

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 324/TL/2013**

**Coram:**

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

**Date of Hearing: 27.02.2014**

**Date of Order: 30.04.2014**

**In the matter of**

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003 for grant of Transmission Licence to Darbhanga-Motihari Transmission Company Limited (DMTCL).

**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 this petition under Section 14 read with Section 15(1) of the Electricity Act, 2003 (the Act) to undertake the business of establishing of the transmission system for 'Eastern Region System Strengthening Scheme-VI (hereinafter referred to as "Transmission System")' on 'build, own, operate and maintain' (BOOM) basis, comprising the following elements:

S. No.	Transmission elements	Voltage Class (kV)	Approximate Length (km)	Type	Conductors per Phase	Completion Target
1	(a) creation of 2x500 MVA, 400/220 kV GIS sub-	400/220 kV	-	-	-	30 Months from

	<p>station 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- 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>					effective date
	(b) Muzaffarpur (PG) - Darbhanga 400 kV D/C line with triple snowbird conductor	400 kV	61.133Kms	D/C	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 sub-station at Mothihari* with space for future extension (1x200 MVA)</p> <p>(i) 400 kV line bays-4 Nos.</p> <p>(ii) 400 kV ICT bays-2 Nos.</p> <p>(iii) 132 kV Line bays-6 Nos.</p> <p>(iv) 132 kV ICT bays-2 Nos.</p> <p>(v) Space for Future bays- 5 Nos. 400 kV and 5 Nos. 132 kV</p> <p>(vi) 125 MVAR bus reactor- 2 Nos.</p> <p>(vii) Bus reactor bays- 2 Nos.</p> <p>*The Mothihari sub-station to be located near Mothihari town</p>	400/132 kV	-	-	-	32 Months from effective date
	(b) LILO of Barh-Gorakhpur 400 kV D/c line	400kV	2* 40.441Kms	D/C	Quad Moose or equivalent	

	at Mothihari, 400 kV 2xD/C quad				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		-	-	-
	(d) 2x50 MVAR line reactors (fixed) at Mothihari end (with 400 NGR) for Mothihari-Gorakhpur section		-	-	-

2. The petitioner has submitted that Ministry of Power, Government of India initiated a scheme for development of Transmission System for "Eastern Region System Strengthening Scheme-VI". The said projects were to be awarded to developers selected on the basis of tariff based competitive bidding process. 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, PFC Consulting Limited (PFCCL) was notified by Government of India, Ministry of Power vide S.O. 82 (E) dated October 8, 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 "Eastern Region System Strengthening Scheme-VI

(hereinafter referred to as Project)” through tariff based competitive bidding process.

3. PFC Consulting Limited (PFCCL) in its capacity as BPC initiated the bid process on 8.2.2013 and completed the process on 15.10.2013 in accordance with the Guidelines. M/s Essel Infraprojects Limited (EIL) was selected as the successful bidder having quoted the lowest levelized transmission charge in order to establish the transmission system required for “Eastern Region System Strengthening Scheme-VI” on build, own, operate and maintain basis and provide transmission service to the following identified long-term transmission customers (LTTCs) of the projects, namely:

Sl. No.	Name of the Long Term Transmission Customers
1.	Maithan Power Limited
2.	Grid Corporation of Orissa Limited
3.	Bihar State Electricity Board
4.	Power Grid Corporation of India Limited, HVDC Pusauli
5.	Damodar Valley Corporation
6.	Power Deptt., Govt. of Sikkim
7.	Jharkhand State Electricity Board
8.	West Bengal State Electricity Distribution Company Limited

4. The petitioner has submitted that four bidders submitted their offers at RFP stage. Bid Evaluation Committee carried out the responsiveness check of the non-financial bids in accordance with conditions of RfP and recommended all four bids as responsive for opening of financial bids. After opening the financial bids, as per the Bid Evaluation Report dated 15.10.2013, M/s Essel Infraprojects

Limited (EIL) emerged as the successful bidder with the lowest levelized transmission charges of ₹ 1173.69 million/annum.

5. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to EIL by the BPC on 17.10.2013 which has been accepted by EIL. Under the terms of Request for Proposal (RfP) and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide Contract Performance Guarantee in favour of Long Term Transmission Customers (LTTTC);
- (b) Execute Share Purchase Agreement;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of Darbhanga-Motihari Transmission Company Limited from PFC Consulting Limited along with all its related assets and liabilities;
- (d) To execute RfP project document including Transmission Service Agreement (TSA) with LTTTCs;
- (e) Make an application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003;and
- (f) To apply to the Central Commission for grant of transmission licence.

6. The petitioner has submitted that EIL has acquired one hundred percent equity holding in Darbhanga-Motihari Transmission Company Limited on 10.12.2013. The petitioner has further submitted that TSA executed between the

TSP and the LTTCs who are the beneficiaries of the transmission project has become effective on the date of acquisition of the applicant by EIL.

