

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 119/TL/2018

Coram:

Shri P. K. Pujari, Chairperson

Shri A. K. Singhal, Member

Shri M. K. Iyer, Member

Date of Order: 16th of July, 2018

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 License and other related matters) Regulations, 2009 with respect to Transmission License to WR-NR Power Transmission Limited.

And

In the matter of

WR-NR Power Transmission Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi 110016

.....**Petitioner**

Vs.

1. Uttar Pradesh Power Corporation Limited
14th Floor, Shakti Bhawan Extension,
14- Ashok Marg, Lucknow
2. Chhattisgarh State Power Distribution Company Limited
4th Floor, Sewa Bhawan,
Dangania, Raipur- 492013
3. Goa Electricity Department
Electricity Department, Government of Goa
3rd Floor, Vidyut Bhavan, Tiswadi, Goa- 403001
4. Maharashtra State Electricity Distribution Company Limited
5th Floor, Prakashgad, Bandra (E),
Mumbai- 400051



5. Electricity Department, Daman & Diu
Kesariya - Diu Road, Gandhipara, Diu,
Daman and Diu- 362520
6. DNH Power Distribution Corporation Limited
Vidyut Bhavan, Near Secretariat, Amla, Silvassa,
Dadra and Nagar Haveli- 396230
7. Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan, Race Course, Vadodara
Gujarat- 390 007
8. M.P. Power Management Company Limited
Shakti Bhavan, MPSEB Colony, Rampur, Jabalpur,
Madhya Pradesh- 482008
9. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019
10. BSES Yamuna Power Limited
2nd Floor, Shakti Kiran Bldg., Karkardooma,
New Delhi- 110092
11. New Delhi Municipal Council
NDMC, New Delhi- 110001
12. TATA Power Delhi Distribuion Limited
NDPL House, Hudson Lines, Kingsway Camp,
Delhi - 110009
13. Power Development Department, Jammu & Kashmir
Govt. of Jammu & Kashmir, SLDC Building,
1st Floor, Gladani Power House,
Narwal, Jammu
14. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road,
Ajmer- 305004
15. Jodhpur Vidyut Vitran Nigam Limited
New Power House, Industrial Area,
Jodhpur - 342 003
16. Jaipur Vidyut Vitran Nigam Limited



Vidyut Bhawan, Janpath, Jaipur
Rajasthan- 302005

17. Uttarakhand Power Corporation Limited
Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road,
Balliwala Chowk, Dehradun- 248001

18. Electricity Wing of Engineering Department, Union Territory of Chandigarh
OP Circle, 5th Floor,
New Deluxe Building,
Sector- 9, Chandigarh

19. Himachal Pradesh State Electricity Board Limited
Vidyut Bhawan,
Shimla- 171004

20. Haryana Power Purchase Centre
Shakti Bhavan Sector - 6,
Panchkula - 134 109

21. Punjab State Power Corporation Limited
Thermal Sheds, T 1-A, Patiala

22. Rajasthan Discoms Power Procurement Centre
Shed No. 5/4, Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur- 302005

23. Rajasthan Urja Vikas Nigam Limited
Vidyut Bhawan, Jyoti Nagar, Janpath,
Jaipur – 302005

.....Respondents

1. REC Transmission Projects Company Limited,
ECE House, 3rd Floor, Annexe-II,
28A, K.G. Marg, New Delhi- 110001

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

.....Proforma Respondents

The following were present:

Shri B. Vamsi, WR-NR PTL
Ms. Jyoti Prasad, WR-NR PTL
Ms. Rupali Bandhopadhyay, Advocate, TPDDL



Shri Pawan Upadhyay, Advocate, TPDDL
Shri Krishna K., Advocate, TPDDL

ORDER

The Petitioner, WR-NR Power Transmission Limited has filed the present petition under Section 14 of the Electricity Act, 2003 (hereinafter referred to as "the Act") read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 to establish Transmission System for "NEW WR-NR 765 kV Inter-Regional corridor" (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

Scheme/ Transmission Works	Completion Target
New WR-NR 765 kV Inter-Regional Corridor	
765 kV Vindhyanchal Pooling Station- Varanasi D/C line	40 months
Note:	
i. POWERGRID will provide 2 nos. 765 kV line bays at Vindhyanchal 765/400 kV PS for termination of Vindhyanchal Pooling Station – Varanasi 765 kV D/c line.	
ii. POWERGRID will provide 2 nos. 765 kV GIS line bays at Varanasi 765/400 kV GIS Substation along with 2 nos. 1x330 MVAR line reactor for termination of Vindhyanchal PS – Varanasi 765 kV D/c line.	

