

**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: 20.05.2014

Date of Order: 30.05.2014

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 Amit Kumar, DMTCL
2. Shri Mohit Jain, DMTCL
3. Shri Sanjay Nayak, PFCCL

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	Completion Target	Conductors per Phase
1	(a) creation of 2x500 MVA, 400/220 kV GIS sub-station at Darbhanga* with space for future extension (1x500 MVA) (i) 400 kV line bays-2 Nos.	30 Months from effective date	-



	(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- Nos. 400 kV and 6 Nos. 220 kV (vi) 125 MVAR bus reactor- 2 Nos. (vii) Bus reactor bays-2 Nos. *The Darbhanga sub-station to be located near Darbhanga town		
	(b) Muzaffarpur (PG)- Darbhanga 400 kV D/C line with triple snowbird conductor		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 sub-station at Mothihari* with space for future extension (1x200 MVA) (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. *The Mothihari sub-station to be located near Mothihari town	32 Months from effective date	-
	(b) LILO of Barh-Gorakhpur 400 kV D/c line at Mothihari, 400 kV 2xD/C quad	D/C	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	-	-
	(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. The petitioner has submitted that the Central Government in exercise of the powers under Section 63 of the Act has notified "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 PFC Consulting Limited (PFCCL) was notified by Government of India, Ministry of Power vide Notification No. S.O. 82 (E) dated 8 October, 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)" on BOOM basis through competitive bidding in accordance with the Guidelines. The petitioner was incorporated on 18.12.2012 by PFCCL as it wholly owned subsidiary to initiate work on the project to build, own, operate and maintain the transmission system for 'Eastern Region System Strengthening Scheme-VI' 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 the TSA 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 Darbhanga-Motihari Transmission Company Limited 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 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 bids 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. The Commission after considering the application of the petitioner in the light of the provisions of the Electricity Act, 2003 and the provisions of the 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 30.4.2014 is extracted as under:

"20. ...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."

6. The public notice under Section 15 (5) of the Act was published on 3.5.2014 in all editions of Hindustan Times and Amar Ujala. In response to the public notice, no suggestions/objections have been received. During the hearing on 20.5.2014, none was appeared on behalf of any of the respondents or any objector. The representative of BPC submitted that the transparent process of bidding has been followed in this case and therefore, the petitioner who has emerged as the successful bidder, be granted transmission licence to executed the project.

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

8. 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.”

9. In our order dated 30.4.2014, 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. The CTU in its letter dated 14.3.2014 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, Darbhanga- Motihari Transmission Company Limited to establish the transmission system "Eastern Region System Strengthening Scheme-VI" on BOOM basis as per the details given in para 1 above.

10. 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 of other regulations in force. 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 5.3.2014.

11. 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.

12. Petition No. 324/TL/2013 is disposed of in terms of the above.

13. 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