

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 66/ADP/2016

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K. Iyer Member

Date of Hearing: 26.5.2016

Date of Order: 31.5.2016

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System established by Odisha Generation Phase-II Transmission Limited.

And

In the matter of

Odisha Generation Phase-II Transmission Limited
F-1, The Mira Corporate Suites, 1 & 2 Ishwar nagar,
Okhla Crossing, Mathura Road,
New Delhi-110 065

..... **Petitioner**

Vs

1. West Bengal State Electricity Distribution Company Limited
Bidyut Bhawan, A-Block, 3rd Floor,
Bidhannagar, Kolkata-700 091

2. North Bihar Power Distribution Company Limited
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna-800 001

3. South Bihar Power Distribution Company Limited
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna-800 001

4. Jharkhand Bijili Vitran Nigam Limited
Engineer's Building, Dhurwa,
Ranchi-834 004

5. Damodar Valley Corporation
DVC Head Quarters, DVC Towers,
VIP Road, Kolkata-700 054

6. Gridco Limited
Grid Corporation of Orissa Limited, Janpath,
Bhubneshwar-751 011

7. Energy and Power Department, Govt. of Sikkim
Power Secretariat, Sonam Gyatso Marg,
Gangtok, Sikkim-737 101

..... Respondents

The following was present:

Shri Chetan Sharma, OGPTL

ORDER

The petitioner, Odisha Generation Phase-II Transmission Limited (OGPTL), 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 "Common Transmission System for Phase-II Generation Projects in Odisha and immediate evacuation system for OPGC (1320 MW) project in Odisha" (hereinafter referred to as "Transmission System").

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. Central Electricity Authority, Government of India, vide its Notification No. 100/1/EC (33)/SP&PA/2014 dated 6.2.2015, notified the PFC Consulting Limited (hereinafter referred to as PFCCL) as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the project through tariff based competitive bidding process.

6. Odisha Generation Phase-II Transmission Limited was incorporated on 17.4.2015 under the Companies Act, 2013 as a wholly owned subsidiary of PFCCCL with the objective to establish the “Common Transmission System for Phase-II Generation Projects in Odisha and immediate evacuation system for OPGC (1320 MW) project in Odisha” 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:

“To 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. PFCCCL 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 23.4.2015 for selection of developer on BOOM basis for the project. The notice for RfQ was published on 23.4.2015 in all the editions of Economics Times, Nav Bharat Times (Hindi), Times of India and Financial Times (Global Editions) with the last date of submission of response to RfQ as 22.5.2015. 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. 03/ITP-19/15-16/OGPTL/11/RFQ, dated 23.4.2015.

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

S. No.	Events	Date
1.	Global Invitation for Tender	23.4.2015
2.	Submission of Request for Qualification	22.5.2015
3.	Issuance of Request for Proposal	8.10.2015
5.	Opening of financial bid	28.12.2015
6.	Issuance of Letter of Intent to successful bidder	6.1.2016
8.	Submission of Contract Performance Guarantee in favour of LTTCs	20.1.2016
9.	Signing of Share Purchase Agreement	8.4.2016

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

S. No.	Name of the Transmission Element	Completion Target	Conductor per Phase
1	Jharsuguda (Sundargarg)-Raipur Pool 765 kV D/C line (Hexa Zebra Conductor)	40 months	Hexa Zebra ACSR Conductor or equivalent AAAC. The transmission lines to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC.
2.	OPGC-Jharsuguda (Sundargarh) 400 kV D/C (Triple Snowbird Conductor	July 2017	Triple Snowbird ACSR Conductor or equivalent AAAC. The transmission lines to be designed for a maximum operating conductor temperature of 85 deg C for both ACSR as well as AAAC.

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

S No.	Name of the Long Term Transmission Customer
1	North Bihar Power Distribution Company Limited
2	South Bihar Power Distribution Company Limited
3	Jharkhand Bijli Vitran Nigam Limited
4	Damodar Valley Corporation

5	GRIDCO Limited
6	Energy and Power Department, Govt. of Sikkim
7	West Bengal State Electricity Distribution Company 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 Padamkumar M. Nair, S.Vice President and Head,
SBI Capital Markets | .Chairman |
| (b) Shri P.K.Pradhan, Director (Commercial), GRIDCO Limited | .Member |
| (c) Shri Pankaj Batra, Chief Engineer (F&CA), CEA | .Member |
| (d) Shri Chandra Prakash, Director (SP&PA-I), CEA | .Member |
| (e) Shri P.P.Srivastava, Chairman, Odisha Generation Phase-II
Transmission Limited | Convener- Member |

12. Responses to RfQ were received from six bidders by 22.5.2015 as per details given below:

S.No.	Name of Bidders
1.	Power Grid Corporation of India Ltd.
2.	Sterlite Grid 3 Limited
3.	Adani Transmission Limited
4.	Gayatri Projects Limited-Megha Engineering & Infrastructures Limited Consortium (GPL-MEIL Consortium)
5.	Kalpataru Power Transmission Ltd.
6.	Essel Infraprojects Limited

13. Bid Evaluation Committee opened the RfQ on 22.5.2015 in the presence of the representatives of the bidders. Bid Evaluation Committee recommended six bidders as qualified at RfP stage.

14. The following three bidders submitted RfP:

S.No.	Name of Bidders
1.	Sterlite Grid 3 Limited
2.	Adani Transmission Limited
3.	Essel Infraprojects Limited

15. Bid Evaluation Committee opened RfP (Financial) bids on 28.12.2015 in the presence of the representatives of the bidders. 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.	Essel Infraprojects Ltd.	1557.00
2.	Adani Transmission Limited	1659.21
3.	Sterlite Grid 3 Limited	1397.93

16. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Sterlite Grid 3 Limited with the lowest evaluated annual levelised transmission charges of Rs.1397.93 million/annum as the successful bidder.

