

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 90/TL/2014

**Coram:
Shri M.Deena Dayalan, Member
Shri A.K. Singhal, Member
Shri A.S.Bakshi, Member**

**Date of Hearing: 21.8.2014
Date of Order : 25.8.2014**

In the matter of

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003 for grant of Transmission License to NRSS XXXI (B) Transmission Limited.

**And
In the matter of**

NRSS XXXI (B) Transmission Limited
Essel House, B-10, Lawrence Road,
Industrial Area
New Delhi 110 035

..... **Petitioner**

Vs

1. Ad Hydro Power Limited
Bhilwara Towers, A-12, Sector-1,
Noida - 201 301
2. Haryana Power Purchase Centre
Shakti Bhavan Energy Exchange Room No. 446,
Top Floor, Sector - 6,
Panchkula - 134 109
3. Punjab State Power Corporation Limited
Thermal Sheds, T 1-A, Patiala, Punjab
4. Himachal Sorang Power Pvt. Ltd.
901 B, 9th Floor, Time Tower,
M. G. Road, Gurgaon - 122 009



5. Adani Power Limited
Mundra Achalraj, Opp Mayor Bunglow,
Law Garden, Ahmedabad - 380 006
6. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath,
Jaipur - 302 005
7. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road, Ajmer– 305004
8. Jodhpur Vidyut Vitran Nigam Limited
New Power House, Industrial Area,
Jodhpur - 342 003
9. Lanco Anpara Power limited,
Plot no. 397, Udyog Vihar, Phase 3,
Gurgaon – 122 016
10. Lanco Budhil Hydro Power Pvt. Ltd.
Plot no. 397, Udyog Vihar, Phase 3,
Gurgaon – 122 016
11. Power Development Deptt., Govt. of J&K,
Govt. of Jammu & Kashmir, SLDC Building,
1st Floor, Gladani Power House,
Narwal, Jammu
12. North Central Railway, DRM Office,
Nawab Yusuf Road, Allahabad
13. Jaiprakash Power Ventures Limited
Sector -128, Noida - 201 304
14. BSES Yamuna Power Limited
2nd Floor, Shakti Kiran Bldg.,
Karkardooma,
New Delhi – 110092
15. BSES Rajdhani Power Limited
BSES Rajdhani Power Limited, BSES Bhawan,
Nehru Place, New Delhi - 110 019

16. TATA Power Delhi Distribution Limited
NDPL House, Hudson Lines,
Kingsway Camp, Delhi - 110 009
 17. New Delhi Municipal Corporation
NDMC, New Delhi
 18. Electricity Wing of Engineering Department
Union Territory of Chandigarh,
Electricity OP Circle, UT – Chandigarh
 19. Power Grid Corporation of India Limited
HVDC Dadri and HVDC Rihand,
“Saudamini”, Plot No. 2, Sector 29,
Near IFFCO Chowk,
Gurgaon - 122 001
 20. U.P. Power Corporation Limited
14th Floor, Shakti Bhawan Extension,
14 - Ashok Marg, Lucknow
 21. PTC India Limited, PTC (Budhil) and PTC (Everest),
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place, New Delhi
 22. Uttarakhand Power Corporation Limited
UPCL, Urja Bhawan, Dehradun
 23. Himachal Pradesh State Electricity Board Limited
HPSEB Ltd. , Vidyut Bhawan,
Shimla - 171 004
- Respondents**

The following was present:

Shri Amit Kumar, NTL

ORDER

The petitioner, NRSS XXXI (B) Transmission Limited, has filed this petition under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (the Act)

for grant of transmission licence to undertake the business of establishing of the transmission system for “Northern Region System Strengthening Scheme NRSS-XXXI (Part B)” (hereinafter referred to as “Transmission System”) on ‘Build, Own, Operate and Maintain’ (BOOM) basis, comprising the following elements:

S. No	Transmission elements	Conductors per Phase	Completion Target
1	Kurukshetra-Malerkotla 400 kV D/C transmission line-135.15 kms (Approx.)	Twin Moose ACSR or equivalent AAAC	28 months from the effective date
2	Malerkotla-Amritsar 400 kV D/C transmission line-147.01 kms (Approx.)	Twin Moose ACSR or equivalent AAAC	28 months from the effective date

