

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 219/ADP/2015

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Hearing: 19.11.2015

Date of Order: 24.11.2015

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System being established by the Maheshwaram Transmission Limited.

And

In the matter of

Maheshwaram Transmission Limited
F-1, "The Mira Corporate Suites"1 & 2 Ishwar Nagar,
Okhla Crossing, Mathura Road, New Delhi-110065, India

.....Petitioner

Vs

1. Tamil Nadu Generation & Distribution Corporation Limited,
NPKKR Malligai, 144 Anna Salai,
Chennai-600002
2. Bangalore Electricity Supply Company Limited (BESCOM)
KR Circle , Bangalore-560 009
3. Gulbarga Electricity Company Limited (GESCOM),
Station main road, Gulbarga-585102
4. Hubli Electricity Supply Company Limited (HESCOM),

Navanagar,PB Road,Hubli – 580025, Karnataka

5. Mangalore Electricity Supply Company Limited (MESCOM),
Paradigm Plaza, AB Shetty Circle,
Mangalore – 575001
 6. Chamundeshwari Electricity Supply Company Limited (CESCOM),
#927,LJ Avenue ,Ground Floor,,
New Kantharajurs Road, Sarawathipuram
Mysore-570009.
 7. KERALA State Electricity Board Limited
8th Floor,Vaidyuthi Bhawanam,Pattom,
Thiruvananthpuram - 695004
 8. Electricity Department, Govt. of Puducherry,
Electricity Department, 137, N.S.C. Bose Salai,
Puducherry – 605001
 9. Electricity Department, Govt. of Goa(GED)
Vidyut Bhawan,Panaji Goa - 403001
 10. Southern Power Distribution Company of Andhra Pradesh Limited
D.No. – 19-13-65/A, Srinivasapuram, Corporate Office,
Tiruchanoor Road, Tirupati – 517503
 11. Eastern Power Distribution Company of Andhra Pradesh Limited,
P&T Colony, Seethamadhara,
Visakhapatnam-530013
 12. Northern Power Distribution Company of Telangana Limited
H. No. 2-5-3, 1/2, Vidyut Bhawan, Corporate Office
Nakkal gutta, Hanamkonda,
Warangal-506001.
 13. Southern Power Distribution Company of Telangana Limited
#6-1-50, Corporate Office, Mint Compound,
Hyderabad-500063.**Respondents**
1. Chief Executive Officer
REC Transmission Projects Company Limited
12 – 21, Upper Ground Floor, Antriksh Bhawan,

22, KG Marg, New Delhi – 110001

2. Chief Operating Officer, CTU Planning
Power Grid Corporation of India Limited.
Saudamini, Plot no.2, Sector -29,
Gurgaon 122001

.....Proforma Respondents

The following were present:

Shri Chetan Sharma, MTL
Shri Pulkit Sharma, MTL
Shri B.Gupta, RECPTCL

ORDER

The petitioner, Maheshwaram Transmission Limited (MTL), has filed the present petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as the 'Act') for adoption of transmission charges in respect of Transmission System for “Connectivity Lines for Maheshwaram (Hyderabad) 765/400kV Pooling sub-station” (hereinafter referred to as 'the Project').

2. The Section 63 of the Electricity Act, 2003 provides as under:

“Section 63. Determination of tariff by bidding process: *Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”*

3. Government of India, Ministry of Power has notified the Guidelines under Section 63 of the Act vide Resolution No. 11/5/2005-PG(i) dated 17.4.2006. The salient features of the Guidelines are discussed in brief as under:

(a) The Guidelines are applicable for procurement of transmission services for transmission of electricity through tariff based competitive bidding and for

selection of transmission service provider for new transmission lines and to build, own, maintain and operate the specified transmission system elements.

(b) For procurement of transmission services, required for inter-State transmission, the Central Government shall notify any Central Government Organization or any Central Public Sector Undertakings the Bid Process Coordinator (BPC) who would be responsible for coordinating the bid process.

