble Commission under POC Charges Regulations CERC (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 & circumstances of the case;”

10. On receipt of the present petition, the Commission vide its letter dated 13.1.2014 directed the BPC to submit the relevant documents regarding complete process of competitive bidding, through affidavit. The necessary details have been filed by the BPC under affidavit dated 3.2.2014.

11. Notices were issued to all the respondents who are the Long Term Transmission Customers of the project. None of the respondents has filed its reply. Notice was also issued to PFCCL in its capacity as Bid Process Coordinator. PFCCL has filed the copies of all relevant documents pertaining to the bidding process.

12. The petition was heard on 27.2.2014. The representative of the petitioner submitted that tariff of the petitioner company has been discovered through the process of competitive bidding conducted in accordance with section 63 of the Act and the same may be adopted by the Commission. The representative of the BPC submitted that all the provisions of the competitive bidding guidelines have been complied with in this case.

13. We heard the representatives of the petitioner and learned counsel for the PFCCL and perused the documents on record. We now proceed to examine whether the transmission charges have been discovered through a transparent process of competitive bidding in accordance with Section 63 of the Electricity Act, 2003.

14. Section 63 of the Act provides as under:



“Section 63 (Determination of tariff by bidding process):

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.”

15. 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 Undertakings 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 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 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 shall 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.

16. In the light of the above provisions of the Guidelines, we have examined in the succeeding paragraphs the transparent 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.

17. PFCCCL was notified by Ministry of Power, Government of India vide its vide S.O. 82 (E) dated October 8, 2012 as the BPC for the purpose of selection of bidder as TSP to establish the project on Build, Own, Operate and Maintain (BOOM) basis through tariff based competitive bidding process.

18. Darbhanga - Motihari Transmission Company Limited was incorporated on 18.12.2012 under the Companies Act, 1956 as a wholly owned subsidiary of PFCCL with the objective to establish the transmission system for Eastern Region System Strengthening Scheme-VI on BOOM basis and to act as the Transmission Service Provider after being acquired by the successful bidder. The main objective of the petitioner company in its Memorandum of Associations are 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, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of regional and national grid system, execution of turn-key jobs for other utilities/organizations and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”.

19. PFCCL as the BPC prepared the bidding documents such as RfQ 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 5.2.2013 for selection of developer on BOOM basis for the project. The RfQ notice was published on 8.2.2012 in all the editions of The Economic Times, The Nav Bharat Times, The Times of India and The Financial Times (Worldwide) with the last date of submission of response to RFQ as 11.3.2013. Intimation regarding the initiation of the bid process was given to the Central Commission in accordance with para 4.2 of the Guidelines vide its letter No. 03/New ITP/ 12-13/ DMTCL/ 11- RFQ, dated 8.2.2013

20. The scope of the Project as per the Request for Proposal (RfP) and the Transmission Service Agreement is as under:

S.No.	Name of the Transmission Element	Completion Target	Conductor per phase
1.	(a) Creation of 2x500 MVA, 400/220 kV GIS Substation at Darbhanga* with space for future extension (1x500MVA) and (i) 400 kV Line bays- 2 Nos. (ii) 400 kV ICT bays- 2 Nos. (iii) 220 kV Line bays-7 Nos. (iv) 220 kV ICT bays- 2 Nos. (v) Space for Future bays-7 Nos. 400 kV and 6 Nos. 220 kV (vi) 125 MVAR bus reactor-2 Nos. (vii) Bus reactor bays- 2 Nos. *The Darbhanga S/S to located near Darbhanga town.	30 months from effective date.	
	(b)Muzaffarpur (PG) - Darbhanga 400 kV D/C line with triple snowbird conductor	30 months from effective date.	Triple Snowbird or equivalent AAAC. The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC
2.	a) Creation of 2x200 MVA, 400/132 kV GIS Substation at Mothihari* with space for future extension (1x200 MVA) and	32 months from effective date	