17. Letter of Intent was issued by the BPC on 6.1.2016 to the successful bidder i.e Sterlite Grid 3 Limited. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of PFCCL 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 Odisha Generation Phase II Transmission Limited from PFCCL, 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 6.1.2016, BPC, vide its letter dated 11.4.2016, in terms of proviso to clause 2.4 of RfP extended the date upto 18.4.2016 for completion of all activities by the successful bidder. The selected bidder furnished the Performance Guarantee to the Long Term Transmission Customers of the project for an amount of Rs. 36 crore and has acquired hundred percent equity holding in the applicant company on 8.4.2016 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 18.4.2016.

21. On receipt of the present petition, the staff of the Commission vide its letter dated 2.5.2016 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 11.5.2016.

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 PFCCL in its capacity as Bid Process Coordinator. PFCCL has filed the copies of all relevant documents pertaining to the bidding process.

23. The petition was heard on 26.5.2016. None appeared on behalf of the respondents despite notice.

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 4 to 7 of the minutes of meeting held on 28.12.2015, has recorded as under:

“4. The levelised tariff has been worked out using the financial model provided as an excel sheet to the Bidders along with the RFP documents and considering the indices declared by CERC in accordance with the provisions of the RFP documents. The levelised transmission charges have been worked out based on the methodology specified in the RFP document and by using the index published by the CERC as per their Notification No. Eco T2/2015-CERC dated October 05, 2015, and as prevailing on the day seven days prior to the Bid Deadline (December 15, 2015)

5. Based on the evaluation of RfP (Financial) Bids carried out, the levelised Transmission Charges are as follows:

S.No	Bidder	Levellised Transmission charges in Indian Rupees (Millions/annum)
1.	Essel Infraprojects Ltd.	1557.00
2.	Adani Transmission Limited	1659.21
3.	Sterlite Grid 3 Limited	1397.93

6. As per the above and based on the evaluation carried out, the computed levelised Transmission Charges of Rs. 1397.93 Million per annum is the lowest and accordingly based on the ranking given below, M/s Sterlite Grid 3 Limited may be declared as the successful bidder and the BPC, PFC Consulting Limited, may issue the Letter of Intent (LoI) to M/s Sterlite Grid 3 Limited (L-I Bidder)...

7. The Bid Evaluation Committee also certifies and confirms that the Evaluation of the Responses to RFQ and RFP Bids has been carried out in accordance with the provisions of the Guidelines and the Standard Bid Documents (RFQ & RFP)."

25. Bid Evaluation Committee vide its certificate dated 28.12.2015 has certified as under:

"It is hereby certified that:

1. M/s Sterlite Grid 3 Limited as emerged as the Successful Bidder with the lowest levelised Transmission Charges of Rs.1397.93 Million per annum for the subject project.
2. The rates quoted by the Successful Bidder, M/s Sterlite Grid 3 Limited, are in line with the prevalent market prices.
3. 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 and the Standard Bid Documents (RfQ, RfP & TSA) notified by Ministry of Power, Govt. of India."

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 28.12.2015 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. A copy of this order shall be sent to CTU and Long Term Transmission Customers of the transmission system.

28. The Petition No. 66/ADP/2016 is disposed of in terms of the above.

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 21st May, 2019	31-March-20	1587.20	16.01
2	01-April -20	31-March-21	1587.20	Same as above
3	01-April -21	31-March-22	1549.91	Same as above
4	01-April-22	31-March-23	1513.49	Same as above
5	01-April-23	31-March-24	1477.93	Same as above
6	01-April-24	31-March-25	1443.20	Same as above
7	01-April-25	31-March-26	1409.28	Same as above
8	01-April -26	31-March-27	1376.17	Same as above
9	01-April-27	31-March-28	1343.83	Same as above
10	01-April-28	31-March-29	1312.26	Same as above
11	01-April-29	31-March-30	1281.42	Same as above
12	01-April-30	31-March-31	1251.31	Same as above
13	01-April-31	31-March-32	1221.91	Same as above
14	01-April-32	31-March-33	1193.19	Same as above
15	01-April-33	31-March-34	1165.16	Same as above
16	01-April-34	31-March-35	1137.78	Same as above
17	01-April-35	31-March-36	1126.91	Same as above
18	01-April-36	31-March-37	1126.91	Same as above
19	01-April-37	31-March-38	1126.91	Same as above
20	01-April-38	31-March-39	1126.91	Same as above
21	01-April-39	31-March-40	1126.91	Same as above
22	01-April-40	31-March-41	1126.91	Same as above
23	01-April-41	31-March-42	1126.91	Same as above
24	01-April-42	31-March-43	1126.91	Same as above
25	01-April-43	31-March-44	1126.91	Same as above
26	01-April-44	31-March-45	1126.91	Same as above
27	01-April-45	31-March-46	1126.91	Same as above
28	01-April -46	31-March-47	1126.91	Same as above
29	01-April-47	31-March-48	1126.91	Same as above
30	01-April-48	31-March-49	1126.91	Same as above
31	01-April-49	31-March-50	1126.91	Same as above
32	01-April-50	31-March-51	1126.91	Same as above
33	01-April-51	31-March-52	1126.91	Same as above
34	01-April-52	31-March-53	1126.91	Same as above
35	01-April-53	31-March-54	1126.91	Same as above
36	01-April -54	35th anniversary of Scheduled COD	1126.91	Same as above