(c) The BPC shall prepare the bid documentation in accordance with the Guidelines and obtain approval of the Appropriate Commission or alternatively, the BPC can use the standard bid documents notified by the Ministry of Power. Approval of the Appropriate Commission would be necessary if any material deviation is proposed to be made in the Standard Bid Documents. Intimation about the initiation of the bid process shall be sent by the BPC to the Appropriate Commission.

(d) For procurement of transmission charges under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualifications (RfQ) and Request for Proposal(RFP) or adopt a single stage two envelope tender process combining both RFQ and RFP processes.

(e) RfQ or combined RfQ and RfP notice shall be issued in at least two national newspapers, website of the BPC and the appropriate Government and preferably

in the trade magazines also to provide wide publicity. For the purpose of issue of RfQ minimum conditions to be met by the bidder shall be specified in RfQ notice. The bidding shall be by way of International Competitive Bidding.

(f) Standard documentations to be provided in the RFQ stage shall include definitions of requirements including the details of location and technical qualifications for each component of the transmission lines, construction milestones, and financial requirements to be met by the bidders; proposed Transmission Service Agreement; period of validity of offer of bidder; conditions as specified by the Appropriate Commission for being eligible to obtain transmission licence and other technical and safety criteria to be met by the bidder/TSP including the provisions of Indian Electricity Grid Code (Grid Code).

(g) Standard documentations to be provided by BPC in the RFP shall include specified target dates/months for commissioning and commercial operations and start of providing transmission services. TSA proposed to be entered with the selected bidder; bid evaluation methodology to be adopted by the BPC; Discount Factor to be used for evaluation of the bids; specification regarding the bid bond and project completion guarantee to be furnished by the bidders, proposed indemnification agreement between the TSP and the utilities, amount of contract performance guarantee as percentage of the project cost; and the liquidated damages that would apply in the case of delay in start of providing the transmission services.

(h) To ensure competitiveness, the minimum number of qualified bidders shall be two. The BPC shall constitute a committee for evaluation of the bids with at least one member from Central Electricity Authority (CEA) and the concerned Regional Power Committees. The member from CEA shall have expertise in the cost engineering of transmission projects. The bids shall be opened in public and the representative of the bidders shall be allowed to remain present. The technical bids shall be scored to ensure that only the bids that meet the minimum technical criteria set out in the RFQ shall be considered for further evaluation on the transmission charge bids. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same. The bidder who has quoted the lowest transmission charge as per the evaluation procedure shall be considered for the award.

(i) The Guidelines provide for suggested time tables for the bid process. The timeline suggested for a two stage bid process is 240 days and single stage two envelope bid process is 180 days. The BPC is empowered to give extended time-frame based on the prevailing circumstances and such alterations shall not be construed as the deviation from the Guidelines.

(j) The selected bidder shall make an Application for grant of transmission licence to the Appropriate Commission within ten days from the date of issue of Lol subject to further extension of time as provided under para 2.4 of the RFP. The

TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid document before the RFP stage.

(k) The BPC shall make evaluation of the bid public by indicating the terms of the winning bid and anonymous comparison of all other bids. All contracts signed with the successful bidder shall also be made public. The final TSA along with the certification of BPC shall be forwarded to the Appropriate Commission for adoption of tariff in terms of section 63 of the Act.

4. In the light of the above provisions of the Guidelines, we have to examine whether the transparent process of international competitive bidding has been adopted in the present case for arriving at the lowest levelized transmission charges and for selection of the successful bidder.

5. RECTPCL was notified by Ministry of Power, Government of India vide its notification No. 15/1/2013-Trans dated 9.7.2014 as the BPC for the purpose of selection of bidder as TSP to establish the project on Build, Own, Operate and Maintain (BOOM) basis through tariff based competitive bidding process.

6. MTL was incorporated on 14.8.2014 under the Companies Act, 2013 as a wholly owned subsidiary of RECTPCL with the objective to establish the Transmission System for "Connectivity Lines for Maheshwaram (Hyderabad) 765/400kV Pooling sub-station" on Build, Own, Operate and Maintain (BOOM) basis and to act as the Transmission

Service Provider after being acquired by the successful bidder. The main objectives of the petitioner company in its Memorandum of Associations are as under:

“Plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of regional and national grid system, execution of turn-key jobs for other utilities/organizations and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”.