	(i) 400 kV Line bays- 2 Nos. (ii) 400 kV ICT bays- 2 Nos. (iii) 220 kV Line bays-7 Nos. (iv) 220 kV ICT bays- 2 Nos. (v) Space for Future bays-7 Nos. 400 kV and 6 Nos. 220 kV (vi) 125 MVAR bus reactor-2 Nos. (vii) Bus reactor bays- 2 Nos *The Mothihari sub-station to located near Mothihari town		
	(b) LILO of Barh – Gorakhpur 400 kV D/C line at Mothihari, 400 kV 2xD/C quad	32 months from effective date	Quad Moose or equivalent AAAC. The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC
	(c) 2x80 MVAR Line reactors (Switchable) at Mothihari end (with 600 ohm NGR) for Barh-Mothihari section	32 months from effective date	
	(d) 2x50 MVAR Line reactors (fixed) at Mothihari end (with 400 NGR) for Mothihari-Gorakhpur section	32 months from effective date	

21. The following identified Long Term Transmission Customers (LTTCs) of the project were identified at the time of bidding:

Sl. No.	Name of the Long Term Transmission Customers	% Share of Each LTTC
1.	Maithan Power Limited	4.875

2.	Grid Corporation of Orissa Limited	20.000
3.	Bihar State Electricity Board	31.870
4.	Power Grid Corporation of India Limited, HVDC Pusauli	0.023
5.	Damodar Valley Corporation	8.430
6.	Power Deptt., Govt. of Sikkim	2.551
7.	Jharkhand State Electricity Board	8.105
8.	West Bengal State Electricity Distribution Company Limited	24.146
		100.000

22. Responses to RfQ were received from ten Bidders on 11.3.2013, as per the details given below:

S.No.	Name of Bidders
1.	Power Grid Corporation of India Limited
2.	Sterlite Grid Limited
3.	L&T Infrastructure Development Projects Limited
4.	Patel-GKC Consortium
5.	Jyoti Energy Limited
6.	Ashoka Buildcon Limited
7.	Techno Electric and Engineering Company Limited and Kalpataru Power Transmission Limited (Consortium)
8.	Essel infraprojects Limited
9.	Reliance Power Transmission Limited
10.	Gammon Infrastructure Projects limited

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

(a) Shri Vinod Pande, GM, SBI Capital Markets Ltd.

...**Chairman**

- (b) Shri Y K Thakur, Chief Engineer (Transmission), Bihar State Electricity Board**Member**
- (c) Shri RN Tiwari, Chief Engineer (Transmission), Jharkhand State Electricity Board**Member**
- (d) Shri N.C.Jain, Chief Engineer (F&CA and Legal), CEA ...**Member**
- (e) Shri Ravinder Gupta, Chief Engineer (SP & PA), CEA ...**Member**
- (f) Shri Yogesh Juneja, Chairman, Darbhanga - Motihari Transmission Company Limited ...**Convenor**

24. The responses to RfQ were opened on 25.3.2013 in the presence of Bid Evaluation Committee and the representative of the bidders. Evaluation was undertaken by PFCCL and presented to the Bid Evaluation Committee which recommended the following ten bidders as qualified at RfQ stage:

S.No.	Name of Bidders
1.	Power Grid Corporation of India Limited
2.	Sterlite Grid Limited
3.	L&T Infrastructure Development Projects Limited
4.	Patel-GKC Consortium
5.	Jyoti Energy Limited
6.	Ashoka Buildcon Limited
7.	Techno Electric and Engineering Company Limited and Kalpataru Power Transmission Limited (Consortium)
8.	Essel Infraprojects Limited
9.	Reliance Power Transmission Limited
10.	Gammon Infrastructure Projects limited

25. Out of the qualified ten bidders, responses were received from the following four bidders:

- (i) Power Grid Corporation of India Limited;
- (ii) Sterlite Grid Limited;

(iii) Techno Electric and Engineering Company Limited & Kalpataru Power Transmission limited Consortium; and

(iv) Essel Infraprojects Limited.

26. In line with requirement of RfP, on 26.6.2013 a pre-bid conference was organized by the BPC to address the queries of the bidders with respect to the RfP documents. Subsequently, on 2.7.2013 clarifications to the queries raised by the bidders were issued. RfP (Non-Financial) Bids were opened on 8.10.2013 in the presence of Bid Evaluation Committee and the representatives of the bidders. Subsequently, on 8.10.2013, RfP (Non-Financial) bids were reviewed by the Bid Evaluation Committee and recommended all the following four bidders as responsive for opening of financial bids.

