

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. **Shri Bhanu Bhushan, Member**
2. **Shri R.Krishnamoorthy, Member**

**Petition No. 28/2008**

**In the matter of**

Application for grant of transmission licence for Western Region System Strengthening Scheme-II (Project-C) to Western Region Transmission (Gujarat) Pvt. Ltd.

**And in the matter of**

Western Region Transmission (Gujarat) Pvt. Ltd., Mumbai...**Petitioner**  
Vs

1. Power Grid Corporation of India Limited, Gurgaon
2. Maharashtra State Electricity Distribution Company Limited, Mumbai
3. Gujarat Urja Vikas Nigam Ltd., Vadodra
4. Madhya Pradesh Power Transmission Company Ltd., Jabalpur
5. Chattisgarh State Electricity Board, Raipur
6. Electricity Department, Govt. of Goa, Panaji
7. Electricity Department, Admn. of Daman and Diu, Daman
8. Electricity Department, Dadra and Nagar Haveli, Silvassa
9. Madhya Pradesh Audyogik Kendra Vikas Nigam Ltd., Indore
10. Central Electricity Authority, New Delhi
11. Western Regional Power Committee, Mumbai .....**Respondents**

**The following were present**

1. Shri Amit Kapoor, Advocate, WRT(J)PL
2. Shri Alok Roy, WRT(J)PL
3. Shri L.N.Mishra, WRT(J)PL
4. Ms. Reena, WRT(J)PL
5. Shri Mayank Bhardwaj, WRT(J)PL
6. Shri Y.K.Seghal, PGCIL
7. Shri R.Bahri, PGCIL
8. Shri Mukesh Khanna, PGCIL
9. Shri Vijay Kumar, PGCIL
10. Shri Kashish Bhambhani, PGCIL
11. Ms. Anjana Dhar, PGCIL
12. Shri P.J.Jani, GUVNL
13. Shri D.K.Srivastava, MPPTCL

**ORDER**  
**(DATE OF HEARING: 8.5.2008)**

The application has been made under Section 15 of the Electricity Act, 2003 (hereinafter to be referred to as 'the Act') for grant of transmission licence for construction, commissioning, operation and maintenance of the following transmission lines falling under the Western Region System Strengthening Scheme-II (hereinafter referred to as "the scheme"), Package-C:

- (i) Rajgarh-Karamsad 400 kV D/C transmission line;
- (ii) Limbdi (Chorania)-Vadavi (Ranchodpura) 400 kV D/C transmission line; and
- (iii) Vadavi (Ranchodpura)-Zerda (Kansari) 400 kV D/C transmission line;

2. Reliance Energy Transmission Limited (RETL), a subsidiary of Reliance Energy Ltd. had filed a petition, being Petition No. 85/2004 for grant of transmission licence for construction, maintenance and operation of the transmission lines and sub-stations forming part of the scheme. The Commission by its order dated 29.7.2005 had split up the scheme in four packages, named as `A`, `B`, `C` and `D`. The Commission directed that packages of the scheme identified as `A` and `D` would be implemented by the first respondent as the Central Transmission Utility (CTU) either on its own or by forming JV companies. Implementation of packages identified as `B` and `C` of the scheme were directed to be through private participation, through the process of tariff-based competitive bidding, and the responsibility of selection of the private parties was assigned to the CTU.

3. In accordance with procedure approved by the Commission for tariff based-competitive bidding, RETL (which emerged as the lowest bidder in the competitive bidding on 20.11.2006) was said to have qualified on the basis of qualifications of its holding company, Reliance Energy Ltd., which furnished the backup guarantee, and also undertook to provide the financial, technical and managerial support to RETL for execution of Package-C (hereinafter referred to as “the project”). The charges quoted by RETL on the basis of which it was declared successful, are contained in Annexure attached to this order.

4. Meanwhile, the CTU had pointed out that it had certain contingent liabilities in the project on account of “buy-out” provisions in the bidding documents, in the construction and operation phases and at the end of licence period. It was further stated that in view of the clarifications issued by Ministry of Finance vide letter dated 31.1.2007 on the applicability of Public Private Partnership Appraisal Committee (“PPPAC”) guidelines, PPPAC approval was needed before entrusting the project to the successful bidder for execution. The guidelines, as clarified, require PPPAC approval in case of the projects where the assets created as public asset would revert to Government or public sector entity at the end of concession period.

5. Acting on the advice of Ministry of Power, the CTU discussed the aspects of modification of various project agreements proposed to be entered into between the CTU and the successful bidder, to comply with PPPAC guidelines and also in the

light of recommendation of the A.K Khurana Committee constituted by the Ministry.

In the meeting held on 29.8.2007, the following was agreed:

- (a) Project format be changed from BOOT to BOO.
- (b) The buy-out provisions be deleted, for the reason of change of the project format.
- (c) Recommendations of Khurana Committee with respect to the Payment Security Mechanism be adopted.
- (d) Buy-out price on transfer of the project on expiry of licence was agreed to be nil.

6. As a consequence of the above decision to delete, `buy-out` provisions, the CTU through its letter dated 4.10.2007 addressed to the Secretary of the Commission, suggested modifications in the Implementation Agreement (IA) and the Power Transmission Agreement (PTA) forming part of the bid documents and sought approval of the Commission for modifications in IA and PTA, dispensing with `buy-out` provisions. Also, based on the recommendations of the Khurana Committee, the CTU recommended incorporation of Payment Security Mechanism in the agreements. The Commission in its order dated 29.10.2007 in Petition No. 8/2007 (suo motu) decided as under.