7. RECTPCL as the BPC prepared the bidding documents such as RfQ and RfP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India. The BPC started the process of selection of TSP with the publication of Global Invitation for Qualification on 21.8.2014 for selection of developer on BOOM basis for the project. The notice for RfQ was published on 21.8.2015 and 25.8.2014 in all the editions of Hindustan, Hindustan Times and Financial Times (Global Editions) with the last date of submission of response to RfQ as 22.9.2014. Intimation regarding the initiation of the bid process was given to the Central Commission in accordance with para 4.2 of the Guidelines vide letter No. RECPTCL/P-16/Maheshwaram/RFQ/2014-15/442, dated 21.8.2014.

8. The key milestones in the bidding process were as under:

S. No.	Events	Date
1.	Global Invitation for Tender	21.8.2014
2.	Submission of Request for Qualification	22.9.2014
3.	Issuance of Request for Proposal	10.4.2015

5.	Opening of non-financial bid	3.7.2015
5.	Opening of financial bid	10.7.2015
6.	Issuance of Letter of Intent to successful bidder	21.7.2015
8.	Submission of Contract Performance Guarantee in favour of LTTCs	18.8.2015
9.	Signing of Share Purchase Agreement	20.8.2015

9. The scope of the Project as per the Request for Proposal (RfP) and the Transmission Service Agreement is as under:

S. No.	Scheme/Transmission Works	Conductor Specifications/Configuration	Completion Target
1	<ul style="list-style-type: none"> Maheswararn (PG) - Mehboob Nagar 400 kV D/c line 2 No. of 400 kV line bays at Mehboob Nagar S/S of TSTRANSCO 	Twin Moose ACSR or equivalent AAAC Conductor	34 months
2	<ul style="list-style-type: none"> Nizamabad -- Yeddumailaram (Shankarpalli) 400kV D/c line 2 No. of 400 kV line bays at Yeddumailaram (Shankarpalli) S/S of TSTRANSCO. 		34 months

10. The identified Long Term Transmission Customers (LTTCs) of the project are as under:

S. No.	Name of the Long Term Transmission Customers
1	Power Company of Karnataka Limited
	(i) Bangalore Electricity Supply Company Limited
	(ii) Gulbarga Electricity Company Limited
	(iii) Hubli Electricity Supply Company Limited
	(iv) Mangalore Electricity Supply Company Limited

	(v) Chamundeshwari Electricity Supply Company Limited
2.	Kerala State Electricity Board Limited
3.	Tamil Nadu Generation & Distribution Corporation Limited
4.	Northern Power Distribution Company of Telangana Limited
5.	Southern Power Distribution Company of Telangana Limited
6.	Electricity Department, Govt. of Puducherry
7.	Electricity Department, Govt. of Goa(GED)
8.	Southern Power Distribution Company of Andhra Pradesh Limited
9.	Eastern Power Distribution Company of Andhra Pradesh Limited

11. As per the decision of the Empowered Committee on Transmission, the Bid Evaluation Committee (BEC) comprising of the following was constituted:

- | | |
|--|------------------|
| (a) Shri Padam Kumar M. Nair, Head, SBI Capital Markets | -Chairman |
| (b) Shri Mohd. Anawaruddin, Director (Grid, Transmission & Management),
Telangana, TRANSCO Hyderabad, | -Member |
| (c) Shri Goutam Roy, Director (SP&PA), CEA | -Member |
| (d) Shri Pankaj Batra, Chief Engineer (F & CA), CEA | -Member |
| (e) Shri S.Sumanth, Director (Transmission), KPTCL | -Member |
| (f) Shri Dinesh Kumar, Chairman, MTL | Convener- Member |

12. Responses to RfQ were received from six bidders by 22.9.2015 as per details given below:

S.No.	Name of Bidders
1.	Essel Infraprojects Limited
2.	CLP India Private Ltd
3.	Sterlite Grid3 Ltd
4.	Consortium of Tata Projects Limited/Tata Realty and Infrastructure Limited
5.	Power Grid Corporation of India Ltd.
6.	Kalpataru Power Transmission Ltd.