(i) Power Grid Corporation of India Limited;

(ii) Sterlite Grid Limited;

(iii) Techno Electric and Engineering Company Limited & Kalpataru Power Transmission limited Consortium; and

(iv) Essel Infraprojects Limited.

27. The RfP (Financial) bids were opened on 15.10.2013 in the presence of Bid Process Consultant and the representatives of the bidders. The evaluation of the RFP (Financial) bids was carried out by PFCCCL and presented to the Bid Evaluation Committee on 15.10.2013. The levelized transmission charges for each bidder, as per the bid evaluation model and the methodology specified in the RfP, were found to be in order. Based on the evaluation of the RfP, the levelized transmission charges were worked out as under:

S No.	Name of the Bidder	Levelised Transmission Tariff In Indian Rupees
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		(Millions/annum)
1	Power Grid Corporation of India Limited	1295.41
2	Sterlite Grid Limited	1949.02
3	Techno Electric and Engineering Company Limited & Kalpataru Power Transmission limited Consortium	1480.00
4.	Essel Infraprojects Limited	1173.69

28. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Essel Infraprojects Limited with the lowest evaluated annual levelised transmission charges of ₹1173.69 million/annum as the successful bidder. Paras 4 to 7 of the Minutes of the Bid Evaluation Committee dated 15.10.2013 which are relevant, are extracted as under:

"4. The levelized tariff has been worked out using the financial model provided as an excel sheet to the Bidders along with RFP documents 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 T2/2013-CERC dated September 27, 2013 and as prevailing on the day seven days prior to the Bid Deadline (October, 08, 2013).

5. Based on the evaluation of the RFP (Financial) Bids carried out the levelized Transmission Charge are as follows:

S. No.	Bidders	Levelized Transmission Charges (in Indian Rupees Million per annum)
1.	Power Grid Corporation of India Limited	1295.41
2.	Sterlite Grid Limited	1949.02
3.	Tehno Electric and Engineering Company Limited & Kalpataru Power Transmission Limited Consortium	1480.00
4.	Essel Infraprojects Limited	1173.69

6. As per the above and based on the evaluation carried out, the computed levelised Transmission Charge of Essel Infraprojects 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 Essel Infraprojects Limited (L-1 Bidder):

S No.	Name of the Bidder	Levelised Transmission Tariff In Indian Rupees (Millions/annum)	Ranking of Bidders based on Levellised Tariffs
1.	Essel Infraprojects Limited	1173.69	L-1
2	Power Grid Corporation of India Limited	1295.41	L-2
3	Techno Electric and Engineering Company Limited & Kalpataru Power Transmission limited Consortium	1480.00	L-3
4	Sterlite Grid Limited	1949.02	L-4

7. The Bid Evaluation Committee also certifies and confirms that the evaluation of the Responses to RFQ and RFP bids has been carried out in accordance with the provisions of the Guidelines and Standard Bidding Documents (RFQ and RFP)."

29. Letter of Intent was issued by the BPC on 17.10.2013 to the successful bidder i.e. Essel Infraprojects Limited (hereinafter "the successful bidder"). In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of PFCCL the final results of the evaluation of the bids for selection of TSP for the project.

30. In accordance with the terms of the RFP and LOI issued, 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 shareholdings of Darbhanga - Motihari Transmission Company Limited from PFCCL, along with all its related assets and liabilities;

(d) Make an Application to the Central Electricity Regulatory Commission for adoption of charges under Section 63 of the Electricity Act, 2003;

(e) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

31. The successful bidder has furnished the Performance Guarantee to each of the identified Long Term Transmission Customers of the project for an amount of ₹ 21,30,00,000 and has acquired hundred percent equity holding in the applicant company on 10.12.2013 after execution of the Share Purchase Agreement. The successful bidder is required to file the application for grant of transmission licence and adoption of tariff within six months from the effective date. Accordingly, the petitioner who was acquired by the successful bidder has filed the application for grant of transmission licence and present petition for adoption of tariff on 30.12.2013. Therefore, the petitioner has complied with all procedural requirements specified in the bid documents.

32. 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 levelised 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 approve and adopt the levelised transmission charges for the project as per the **Appendix** to this order.

