

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 300/TL/2015

Coram:

**Shri A.K. Singhal, Member
Shri A.S.Bakshi, Member
Dr. M.K.Iyer, Member**

Date of Hearing: 23.2.2016

Date of Order: 14.3.2016

In the matter of

Application under Section 14 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 Vemagiri II Transmission Limited.

And

In the matter of

POWERGRID Southern Interconnector Transmission System Limited
(Formerly known as Vemagiri II Transmission Limited)
B-9, Qutub Institutional Area,
Katwaria Sarai, New Delhi-110016

.....Petitioner

V/s

1) Tamil Nadu Generation & Distribution Corporation Limited
NPKRR Malligai, 144 Anna Salai,
Chennai-600002

2) Power Company of Karnataka Limited
5th Floor, KPTCL Building, Kaveri Bhawan,
Bangalore-560009

3) Bangalore Electricity Supply Company Limited
KR Circle, Bangalore-560001

- 4) Gulbarga Electricity Company Limited
Station Main Road, Gulbarga-585102
- 5) Hubli Electricity Supply Company Limited
Navanagar, PB Road, Hubli
- 6) Mangalore Electricity Supply Company Limited
Paradigm Plaza, AB Shetty Circle,
Mangalore-575001
- 7) Chamundeshwari Electricity Supply Company Limited
#927, LJ Avenue, Ground Floor, New KantharajUrs Road,
Sarawathipuram, Mysore-570009
- 8) Kerala State Electricity Board Limited
VaidyuthiBhawanam, Pattom,
Thiruvananthapuram-695004
- 9) Southern Power Distribution Company of Telangana Limited
#6-1-50, Mint Compound, Hyderabad-500063, Telangana
- 10) Northern Power Distribution Company of Telangana Limited
#2-5-31/2, Vidyut Bhawan, Nakkalgutta,
Hanamkonda, Warangal-506001
- 11) Electricity Department
Govt. of Puducherry,
137, Nethaji Subhash Chandra Bose
Salai, Puducherry-605001
- 12) Electricity Department,
Govt. of Goa,
Vidyut Bhawan, Panaji, Goa-605001
- 13) Southern Power Distribution Company of Andhra Pradesh Limited
D. No.- 19-13-65/A, Srinivasapuram,
Tiruchanoor Road, Tirupati- 517503
- 14) Eastern Power Distribution Company of Andhra Pradesh Limited
P&T Colony, Seethammadhara, Visakhapatnam
- 15) REC Transmission Projects Company Limited
12-21, Upper Ground Floor, Antriksh Bhawan,
22, KG Marg, New Delhi-110001

.....Respondents

16) Power Grid Corporation of India Limited
Saudamini, Plot No. 2, Sector-29,
Gurgaon- 122001

.....Proforma Respondents

The following were present:

Shri Amit Garg, PSITSL
Shri Mani Kumar, PSITSL

ORDER

The petitioner, Vemagiri II Transmission Company Limited, has filed the present petition for grant of transmission licence under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (hereinafter referred to as "the Act") to establish the transmission system for "Strengthening of Transmission System beyond Vemagiri" (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following element:

S.No.	Scheme/ Transmission Works	Conductors per Phase	Completion Target
1.	Vemagiri-II- Chilakaluripeta 765 kV D/C line with 240 MVAR switchable line reactor at both ends of each circuit (The line bays and line reactors at Chilakaluripeta to be in scope of TSP and those at Vemagiri end in the scope of CTU)	ACSR Zebra or hexagonal AAAC (equivalent to ACSR Zebra)	40 months from the effective date
2.	Chilakaluripeta - Cuddapah 765 kV D/C line with 240 MVAR switchable line reactor at both ends of each circuit (The line bays and line reactors at Chilakaluripeta to be in scope of TSP and those at Cuddapah end in the scope of CTU)	ACSR Zebra or hexagonal AAAC (equivalent to ACSR Zebra)	40 months from the effective date

3	<p>Chilakaluripeta-Narsaraopeta) 400 kV (quad) D/C line 2 no.400 kV line bays at Narsaraopeta (Sattenapalli) 400 kV sub-station of APTRANSCO (The line bays at both ends to be in scope of TSP)</p>	<p>Quad ACSR Moose or Quad AAAC (equivalent to ACSR Moose)</p>	<p>40 months from the effective date</p>
4.	<p>Cuddapah - Madhugiri 400kV (quad) D/c line with 50 MVAR switchable line reactors at both ends of each circuit. (The line bays and reactors at both ends to be in scope of CTU)</p>	<p>Quad ACSR Moose or Quad AAAC (equivalent to ACSR Moose)</p>	<p>38 months from the effective date</p>
5.	<p>Srikaukulam Pooling Station-Garividi 400 kV (Quad) D/C line 2 no. 400 kV bays at Garividi 400 kV S/S of (APTRANSCO) (The line bays at Garividi end to be in the scope of TSP and the line those at Srikaukulam Pooling Station end in the scope of CTU)</p>	<p>Quad ACSR Moose or Quad AAAC (equivalent to ACSR Moose)</p>	<p>38 months from the effective date</p>
6.	<p>Establishment of 765/400 kV sub-stations at Chilakaluripeta with 2x1500 MVA transformers and 2x240 MVAR bus reactors each. Transformers: 765/400 kV, 7x500 MVA (Single Phase units with one spare) <u>765 kV Bays (At Chilakalluripeta)</u> ICT bays : 2 nos. Line bays : 4 nos. 765 kV Bus Reactor Bays</p>		<p>40 months from the effective date</p>

	: 2 nos. Spare bays (Space): 6 nos <u>400 kV Bays</u> ICT bays : 2 nos. Line bays : 2 nos. Spare bays (Space): 8 nos.		
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2. Based on the competitive bidding carried out by REC Transmission Projects Company Limited (RECTPCL) in accordance with the Guidelines issued by Ministry of Power, Govt. of India under Section 63 of the Act, M/s Power Grid Corporation of India Limited (PGCIL) emerged as the selected bidder with the lowest levelized transmission charges of ₹ 3592.55 million/annum.