13. The responses to the RfQ were opened on 22.9.2014 in the presence of Bid Evaluation Committee and the representatives of the bidders. Evaluation was undertaken by Bid Process Consultant, namely Mazars Advisory Private Limited, Gurgaon (Bid Process Consultant) and presented to the Bid Evaluation Committee which recommended all the six bidders as qualified at RfQ stage.

14. The following three bidders submitted RFP:

S.No.	Name of Bidders
1.	Power Grid Corporation of India Ltd.
2.	Kalpatru Power Transmission Limited
3.	Sterlite Grid 3 Ltd

15. RfP (Financial) bids were opened on 10.7.2015 in the presence of Bid Evaluation Committee and the representatives of the bidders. The evaluation of the RfP (Financial) bids was carried out by Bid Process Consultant and presented to the Bid Evaluation Committee . The levelised charges for each bidder, as per the bid evaluation model and the methodology specified in RfP, were found to be in order. Based on the evaluation of the RfP, the levelised transmission charges were worked out as under:

S.No	Name of the Bidder	Levellised Transmission charges in Indian Rupees (Millions/annum)
1	Sterlite Grid3 Ltd.	552.51
2	Power Grid Corporation of India Ltd.	657.72
3	Kalpatru Power Transmission Limited	862.05

16. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Sterlite Grid3 Limited with the lowest evaluated annual levelised transmission charges of ₹552.51 million/annum as the successful bidder.

17. Letter of Intent was issued by the BPC on 21.7.2015 to the successful bidder i.e Sterlite Grid3 Limited. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of RECTPCL the final results of the evaluation of the bids for selection of developer for the project.

18. In accordance with the provisions of the bid documents and Lol issued in its favour, the petitioner has prayed for adoption of the transmission charges for the project which has been discovered through the process of competitive bidding.

19. In accordance with para 2.4 of RfP, the selected bidder shall within 10 days of issue of the Letter of Intent accomplish the following tasks:

(a) Provide Contract Performance Guarantee in favour of the LTTCs;

(b) Execute the Share Purchase Agreement

(c) Acquire, for the acquisition price, one hundred percent equity shareholdings of Maheshwaram Transmission Limited from RECTPCL, along with all its related assets and liabilities;

(d) Make an Application to the Central Electricity Regulatory Commission for adoption of charges under Section 63 of the Electricity Act, 2003;

(e) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

20. The proviso to para 2.4 of the RfP further 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". Though Lol was issued on 21.7.2015, BPC, vide its letter dated 19.8.2015, in terms of first proviso to Clause 2.4 of RfP extended the date upto 21.8.2015. The selected bidder furnished the Performance Guarantee to the Long Term Transmission Customers of the project for an amount of ₹27 crore and has acquired hundred percent equity holding in the applicant company on 20.8.2015 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 24.8.2015.

21. On receipt of the present petition, the staff of the Commission vide its letter dated 27.8.2015 directed the BPC to submit the relevant documents regarding complete process of competitive bidding through affidavit. The necessary details have been filed by the BPC under affidavit dated 14.9.2015.

22. Notices were issued to all the respondents who are the Long Term Transmission Customers of the project. No reply has been filed the respondents. Notice was also issued to RECTPCL in its capacity as Bid Process Coordinator. RECTPCL has filed the copies of all relevant documents pertaining to the bidding process.

23. The petition was heard on 19.11.2015. 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.

24. Under the Guidelines, BPC has to certify that the tariff has been discovered through a transparent process of bidding and the tariff discovered is in line with prevailing market prices. The Bid Evaluation Committee, vide para 15 of the minutes of meeting held on 14.7.2015, has recorded as under:

“15. After detailed discussions on the evaluation report and verification of the bids, the Bid Evaluation Committee took the following decision:

- (a) Sterlite Grid3 Limited emerges as the successful Bidder with the lowest Levelised Transmission Charges of Rs. 552.51 million.
- (b) The levelised tariff for this project based on CERC norms for the same period works out to Rs. 827.89 million, as computed by BPC, which is based on the estimated cost as communicated by CEA/CTU and methodology for calculation of tariff as per CERC norms.
- (c) Thus, in the light of the above, the levelised tariff computed on the basis of rates quoted is in line with the prevailing prices.
- (d) The entire bid process has been carried out in accordance with the “Tariff based Competitive bidding Guidelines for Transmission Service” and “Guidelines for encouraging competition in development of the Transmission Projects” issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time .
- (e) In view of (a) to (d) above, M/s Sterlite Grid3 Limited may be issued Letter of Intent (LOI)”

