

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 89/TL/2015

Coram:

**Shri Gireesh B.Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S.Bakshi, Member**

Date of Order: 18.5.2015

In the matter of

Application under Section of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 for grant of transmission license to Vindhyachal Jabalpur Transmission Limited.

And

In the matter of

Vindhyachal Jabalpur Transmission Limited
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi 110 016

.....**Petitioner**

Vs

1. Maharashtra State Electricity Distribution Company Limited
Prakashgad, 4th Floor, Bandra (East),
Mumbai-400 051
2. Madhya Pradesh Power Management Company Limited
Block No -11, Ground Floor,
Shakti Bhawan, Bidyut Nagar, Rampur,
Jabalpur-482 008, Madhya Pradesh
3. Chhattisgarh State Power State Distribution Co. Ltd.
P.O.Sunder Nagar, Dangania,
Raipur-492 013, Chhattisgarh



4. Gujarat Urja Vikas Nigam Ltd.
Vidhyut Bhawan, Race Course,
Vadodara-390 007
5. Goa Electricity Department
Government of Goa, Curti-Ponda,
Goa-403 401
6. Electricity Department
Dadra and Nagar Haveli,
Administration of Dadra Nagar Haveli,
66 k V Amla Road, Silvassa-396 230
7. Electricity Department
Administration of Daman and Diu,
Plot No. 35, OI DC Complex, Near Fire Station,
Somnath, Daman-396 210

.....Respondents

1. CEO
REC Transmission Projects Company Limited
Core-4, SCOPE Complex, 7, Lodi Road,
New Delhi 110003
2. COO, CTU Planning
Power Grid Corporation of India Limited.
Saudamini, Plot No.2, Sector -29,
Gurgaon 122001

...Performa Respondents

The following were present:

Shri V. Vamsi, PGCIL
Shri Vivek Agarwal, RECTPL
Shri Yogesh Gupta, RECTPL
Shri Ashish Ahululia, RECTPL

ORDER

The petitioner, Vindhyaachal Jabalpur Transmission Limited, has filed the present petition for grant of transmission licence under Section 14 of the Electricity Act, 2003



(hereinafter referred to as "the Act") to establish "Transmission System Strengthening associated with Vindhyachal-V" (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following element:

Scheme/ Transmission Works	Conductors per Phase	Completion Target
Vindhyachal Pooling Station-Jabalpur Pooling Station 765 kV D/C line	Hexa Zebra ACSR or equivalent AAAC conductor and transmission line design should be corresponding to 85 ⁰ c conductor temperature operation	40 months from the effective date

2. The petitioner has made the following prayers:

“(a) Grant Transmission Licence to the Applicant ;

(b) Allow the “Transmission System Strengthening associated with Vindhyachal-V” to be part of Transmission Service Agreement approved by the Hon'ble Commission under PoC Charges Regulations (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010; and

(c) Pass such other order/ orders, as may be deemed fit and proper in the facts & circumstances of the case.”

3. 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 Guidelines, REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) was notified by Government of India, Ministry of Power vide Notification No. 15/1/2013-Trans dated 8.7.2014 as the Bid Process Coordinator (hereinafter referred to as "BPC") for the purpose of selection of bidder as



Transmission Service Provider (TSP) to establish the Transmission System Strengthening associated with Vindhyachal-V (hereinafter referred to as 'Project') through tariff based competitive bidding process.

4. RECTPCL in its capacity as the BPC initiated the bid process on 20.8.2014 and completed the process on 26.2.2015 in accordance with the Guidelines. M/s Power Grid Corporation of India Limited (PGCIL) was selected as the successful bidder having quoted the lowest levelized transmission charges of ₹ 2109.98 million in order to establish the 'Transmission System Strengthening associated with Vindhyachal-V' on BOOM basis and provide transmission service to the following identified long-term transmission customers (LTTCs) of the project, namely:

Sl. No.	Name of the Long Term Transmission Customers
1	Madhya Pradesh Power Management Company Ltd
2	Chhattisgarh State Power Distribution Company Ltd.
3	Gujarat Urja Vikas Nigam Limited
4	Maharashtra State Electricity Distribution Company Ltd.
5	Electricity Department, Govt. of Goa
6	Electricity Department, Dadra and Nagar Haveli
7	Electricity Department, Daman and Diu

5. The petitioner has submitted that four bidders submitted their offers 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 bidders as responsive for opening the financial bids. After opening the financial bids, as per the Bid Evaluation Report dated 20.1.2015, Power Grid Corporation of India Limited (PGCIL) emerged as the successful bidder with the lowest levelized transmission charges of ₹ 2109.98 million.



6. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Power Grid Corporation of India Limited by the BPC on 10.2.2014 which was accepted by PGCIL. Under the terms of Request for Proposal (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 Vindhyachal Jabalpur Transmission Limited from REC Transmission Projects Company 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.