2. 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, REC Transmission Projects Company Ltd. (RECTPCL) was notified by Government of India, Ministry of Power vide Gazette Notification No. 15/1/2013-Trans dated 20.5.2013 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the Transmission System for “Northern Region System Strengthening Scheme, NRSS-XXXI (Part-B) (hereinafter referred to as Project)” through tariff based competitive bidding process. The petitioner was incorporated on 29.7.2013 by

RECTPCL as its wholly owned subsidiary to initiate work on the project to build, own, operate and maintain the transmission system for 'Northern Region System Strengthening Scheme, NRSS-XXXI (Part-B)' and to act as the Transmission Service Provider (TSP) after being acquired by the selected bidder.

3. The petitioner has submitted that RECTPCL 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 NRSS XXXI (B) Transmission 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 project, namely:

Sl. No.	Name of the Long Term Transmission Customers
1.	Ad Hydro Power Limited
2.	Haryana Power Purchase Centre
3.	Punjab State Power Corporation Limited
4.	Himachal Sorang Power Pvt. Ltd.
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 Ltd.
11.	Power Development Deptt., Govt. of J&K, Govt. of Jammu and Kashmir
12.	North Central Railway
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.	Electricity Wing of Engineering Department, Union Territory of Chandigarh
19.	Power Grid Corporation of India Limited, HVDC Dadri and HVDC Rihand,
20.	U.P. Power Corporation Limited
21.	PTC (Budhil), PTC India Limited
22.	PTC (Everest), PTC India Limited,
23.	Uttarakhand Power Corporation Limited
24.	Himachal Pradesh State Electricity Board Limited

4. The petitioner has submitted that three bidders submitted their offers at Request for Proposal (RfP) stage. Bid Evaluation Committee carried out the responsiveness check of the non-financial bids in accordance with conditions of RfP and recommended all three bidders as responsive for opening of financial bids. After opening the financial bids, the Bid Evaluation Committee assessed the bids and submitted the Bid Evaluation Report dated 18.2.2014. As per the Bid Evaluation Report, M/s Essel Infraprojects Limited (EIL) emerged as the successful bidder with the lowest levelled transmission charges of ₹ 886.50 million/annum.

5. The Commission after considering the application of the petitioner in the light of the provisions of the Electricity Act, 2003 and 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 24.7.2014 is extracted as under:

"24. 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 NRSS XXXI (B) Transmission Limited which has been transferred to the petitioner on 12.5.2014 after execution of Share Purchase 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 14.8.2014."

6. A public notice under Section 15 (5) of the Act was published on 6.8.2014 in all editions of The Hindustan Times and Hindustan (Hindi). No suggestions/objections have been received from the members of the public in response to the public notice. During the hearing on 21.8.2014, none appeared on behalf of any of the respondents despite notice.

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. The proviso to para 2.4 of the RfP provides that "if for any reason attributable to the BPC, the above activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day for day basis till the end of the Bid validity period". The Lol was issued on 26.2.2014. However, in terms of proviso to para 2.4 of the RfP, the Bid Process Coordinator extended the last date for completion of various activities from time to time and the last date was finally extended till 15.5.2014 vide letter No. RECTPCL/P-10/NRSS-31B/2014-15/244 dated 9.5.2014. Accordingly, the last date of filing the petition for grant of transmission licence stand extended till 15.5.2014. The TSP on behalf of the selected bidder filed the application for grant of transmission licence on 13.5.2014.

10. In our order dated 24.7.2014, 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. CTU in its letter dated 30.5.2014 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, NRSS XXXI (B)

Transmission Limited, to establish the transmission system for "Northern Region System Strengthening Scheme, NRSS-XXXI (Part-B) " on BOOM basis as per the details given in para 1 above.

11. 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 Transmission Licence Regulations 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 subsequent enactment thereof. 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 1.7.2014.

12. 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.

13. Petition No. 90/TL/2014 is disposed of in terms of the above.

Sd/-

(A.S.Bakshi)
Member

sd/-

(A.K.Singhal)
Member

sd/-

(M. Deena Dayalan)
Member