

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 326/TL/2013

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K.Singhal, Member

Date of Hearing : 20.5.2014

Date of Order : 30.5.2014

In the matter of

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

And

In the matter of

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

..... **Petitioner**

Vs

1. Bihar State Electricity Board
Vidhut Bhawan, 4th Floor,
Bailey Road, Patna,
Bihar - 8000212.

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

3. Grid Corporation of Orissa Limited
Shahid Nagar,
Bhubaneshwar- 751 007.



4. Power Grid Corporation of India Limited
HVDC Pusauli, 5th Floor, Alankar Palace,
Boring Road, Patna- 800 001.

5. Damodar Valley Corporation
DVC Tower, Maniktala Civic Tower,
VIP Road, Kolkata-700 054.

6. Power Department
Govt. of Sikkim,
Kazi Road, Gangtok-737 101.

7. Jharkhand State Electricity Board
In Front of Main Secretariat Doranda,
Ranchi- 834002, Jharkhand.

8. West Bengal State Electricity Distribution Company Limited
Bidyut Bhawan, Bidhan Nagar, Block DJ,
Sector -II, Salt Lake City,
Kolkata- 700 091

..Respondents

The following were present:

1. Shri Pulkit Sharma, PKTCL
2. Shri Sanjay Nayak, PFCCL

ORDER

The petitioner, Purulia & Kharagpur 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, commissioning, operation and maintenance of the transmission system for "Eastern Region System Strengthening Scheme-VII" (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.	Purulia PSP (WB) – Ranchi (PG)	400	112.10	D/C	Twin 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	28 months from effective date (9.12.2013)
2.	Khargapur (WBSETCL) -Chaibasa (PG)	400	160.524	D/C	Twin 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	28 months from effective date (9.12.2013)

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. The petitioner has submitted that Government of India, Ministry of Power, vide its

Resolution No. 11/5/2005-PG(i) dated 17.4.2006 notified the 'Guidelines for encouraging competition in development of Transmission Projects and competitive bidding for Transmission Service' and 'Tariff based competitive bidding guidelines for Transmission Service' (hereinafter referred to as "the Guidelines") under Section 63 of the Act. In accordance with the Guidelines, the PFC Consulting Limited (PFCCL) was notified by Government of India, Ministry of Power vide Notification No. 15/1/2011-Trans, dated 16.10.2012 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the transmission system for "Eastern Region System Strengthening Scheme-VII (hereinafter referred to as Project)" through tariff based competitive bidding process. The petitioner was incorporated on 15.12.2012 by PFCCL as its wholly owned subsidiary to initiate work on the project to build, own, operate and maintain the transmission system for Eastern Region System Strengthening Scheme-VII and to act as the Transmission Service Provider (TSP) after being acquired by the successful bidder.

3. The petitioner has submitted that PFCCL in its capacity as BPC invited bids from the prospective bidders for issue of Request for Qualification (RfQ) to qualify/shortlist the bidders for participation in the next stage of bidding i.e Request for Proposal (RfP) as part of the process of selection of TSP in accordance with the Guidelines. The bidder selected in accordance with the bidding process was required to acquire one hundred percent of equity shares in the Purulia & Kharagpur Transmission Company Limited, New Delhi and then assume the

responsibility of the TSP to establish the transmission project and to provide transmission service on long-term basis to the following Long Term Transmission Customers (LTTCs) of the project, namely:

S. No.	Name of Long Term Transmission Customers
1.	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 Department, Govt. of Sikkim
7.	Jharkhand State Electricity Board
8.	West Bengal State Electricity Distribution Company Limited

4. The petitioner has submitted that two 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 both bids as responsive for opening the financial bids. The financial bids were opened on 16.9.2013. 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 ₹ 589.00 million/annum.

5. The Commission after considering the application of the petitioner in the light of the provisions of the Electricity Act, 2003 and 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. 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. Sterlite Grid Limited (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 Purulia & Kharagpur Transmission Company Limited which has been transferred to the petitioner on 9.12.2013 after execution of Share Purchase Agreement. Thus, the petitioner has complied with the requirements of the RfP and Transmission Service Agreement. CTU has also recommended for grant of transmission licence to the petitioner. Considering all the material on record, we are *prima facie* of the view that the petitioner satisfies the conditions for grant of inter-State transmission licence under Section 15 of the Act read with Transmission Licence Regulations for construction, operation and maintenance of the transmission system as described in para 1 of this order. We, therefore, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission by 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. 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, Purulia & Kharagpur 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 7.3.2014.

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. 326/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