2. The Petitioner has made the following prayers:

“(a) Grant transmission licence to WR-NR Power Transmission Limited; and

(b) Allow the Transmission System for "NEW WR-NR 765 kV Inter-Regional Corridor" to be part of Transmission Service Agreement approved by the Commission under PoC Charges Regulations (Sharing of inter-State Transmission Charges and Losses Regulations) 2010.”

3. The Petitioner has submitted that in accordance with 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") issued by Government of India, Ministry of Power under Section 63 of the Act, REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) was notified by Government of India, Ministry of Power vide Notification No. 2599 dated 31.10.2016 as the Bid Process Coordinator (hereinafter referred to as "BPC") for the purpose of selection of bidder as Transmission Service Provider (hereinafter referred to as "TSP") to establish the transmission system for "NEW WR-NR 765 kV Inter-Regional Corridor" through tariff based competitive bidding process.

4. RECTPCL in its capacity as the BPC initiated the bid process on 21.11.2016 and completed the process on 27.3.2018 in accordance with the Guidelines. Power Grid Corporation of India Limited (PGCIL) was selected as the successful bidder having quoted the lowest levelized transmission charges of ₹927.33 million per annum in order to establish the transmission system for "NEW WR-NR 765 kV Inter-Regional Corridor" and provide transmission service to the following identified Long-Term Transmission Customers (LTTCs) of the project:

Sl. No.	Name of the Long Term Transmission Customer
1.	Chhattisgarh State Power Distribution Company Limited
2.	Goa Electricity Department
3.	Maharashtra State Electricity Distribution Company Limited
4.	Electricity Department, Daman & Diu
5.	DNH Power Distribution Corporation Limited
6.	Gujarat Urja Vikas Nigam Limited
7.	M.P. Power Management Company Limited

8.	BSES Rajdhani Power Limited
9.	BSES Yamuna Power Limited
10.	New Delhi Municipal Council
11.	TATA Power Delhi Distribution Limited
12.	Power Development Department, Jammu & Kashmir
13.	Rajasthan Urja Vikas Nigam Limited (on behalf of following Discoms) (i) Ajmer Vidyut Vitran Nigam Limited (ii) Jodhpur Vidyut Vitran Nigam Limited (iii) Jaipur Vidyut Vitran Nigam Limited
14.	Uttarakhand Power Corporation Limited
15.	Uttar Pradesh Power Corporation Limited
16.	Electricity Wing of Engineering Department, UT Chandigarh
17.	Himachal Pradesh State Electricity Board Limited
18.	Haryana Power Purchase Centre
19.	Punjab State Power Corporation Limited

5. The Petitioner has submitted that six bidders submitted their offers at RfP stage. The RfP (Non-Financial) Bids of the six bidders were opened in the presence of representative of the bidder's on 25.9.2017. Based on the recommendation of the BEC, the Initial Offer of all the six bidders were opened on 12.2.2018 in the presence of BEC and lowest levelised transmission charges from the Initial Offer was ₹999.41 million per annum. Based on the recommendation of the BEC, out of six bidders, four bidders were qualified to participate in the e-reverse auction stage on 13.2.2018 and submitted their final offer. As per the Bid Evaluation Report dated 13.2.2018, Power Grid Corporation of India Limited emerged as the successful bidder with the lowest levelized transmission charges of ₹927.33 million per annum.

6. Consequent to its selection as the lowest bidder, Letter of Intent (Lol) was issued to Power Grid Corporation of India Limited by the BPC on 1.3.2018 which was accepted by it. 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 and all other RfP documents;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of WR-NR Power Transmission Limited from RECTPCL along with all its related assets and liabilities;
- (d) to make an application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003; and
- (e) To apply to the Central Commission for grant of transmission licence;

7. The Petitioner has submitted that Power Grid Corporation of India Limited has acquired one hundred percent equity holding in WR-NR Power Transmission Limited on 27.3.2018. 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 Power Grid Corporation of India Limited.

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:

“To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigations, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, substation, 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 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 provides 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. Central Electricity Authority, vide its letter No. CEA/26/3/2017/PSP&A-I/187-189 dated 14.3.2017 had issued prior approval to the project under Section 68 of the Act. The selection of the project developer, WR-NR Power Transmission Limited, 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 WR-NR Power 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 Central Government. On perusal of the application, it is noted that the Petitioner has served copy of the application on the LTTCs for the project. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is ₹927.33 million per annum. 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, vide its affidavit dated 23.4.2018, has placed on record the relevant copies of the newspapers published on 11.4.2018 in Indian Express (English edition) and Jansatta (Hindi edition) in Uttar Pradesh and Free Press Journal (English edition) and Dainik Jagran (Hindi edition) in Madhya Pradesh.

