

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 67/TL/2014

Coram:

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

Date of Hearing :10.06.2014

Date of Order :04.07.2014

In the matter of

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

And

In the matter of

RAPP Transmission Company Limited
C-2, 2nd Floor, The Mira Corporate Suites”1 & 2 Ishwar Nagar,
Okhla Crossing, Mathura Road,
New Delhi-110065

..... **Petitioner**

Vs

1. U.P. Power corporation Limited
14th Floor, Shakti Bhawan Extension Building,
14, Ashok Marg, Lucknow-226 001. U.P.
2. AD Hydro Power Limited
Bhilwara Towers,
A-12, Sector-1,Noida-201301, U.P.
3. Haryana Power Purchase Centre
Shakti Bhawan, Energy Exchange,
Room No 302, 2nd Floor, Sector 06,
Panchkula- 134109.
4. Punjab State Power Corporation Ltd.
D-3 Shakti Vihar, PSPCL Patiala -147001.
5. Himachal Sorang Power Pvt Limited
Ashirwad Building, D-7, Sector- I,



Lane-1, 2nd Floor, New Shimla,
Shimla- 171009, Himachal Pradesh.

6. Adani Power Limited
4thFloor,Achalaraj, Opposite to mayor's Banglow,
Law Garden, Ahemdabad, Gujarat-380006.

7. Jaipur Vidyut Vitran Nigam Limited
Shed No. 5/5,Vidyut Bhawan,
Janpath, Jyoti Nagar, Jaipur-302 005.

8. Ajmer Vidyut Vitran Nigam Limited
Shed No.5/5,Vidhyut Bhawan, Janpath,
Jyoti Nagar, Jaipur-302 005.

9. Jodhpur Vidyut Vitran Nigam Limited,
Shed No.5/5,Vidhyut Bhawan,
Janpath, Jyoti Nagar, Jaipur-302 005.

10. Lanco Anpara Power Limited
Plot No 397, Udyog Vihar, Phase 3,
Gurgaon-122016 (Haryana).

11. Lanco Green Power Pvt. Limited
Plot No. 397, Udyog Vihar, Phase-III,
Gurgaon-122016 (Haryana).

12. Power Development Department, Govt. of J&K,
Srinagar, Bemina Complex Srinagar-190018.

13. North Central Railway
Allahabad, DRM office, Nawab Yusuf Road,
Allahabad-211 001.

14. Jaiprakash Power Ventures Limited
A Block, Sector-128, Noida-201304 (Uttar Pradesh).

15. BSES Yamuna Power Limited
2nd Floor, B Block, Shakti Kiran Building,
Near Karkadooma Court, New Delhi-110092.

16. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,



New Delhi-110019.

17. Tata Power Delhi Distribution Limited
33 KV S/station Building, Hudson Lane,
Kingsway Camp, New Delhi-110009.

18. New Delhi Municipal Corporation
Room No.-1706, Palika Kendra, Sansad Marg,
New Delhi-110001.

19. UTC-Chandigarh
Div-11, Opposite Transport Nagar,
Industrial Ph-I, Chandigarh-160011.

20. PTC (Budhil), PTC India Limited
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place, New Delhi- 110 066.

21. PTC (Everest), PTC India Limited
2nd Floor, NBCC Tower, 15, Bhikaji Cama Place,
New Delhi-110 066.

22. Uttaranchal Power Corporation Limited, Urja Bhawan,
Kanwali Road, Near Balli Wali Chowk, Dehradun-248001.

23. Himachal Pradesh State Electricity Board
VidyutBhawan, Kumar House Complex Building II, Shimla-171 001.

24. Power Grid Corporation of India Limited
HVDC Dadri, "Saudamini" Plot No-2,
Sector-29, Gurgaon 122 001 (Haryana)

25. Power Grid Corporation of India Limited
HVDC Rihand, "Saudamini" Plot No-2,
Sector-29, Gurgaon 122 001 (Haryana)

..Respondents

The following were present:

Ms. Meenakshi Arora, Senior advocate for the petitioner
Ms. Mahima Sareen, Advocate for the petitioner
Shri Vasu, Advocate for the petitioner
Shri T.A.N. Reddy, RAPP
Shri Sanjay Nayak, PFCCL
Shri Jagdish Kumar, PPCL
Shri S.M.Verma, PPCL



ORDER

The petitioner, RAPP Transmission Company Limited, has filed this petition under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (the Act) to establish the transmission system “Part ATS of RAPP U-7 & 8 in Rajasthan” (hereinafter referred to as “Transmission system”) on ‘Build, Own, Operate and Maintain’ (BOOM) basis, comprising the following elements:

Transmission elements	Completion Target	Conductors per Phase
RAPP- Shujalpur 400 kV D/C	February, 2016	Twin Moose ACSR Conductor or equivalent AAAC. Transmission line should have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC .

2. The petitioner has submitted that Ministry of Power, Government of India initiated a scheme for development of Independent Transmission Projects through private sector participation for evacuation of power from the generating station and transmission of power from pooling station to other grid stations up to load centers and system strengthening in India. 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 Notification No. 15/1/2011-Trans, 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 "Part ATS of RAPP U-7 & 8 in Rajasthan" (hereinafter referred to as "Project)" through tariff based competitive bidding process.