25. Bid Evaluation Committee vide its certificate dated 14.7.2015 has certified as under:

“It is hereby certified that:

- a. The entire bid process has been carried out in accordance with the "Tariff based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission Projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.
- b. M/s. Sterlite Grid3 Limited has emerged as the successful bidder with the lowest levelised transmission charges of Rs. 552.51 million for the above project.
- c. The rates quoted by the successful bidder are aligned with the prevailing prices.”

26. In the light of the discussions in the preceding paragraphs, it emerges that selection of the successful bidder and the process of arriving at the levelised tariff of the project through competitive bidding has been carried out by the Bid Process Coordinator through a transparent process in accordance with the Guidelines and Standard Bid Documents. The Bid Evaluation Committee has certified that the process is in conformity with the MOP Guidelines. The BPC in its certificate dated 14.7.2015 has certified that the rates quoted by the successful bidder are in line with the prevalent market prices. The Commission is not required to go into the cost details of the bids as per the bidding guidelines and has to adopt the tariff if the same has been discovered in accordance with the Guidelines. Based on the certification of the BEC, we approve and adopt the levelised transmission charges for the project as per the **Appendix** to this order. The sharing of the transmission charges by the LTTCs shall be governed by the provisions of

the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

27. The petitioner has also prayed that the transmission system be allowed to be treated as part of the Transmission Service Agreement approved under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations 2010. At the pre-bid conference, it was clarified by the BPC that TSA signed by the parties would merge with the TSA as notified by this Commission under Sharing Regulations. Thus, merger of the TSA signed by the parties with the TSA notified by this Commission is a condition of the bid and binding on all concerned.

28. The Petition No. 219/ADP/2015 is disposed in terms of the above. We direct that copies of this order shall be endorsed to all Long Term Transmission Customers of the transmission system.

Sd/-
(Dr. M.K.Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
Gireesh B. Pradhan)
Chairperson

Appendix

Year (Term of License)	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non- Escalable Transmission Charges (Rs. millions)	Quoted Escalable Transmission Charges (Rs. Millions)
1	Scheduled COD 30.5.2018	31-March	548.18	7.75
2	01-April	31-March	548.18	Nil
3	01-April	31-March	548.18	Nil
4	01-April	31-March	548.18	Nil
5	01-April	31-March	548.18	Nil
6	01-April	31-March	548.18	Nil
7	01-April	31-March	548.18	Nil
8	01-April	31-March	548.18	Nil
9	01-April	31-March	548.18	Nil
10	01-April	31-March	548.18	Nil
11	01-April	31-March	548.18	Nil
12	01-April	31-March	548.18	Nil
13	01-April	31-March	548.18	Nil
14	01-April	31-March	548.18	Nil
15	01-April	31-March	548.18	Nil
16	01-April	31-March	548.18	Nil
17	01-April	31-March	548.18	Nil
18	01-April	31-March	548.18	Nil
19	01-April	31-March	548.18	Nil
20	01-April	31-March	548.18	Nil
21	01-April	31-March	548.18	Nil
22	01-April	31-March	548.18	Nil
23	01-April	31-March	548.18	Nil
24	01-April	31-March	548.18	Nil
25	01-April	31-March	548.18	Nil
26	01-April	31-March	548.18	Nil
27	01-April	31-March	548.18	Nil
28	01-April	31-March	548.18	Nil
29	01-April	31-March	548.18	Nil
30	01-April	31-March	548.18	Nil
31	01-April	31-March	548.18	Nil
32	01-April	31-March	548.18	Nil
33	01-April	31-March	548.18	Nil
34	01-April	31-March	548.18	Nil
35	01-April	31-March	548.18	Nil
36	01-April	35th anniversary of Scheduled COD	548.18	Nil