16. The petition was heard on 5.7.2018 after notice to the respondents. The representative of the Petitioner during the hearing submitted that the Petitioner has complied with all the requirements for grant of transmission licence and requested for grant of transmission licence to the Petitioner. Reply to the Petition has been filed by Uttar Pradesh Power Corporation Limited and the Petitioner has filed rejoinder thereof.

14. Uttar Pradesh Power Corporation Limited (UPPCL), vide its reply dated 8.5.2018 has submitted that the Petitioner has no *locus-standi* to construct the transmission line. UPPCL has submitted that on one hand, the Petitioner has submitted that the Petitioner's company was incorporated by RECTPCL on 12.1.2017 as its wholly owned subsidiary to initiate the activities for execution of the project and on the other hand, the

Petitioner has submitted that it is a 100% wholly owned subsidiary of PGCIL. UPPCL has contended that how can the Petitioner Company be subsidiary of two companies simultaneously. UPPCL has submitted that since the Petitioner is still not a transmission licensee, RECTPCL cannot authorize the Petitioner to sign the TSA as TSP.

15. The Petitioner, vide its rejoinder dated 21.5.2018 has submitted that all the activities undertaken by the Petitioner are in accordance with the provisions of the bidding documents. The Petitioner has further submitted that as per the Clause 2.4 of the RfP, the TSP is required to acquire the SPV and apply to the Commission for grant of transmission licence. Therefore, it is evident that the Petitioner is not a transmission licensee yet and after the acquisition, it has to apply for transmission licence. The Petitioner has submitted that pursuant to the issuance of LOI dated 27.3.2018, PGCIL has acquired the Petitioner's company after execution of the Share Purchase Agreement and completing all procedural requirements specified in the RfP document. Therefore, after the acquisition of the Petitioner's company, it would not be a subsidiary of the BPC.

17. The Petitioner has served a copy of the application on the Central Transmission Utility (CTU) on 5.4.2018 as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 24.5.2018 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 24.5.2018 is extracted is as under:

“This has reference to application filed by WR-NR Power Transmission Limited with CERC for grant of Transmission Licence with a copy to CTU. The application has been filed for licence for “NEW WR-NR 765 kV Inter-Regional corridor”:

S.No.	New WR-NR 765 kV Inter-Regional Corridor
1.	Vindhyanchal Pooling Station- Varanasi 765 kV D/C line
Note:	
iii.	POWERGRID will provide 2 nos. 765kV line bays at Vindhyanchal 765/400kV PS for termination of Vindhyanchal Pooling Station – Varanasi 765 kV D/c line.
iv.	POWERGRID will provide 2 nos. 765 kV GIS line bays at Varanasi 765/400kV GIS Substation along with 2 nos. 1x330 MVAR line reactor for termination of Vindhyanchal PS – Varanasi 765 kV D/c line.

The “NEW WR-NR 765 kV Inter-Regional corridor” scheme was discussed and agreed in following meetings:

- a) 38th NR SCM and 40th WR SCM held on 30.5.2016 and 1.6.2016 respectively.
- b) 32nd meeting of WRPC and 38th meeting of NRPC held on 24.8.2016 and 25.10.2016 respectively.
- c) 36th meeting of Empowered Committee on transmission held on 26.7.2016.

The application states that subsequent to certification by the Bid Evaluation Committee has successful bidder in the Tariff Based Competitive Bidding (TBCB) process. Power Grid Corporation of India Limited has acquired WR-NR Power Transmission Limited after execution of the Share Purchase Agreement (SPA) on 27.3.2018.

In line with Section 15 (4) of the Electricity Act, 2003 and details furnished by Goa-Tamnar Transmission Project Limited, POWERGRID as CTU recommends grant of transmission licence to Goa-Tamnar Transmission Project Limited for the scope as described above.”

18. We have considered the submissions of the Petitioner and UPPCL and perused documents on record. UPPCL in its reply has raised the procedural issues which have been dealt with in this order. The proviso to para 2.4 of the RfP provides that "if for any reason attributable to the BPC, the said 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 to day basis till the end of the Bid validity period". Though Lol was issued on 1.3.2018, BPC, vide its letters dated 12.3.2018 and

23.3.2018, in terms of clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 6.4.2018 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customers of the project for an amount of Rs. 30.38 crore and has acquired hundred percent equity-holding in the applicant company on 27.3.2018 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 6.4.2018. 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 3.8.2018.

19. In order to ensure that the project is implemented within the time schedule as provided in the TSA, 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 31.7.2018 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 or adjudication of any claim of the petitioner arising under the TSA.



20. It is 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 workman like 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 is directed to submit the information by 31.7.2018 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.

21. The petition shall be listed for hearing on 21.8.2018.

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

sd/-
(A. K. Singhal)
Member

sd/-
(P. K. Pujari)
Chairperson