3. 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 8.2.2016 is extracted as under:

“19. 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. Lol has been issued to PGCIL by the BPC and PGCIL has acquired 100% stake in the Vemagiri-II Transmission Limited which has been transferred to the petitioner on 4.12.2015 after execution of Share Purchase Agreement. Thus, the petitioner has complied with the requirements of RfP and Transmission Service Agreement. 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 23.2.2016.”

4. A public notice under Section 15 (5) of the Act was published on 18.2.2016 in all editions of Hindustan and Indian Express. No suggestions/objections have been received from the members of the public in response to the public notice.

5. The petitioner, vide order dated 4.2.2016, was directed to file an affidavit to the effect that the execution of the transmission project shall not be delayed due to time taken in obtaining statutory clearances required under RfP and the TSA or adjudication of any claim of the petitioner arising under the TSA. In response, the petitioner vide its affidavit dated 18.2.2016 has submitted that the terms of the TSA are binding on the parties (TSP and LTTCs). The petitioner has submitted that in terms of the TSA, it would implement the project as per the provisions of the Article 16.4 of the TSA which is extracted as under:

"16.4. Parties to Perform Obligation: Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement."

6. The petitioner has further submitted that time overrun and cost overrun, if any, made by it, shall be in accordance with the provisions of the TSA read with provisions of the Electricity Act, 2003. We direct that the petitioner shall remain bound by the commitment given by it under affidavit dated 18.2.2016.

7. The representative of the petitioner submitted during the hearing that no objections have been received from the public to the proposal of the Commission to grant of transmission licence to the petitioner. He prayed for grant of transmission licence to the petitioner.

8. During the hearing on 23.2.2016, we had observed that as per Article 5.1.1 of the TSA, the TSP at its own cost and expense, shall be responsible for designing, constructing, erecting, completing and commissioning each element of the project by Scheduled COD in accordance with the various regulations of the Central Electricity Authority regarding Technical Standards and Grid Standards, Prudent Utility Practices and other applicable laws. Further Article 5.4 of the TSA provides that the TSP shall ensure that the project is designed, built and completed in a good workmanlike manner using sound engineering and construction practices and using only materials and equipment that are new and of international utility grade quality such that the useful life of the project will be till the expiry date. Further, the design, construction and testing of all equipment, facilities, components and systems of the project shall be in accordance with Indian Standards and Codes issued by Bureau of India Standards. Accordingly, the petitioner was directed vide ROP for hearing dated 26.2.2016 to submit the information with regard to quality control mechanism available or to be put in place by to ensure the compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA.

9. The petitioner, vide its affidavit dated 8.3.2016, has submitted that the transmission project is governed by the TSA and all the terms of the TSA including Articles 5.1.1 and 5.4 of the TSA are integral part of the TSA and are binding on the signatories of the agreement. The petitioner has further submitted that in terms of the TSA, the applicant would implement the project as per the provisions of the Article 5 dealing with construction of the project. The petitioner has submitted that the provisions of the TSA including those related to quality control during construction of the project are binding on the parties. The petitioner has submitted that it is a wholly owned subsidiary of POWERGRID and follows the same quality standards and practices as are being followed by POWERGRID.

10. We have considered the submission of the petitioner. In the TSA, there is provision for the lead procurer to designate at least three employees for inspection of the progress of the project. Further, the petitioner is required to give a monthly progress report to the lead procurer and the CEA about the project and its execution. The TSA also vests a responsibility in the CEA to carry out random inspection of the project as and when deemed necessary. We consider it necessary to request CEA to devise a mechanism for random inspection of the project every three months to ensure that the project is not only being executed as per the schedule, but the equipment and workmanship of the project conforms to the Technical Standards and Grid Standards notified by CEA and IS Specifications. In case of slippage in execution of the project within the timeline specified in the TSA or any non-conformance to the Grid Standards/Technical Standards/IS Specifications, the same should be promptly brought

to the notice of the Commission so that appropriate direction can be issued to the licensee for compliance.

11. We have considered the submission of the representative of the petitioner and perused the documents on record. 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.”

12. In our order dated 4.2.2016, 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. 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, POWERGRID Southern Interconnector Transmission System Limited, to establish the transmission system for “Strengthening of Transmission System beyond Vemagiri” on Build, Own, Operate and Maintain basis as per the details given in para 1 above.

13. 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 within timeline specified in the Schedule 3 of the TSA and as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA.

(m) The petitioner shall as far as practicable coordinate with the licensee (including deemed licensee) executing the upstream or downstream transmission projects and the Central Electricity Authority for ensuring execution of the project in a matching timeline.

14. 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.

15. A copy of this order shall be sent to CEA for necessary action.

16. Petition No. 300/TL/2015 is disposed of in terms of the above.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member