7. The petitioner has submitted that PGCIL has acquired one hundred percent equity holding in Vindhyachal Jabalpur Transmission Limited on 26.2.2015. The petitioner has further submitted that the TSA executed between the TSP and the LTTCS who are the beneficiaries of the transmission project has become effective on the date of acquisition of the petitioner by PGCIL.



8. Section 14 of the Act provides that the Appropriate Commission may, on an application made under Section 15 of the Act, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. 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:

“Plan, promote and develop an integrated and efficient power transmission system network in all its respects 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 turn-key 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”.

9. 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 License 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. The Ministry of Power, Government of India, vide its letter dated 5.9.2014, has accorded approval to the project under Section 68 of the Electricity Act, 2003. The selection of the project developer, PGCIL, has been made in accordance with the guidelines for competitive bidding.

10. Regulation 7 of the Transmission Licence Regulations provides for the procedure for grant of transmission licence as under:

“(1) The application for grant of transmission licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fees 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 website, the particulars of which shall be given in the application.

(5) The application shall be kept on the website 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 situated, 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 these 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 serving copy of the application on 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 transmission licence or for reasons to be recorded in writing, reject the application.”



11. 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 licence 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 licence fee upon the grant of Transmission Licence in terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012. The petitioner has prayed for grant of transmission licence to Vindhyachal Jabalpur Transmission Limited with respect to the transmission system as per details given in para 1 above.

12. The petitioner has made the application as per Form-1 and paid the fee of ₹ one lakh as prescribed by the Government. On perusal of the application, it is noted that the petitioner has served copy of the application on the Long Term Transmission Customers (LTTCs) for the project. The levelised tariff charges quoted by the petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is ₹ 2109.98 million. The petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee and proof of making the evaluation report public by the BPC as per the Guidelines.



13. The petitioner has, vide its affidavit dated 12.3.2015, placed on record the relevant copies of the newspapers in original in which the notice of its application has been published. The petitioner has published the notices on 10.3.2015 in The Free Press Journal(English) and Pradesh Today (Hindi) having publication from Madhya Pradesh.

14. No reply has been filed by the respondents. No objection has been received from the general public in response to the public notice.

15. The petition was heard on 5.5.2015. 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. He further requested to grant transmission licence accordingly. The representative of the BPC submitted that while selecting the petitioner for execution of the transmission project, all the provisions of the competitive bidding guidelines have been complied with.

16. It is observed that the licensee should not approach the Commission for extension of time for execution of the project or for increase in the transmission charges over and above what is permissible under the provisions of the TSA. Accordingly, the petitioner is directed to file an affidavit by 29.5.2015 to the effect that the execution of the transmission project shall not be delayed due to time taken in



obtaining statutory clearances required under the RfP and Transmission Service Agreement or adjudication of any claim of the petitioner arising under the TSA.

17. The petitioner has served a copy of the application on 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 6.4.2015 has recommended for grant of transmission license to the petitioner. Relevant portion of said letter dated 6.4.2015 is as under:

" Vindhyachal Pooling station-Jabalpur Pool Station 765 kV D/C line

The petitioner that subsequent to certification by the Bid Evaluation Committee as successful bidder in the Tariff Based Competitive Bidding (TBCB) process, Power Grid Corporation of India Limited has acquired Vindhyachal Jabalpur Transmission Limited after execution of the Share Purchase Agreement (SPA) on 26.2.2015.

In line with Section 15 (4) of the Electricity Act, 2003 and details furnished by Vindhyachal Jabalpur Transmission Limited, POWERGRID as CTU recommends grant of transmission license to Vindhyachal Jabalpur Transmission Limited for the scope as described above."

18. We have considered the submissions of the petitioner and BPC and perused documents on record. As per para 12.1 of the Guidelines as amended from time to time, finally selected bidder shall make an application for grant of transmission licence within ten days of selection. PGCIL has been selected on the basis of the tariff based competitive bidding as per the Guidelines issued by Government of India, Ministry of Power. LoI has been issued to PGCIL by the BPC and PGCIL has acquired 100% stake in the Vindhyachal Jabalpur Transmission Limited which has been transferred to the petitioner on 26.2.2015 after execution of Share Purchase Agreement. Thus, the



petitioner has complied with the requirements of RfP and Transmission Service Agreement. CTU has also recommended grant of transmission licence to the petitioner. Considering 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 3.6.2015.

19. The petition shall be listed for hearing on 9.6.2015.

**Sd/-
(A.S.Bakshi)
Member**

**Sd/-
(A.K.Singhal)
Member**

**Sd/-
(Gireesh B.Pradhan)
Chairperson**