3. PFCCL in its capacity as BPC initiated the bid process on 10.1.2013 and completed the process on 16.9.2013 in accordance with the Guidelines. M/s Sterlite Grid Limited (SGL) was selected as the successful bidder having quoted the lowest levelized transmission charge in order to establish the transmission system required for 'Part ATS of RAPP U-7 & 8 in Rajasthan' on build, own, operate and maintain basis and provide transmission service to the following identified long-term transmission customers (LTTCs) of the projects, namely:

S. No.	Name of Long Term Transmission Customers
1.	AD Hydro Power Limited
2.	Haryana Power Purchase Centre
3.	Punjab State Power Corporation Ltd.
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. Limited
11.	Power Development Department, Govt. of J&K
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 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 three bidders submitted their offers at Request for Proposal (RfP) stage. Bid Evaluating Committee carried out the responsiveness check of the non-financial bids in accordance with conditions of RfP and recommended all three bids as responsive for opening of financial bids. After opening the financial bids, as per the Bid Evaluation Report dated 16.9.2013, M/s Sterlite Grid Limited (SGL) emerged as the successful bidder with the lowest levelized transmission charges of ₹ 365.00 million/annum.

5. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to M/s Sterlite Grid Limited by the BPC on 17.9.2013 which was accepted by M/s Sterlite Grid Limited. Under the terms of 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 (LTTCS);
- (b) Execute Share Purchase Agreement;

- (c) Acquire, for the Acquisition Price, 100% share equity share holding of RAPP 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 LTTCs;
- (e) Make an application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003
- (F) To apply to the Central Commission for grant of transmission licence.

6. The petitioner has submitted that M/s Sterlite Grid Limited has acquired one hundred percent equity holding in RAPP Transmission Company Limited on 12.3.2014. The petitioner has submitted that in terms of clause 1.5 (g) of the RfP, BPC is required to provide duly executed TSA entered between the petitioner company and LTTCs, seven days prior to the bid dead line to the bidding company. However, duly executed TSA has not been provided to the petitioner company which has resulted in delay in SPV acquisition and effective date has been shifted by more than seven months resulting in time and cost over-run.

7. Section 14 of the Act provides that the Appropriate Commission may, on an application made to them under Section 15 of the Act, grant a license to any person to transmit electricity as a transmission licensee in any area as may be specified in the license. 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 License 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. Ministry of Power, Government of India, vide its letter dated 16.5.2013, has accorded approval to the project under Section 68 of the Electricity Act, 2003. The selection of the project developer, M/s Sterlite Grid 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 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 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 license or for reasons to be recorded in writing, reject the application.”

10. 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 license in accordance with the Transmission Licence Regulations. The petitioner has submitted proof of service of the copies of the application on the

LTTCS and Central Transmission Utility and proof of web posting of the complete application. The petitioner has further undertaken to pay the applicable license fee upon the grant of Transmission License in terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The petitioner has prayed for grant of transmission license to RAPP 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 ₹ one lakh as prescribed by the Government of India. On perusal of the application, it is noted that the petitioner has served copy of the application on all the Long Term Transmission Customers (LTTCS) for the project. The levelized tariff charges quoted by the petitioner, which have been recommended by the Bid Evaluation Committee for acceptance is ₹365.00 million/annum. The petitioner has also enclosed copies of the Bid Evaluation Committee recommendations for selection of the Sterlite Grid Limited as the selected bidder and proof of making the evaluation report public by the Bid Process Coordinator as per the Guidelines.

12. The petitioner vide its affidavit dated 30.4.2014 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 on 10.4.2014 in 'The Times of India' (English version) and 'Dainik Navjyoti' (Hindi version) having circulation in Kota, Jaipur and Rajasthan, 'Navbharat Times' (Hindi version) and 'Times of India' (English version)-Indore (M.P.). The petitioner has complied with the requirement of Regulation 7 (7) of Transmission Licence Regulations.

13. No objection has been received from the public in response to the public notice.

14. Respondents, Ajmer Vidyut Vitran Nigam Limited, Jaipur Vidyut Vitran Nigam Limited and Jodhpur Vidyut Vitran Nigam Limited in its common reply have submitted that if the petitioner has complied with the provisions of the Act and Guidelines, it may consider to grant transmission licence.

15. The petitioner has served a copy of the application to the 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 6.6.2014 has recommended for grant of transmission licence to the petitioner. Relevant portion is as under:

"3. M/s PFC Consulting Limited was notified as Bid Process Coordinator (BPC) by Government of India for the purpose of selection of Transmission Service Provider (TSP) for "RAPP-Shujalpur 400 kV D/C line". BPC vide its Letter of Intent dated 17/9/2013 to M/s Sterlite Grid Limited, has intimated that proposal and offer received by the way of "Bid" has been accepted and declared as successful bidder. M/s Sterlite Grid Limited has acquired RAPP Transmission Company Limited after execution of the Share Purchase Agreement (SPA) on 12.03.2014.

4. Accordingly, in line with Section 15 (4) of the Electricity Act, 2003, based on details furnished by M/s RAPP Transmission Company Limited, POWERGRID as CTU recommends grant of transmission license to M/s RAPP Transmission Company Limited for executing the "RAPP-Shujalpur 400 kV D/C line"."

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. SGL 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 SGL by the BPC and SGL has acquired 100% stake in the RAPP Transmission Company Limited which has been transferred to the petitioner on 12.3.2014 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 22.7.2014.

17. The petition shall be listed for hearing on 24.7.2014 for further directions.

SD/-

(A.K.Singhal)
Member

SD/-

(M. Deena Dayalan)
Member