33. The petitioner has also prayed that the transmission system be allowed to be treated as part of the Transmission Service Agreement approved under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations 2010. It is noted that at the pre-bid conference the BPC had clarified that TSA signed between the successful bidder and the identified LTTCs would merge with the TSA as notified by this Commission under the Sharing Regulations. Prior to acquisition of the Darbhanga-Motihari Transmission Company Limited by EIL, TSA was entered into on 6.8.2013 by the petitioner with the identified LTTCs. The BPC vide its clarification dated 2.7.2013 has clarified that the transmission charges shall be shared and recovered as per the Sharing Regulations. Relevant portion of the clarification is extracted as under:

"The transmission charges will be shared and recovered for payment as per the applicable CERC regulation which is at present the PoC mechanism of sharing. As per the present CERC regulation the charges will be recovered by the CTU from the DICs and disbursed to the TSPs as per the RSA."

Merger of the TSA signed by the parties with the TSA notified by this Commission is a condition of the bid and is binding on all concerned. The Sharing of transmission charges shall be governed in accordance with the provisions of the Sharing Regulations

34. The Petition No.323/TT/2013 is disposed in terms of the above. We direct that copies of this order shall be endorsed to all Long Term Transmission Customers of the transmission system.

Sd/-

(A.K.Singhal)
Member

Sd/-

(M. Deena Dayalan)
Member

Sd/-

(Gireesh B.Pradhan)
Chairperson



ANNEXURE

Year (Term of License)	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (Rs.in Millions)	Escalable Transmission Charges (Rs.in Millions)
1	20-Jul-16	31-Mar-17	1585.93	0.00
2	01-Apr-17	31-Mar-18	1429.71	Same as Above
3	01-Apr-18	31-Mar-19	1151.37	Same as Above
4	01-Apr-19	31-Mar-20	1151.37	Same as Above
5	01-Apr-20	31-Mar-21	1151.37	Same as Above
6	01-Apr-21	31-Mar-22	1151.37	Same as Above
7	01-Apr-22	31-Mar-23	1151.37	Same as Above
8	01-Apr-23	31-Mar-24	1151.37	Same as Above
9	01-Apr-24	31-Mar-25	1151.37	Same as Above
10	01-Apr-25	31-Mar-26	1151.37	Same as Above
11	01-Apr-26	31-Mar-27	1151.37	Same as Above
12	01-Apr-27	31-Mar-28	1151.37	Same as Above
13	01-Apr-28	31-Mar-29	1151.37	Same as Above
14	01-Apr-29	31-Mar-30	1151.37	Same as Above
15	01-Apr-30	31-Mar-31	1151.37	Same as Above
16	01-Apr-31	31-Mar-32	1151.37	Same as Above
17	01-Apr-32	31-Mar-33	1151.37	Same as Above
18	01-Apr-33	31-Mar-34	1151.37	Same as Above
19	01-Apr-34	31-Mar-35	1151.37	Same as Above
20	01-Apr-35	31-Mar-36	1151.37	Same as Above
21	01-Apr-36	31-Mar-37	1151.37	Same as Above
22	01-Apr-37	31-Mar-38	1151.37	Same as Above
23	01-Apr-38	31-Mar-39	1151.37	Same as Above
24	01-Apr-39	31-Mar-40	1151.37	Same as Above
25	01-Apr-40	31-Mar-41	1151.37	Same as Above
26	01-Apr-41	31-Mar-42	1151.37	Same as Above
27	01-Apr-42	31-Mar-43	1151.37	Same as Above
28	01-Apr-43	31-Mar-44	1151.37	Same as Above
29	01-Apr-44	31-Mar-45	1151.37	Same as Above
30	01-Apr-45	31-Mar-46	1151.37	Same as Above
31	01-Apr-46	31-Mar-47	1151.37	Same as Above
32	01-Apr-47	31-Mar-48	1151.37	Same as Above
33	01-Apr-48	31-Mar-49	1151.37	Same as Above
34	01-Apr-49	31-Mar-50	1151.37	Same as Above
35	01-Apr-50	31-Mar-51	1151.37	Same as Above
36	01-Apr-51	19-July-51	1151.37	Same as Above