7. Section 14 of the Act provides that the Appropriate Commission may, on an application made to under section 15 of the Act, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The word 'person' has been defined in section 2(49) of the Act to include any company or body corporate or association or body of individuals whether incorporated or not or artificial juridical person. The petitioner has been incorporated under the Companies Act, 1956. The main object of the petitioner company is as under:

*"To plan, promote and develop an integrated and efficient power transmission system network in all its aspects 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 turnkey 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".*

8. 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, 2009 (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 Transmission Licence Regulations provides 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. The transmission project under consideration has been identified by the Empowered Committee. The Ministry of Power, Government of India, vide its letter dated 24.7.2013, has accorded approval to the project under Section 68 of the Electricity Act, 2003. The selection of the project developer, M/s Essel Infraprojects Limited, has been made in accordance with the guidelines for competitive bidding.

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

*“(1) The application for grant of licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fee 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 web site, the particulars of which shall be given in the application.*

*(5) The application shall be kept on the web site 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 situated, 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 the, 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 service of copy of the application on the Central Transmission Utility or publication of notices in the newspapers, with an advance copy to 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 the licence or for reasons to be recorded in writing, reject the application.”

10. The petitioner has approached the Commission by a separate petition 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 petition for grant of transmission licence in accordance with the Transmission Licence Regulations. The petitioner has submitted proof of service of the copies of the petition on the LTTCs and Central Transmission Utility and proof of web posting of the complete petition. 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 Darbhanga-Motihari Transmission Company Limited with respect to the transmission system as per the details given in para 1 above.

11. The petitioner has made the application as per Form-1 and paid the fee of Rs. one lakh as prescribed by the Government of India. On perusal of the petition, it is revealed that the petitioner has served copy of the petition on each of the Long Term Transmission Customers (LTTCs) of the project as per the TSA. The levelized tariff charges quoted by the petitioner which have been recommended by the Bid Evaluation Committee for acceptance is Rs. 1173.69 million/annum. The petitioner has also enclosed copy of recommendations of the Bid Evaluation Committee and proof of making the evaluation report public by the Bid Process Coordinator as per the Guidelines.

12. The petitioner, vide its affidavit dated 13.1.2014, has placed on record the relevant copies of the newspapers in original in which notice of its application has been published. The petitioner has published the notices in the Pratyush Nav Bihar (Hindi edition, dated 1.1.2014) and The Pioneer (English edition dated 31.12.2013).The petitioner has complied with the requirement of Regulation 7 (7) of Transmission Licence Regulations.

13. In response to the petition, no reply has been received from the respondents. No objection has been received from the general public in response to the public notice.

14. 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 same may be adopted by the Commission. The representative of the BPC submitted that while selecting the petitioner for execution of the transmission project, all the provisions of the competitive bidding guidelines have been complied with.

15. The Commission, vide Record of Proceedings dated 27.2.2014, 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 RfP and the Transmission Service Agreement or adjudication of any claim of the petitioner arising under the TSA.

16. The petitioner, vide its affidavit dated 5.3.2014, has submitted that it shall not approach the Commission for extension of time for execution of the project or for increase in the transmission charges, except for the extension of time and increase the transmission charges which are permissible and allowed under the TSA. The petitioner has further submitted that the execution of the project shall not be delayed due to time taken in obtaining statutory clearances required under the provisions of RfP and the TSA. We direct that the petitioner shall remain bound by the commitment given by it under affidavit dated 5.3.2014.

17. The petitioner has indicated the line length of Muzaffarpur (PG) - Darbhanga 400 kV D/C line with triple snowbird conductor as 61.133 kms and LILO of Barh-Gorakhpur 400 kV D/c line at Mothihari, 400 kV 2xD/C quad as 2\* 40.441 kms. The same line length has been considered for grant of transmission licence. It is clarified that any deviation from the mentioned line length of these lines due to any locational issues shall not be the basis for claiming additional transmission charges by the petitioner.

18. 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. After being declared as the successful bidder, Lol was issued to EIL on 17.10.2013 and pursuant thereto, EIL has acquired hundred percent equity holding in Darbhanga-Motihari Transmission Company Limited on 10.12.2013. Accordingly,

the petitioner has filed the present application for grant of transmission licence within time specified in the RfP and the TSA.

19. The petitioner has served a copy of the application on Central Transmission Utility (CTU) as required under Section 15 (3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 14.3.2014 has recommended for grant of transmission licence to the petitioner.

Relevant portion is as under:

" The petition states that subsequent to certification by the Bid Evaluation Committee as successful bidder in the tariff based competitive bidding (TBCB) process, Essel Infraprojects Limited as acquired Darbhanga-Motihari Transmission Company Limited after execution of the share purchase agreement (SPA) on 10.12.2013.

In line with Section 15 (4) of the Electricity Act, 2003 and details furnished by M/s Darbhanga-Motihari Transmission Company Limited, POWERGRID as CTU recommends grant of transmission license to M/s Darbhanga-Motihari Transmission Company Limited for the scope as described."

20. Essel Infraprojects Limited (EIL) 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 EIL by the BPC and EIL has acquired 100% stake in the Darbhanga- Motihari Transmission Company Limited which has been transferred to the petitioner on 10.12.2013 after execution of Share Purchase Agreement. Thus, the petitioner has complied with the requirements of RfP and the 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 16.5.2014.

21. The petition shall be listed on 20.5.2014 for further directions.

Sd/-

**(A.K.Singhal)**  
**Member**

sd/-

**(M. Deena Dayalan)**  
**Member**

sd/-

**(Gireesh B.Pradhan)**  
**Chairperson**