“4. As a consequence of the agreement to delete the “buy-out” provisions, PGCIL has suggested modifications in the Implementation Agreement (IA) and the Power Transmission Agreement (PTA), earlier termed as Transmission Service Provider Agreement (TSPA), forming part of the bid documents. PGCIL has sought concurrence/approval of the Commission to the modification in IA and PTA and dispensing with “buy out” arrangement. Similarly, based on the report of the A.K. Khurana Committee, PGCIL has recommended incorporation of Payment Security Mechanism in the agreements.

5. We note from the minutes of meeting taken by Secretary (Power) on 6.8.2007 that the question as to whether the deletion of the buy-out provisions would warrant any re-tendering was duly deliberated in the meeting, and it was

concluded that “since no relaxation from the notified conditions was being made, and only a hardening of the contract conditions for the L1 bidder would take place by removal of the buy-out provision, re-tendering would not be required.

In view of the above, and the fact that the projects have already been delayed considerably, we direct the concerned parties to proceed further expeditiously.”

7. Subsequently, the CTU by its letter dated 12.11.2007, notified RETL as the prospective IPTC to establish the transmission lines associated with the project.

Further, RETL, in the capacity of prospective IPTC initialled the draft Implementation Agreement (“IA”) with the CTU, while requesting that the IA be executed without meeting the pre-condition of initialling of the Transmission Service Provider Agreement (“TSPA”)/Power Transmission Agreement (“PTA”). The CTU issued letter of selection dated 22.11.2007 to RETL. The applicant, promoted by RETL as its wholly owned subsidiary company, to act as special purpose vehicle to implement the project has accordingly made the application.

8. The beneficiaries of the project were intimated by RETL of its selection and the need for signing the PTA (within 60 days) through its communication dated 16.11.2007 (Annexure 13). The issue is said to have been pursued thereafter but the PTA is not yet signed by the beneficiaries. On 15.1.2008 and 16.1.2008, the applicant is said to have held meetings with some of the beneficiaries, wherein it was suggested that the PTA need to be discussed at a common platform, namely WRPC so that a general consensus could be reached on the various issues. Meanwhile, as per the fresh certificate of incorporation dated 22.1.2008, copy of which is available on record, name of the Reliance Energy Transmission Ltd. (RETL) has been changed to Reliance Power Transmission Ltd. (RPTL).

9. Gujarat Urja Vikas Nigam Ltd. (GUVNL) sought certain clarifications from the CTU and RETL/RPTL who furnished the clarifications through the letter dated 12.2.2008. The meeting of the applicant with the beneficiaries was held on 26.2.2008 at WRPC office. The meeting was also attended by the CTU. While various issues were discussed during the meeting, no decisions could be arrived at since the beneficiaries indicated that further discussions on PTA should take place only after the bid proposal of RETL/RPTL was made available to them.

10. The application has been made while the discussion on signing of PTA are going on. The applicant sent a copy of its application to the Central Transmission Utility in accordance with sub-section (3) of Section 15 of the Act. The applicant has also published notices of the application in the following newspapers:

- (a) Times of India : Mumbai, Pune, Nagpur, Ahemedabad
- (b) Lokmat : Aurangabad, Mubai, Pune, Nagpur, Kolhapur, Sangli, Satara, Nashik, Solapur, Akola
- (c) Gujarat Samachar : Ahmedabad, Surat, Vadodara, Rajkot, Bhavnagar
- (d) Nvhind Times : Panaji
- (e) Tarun Bharat : Panaji
- (f) Central Chronicle : Bhopal
- (g) Nab Bharat : Bhopal, Jabalpur, Gwalior, Indore, Raipur
- (h) Indian Express : Baroda
- (i) Divya Bhaskar : Surat

11. We are informed that no objections have been received in response to the public notices. The Central Transmission Utility, vide its letter dated 30.4.2008, has recommended grant of licence to the applicant.

12. Based on the proceeding held on 8.5.2008, the applicant vide its affidavit dated 27.5.2008, has clarified certain issues. The applicant has submitted that it is a separate legal entity and shall abide by the applicable law and arrange its affairs to be in compliance with Section 41 of the Act. It has been stated that neither the applicant nor its holding company would enter into any contract or otherwise engage in the business of trading of electricity.

13. It is noted that the execution of the project was decided to be by RETL/RPTL, but the application for licence has been made by its subsidiary. On perusal of the bid documents, copies of which have been submitted by the applicant and the clarification furnished, execution of the project through wholly owned subsidiary of RETL/RPTL is allowed. It is noted that along with bid, two joint undertakings were submitted by RETL, out of which one was bank guarantee by Reliance Energy Ltd. for RETL and other was by RETL for the shell company to be constituted by it. On these considerations we find that the present application is in order.

14. The representative of GUVNL at the hearing and through its subsequent affidavit dated 22.5.2008, has submitted that as per clause No.2.2.7 of request for selection (RfS) of bidding document, the applicant is required to sign PTA with the beneficiaries before filing the application before the Commission for the grant of transmission licence. It has been urged that pending finalization and signing of PTA, consideration of the application be held in abeyance. We are not inclined to accept the submission. As was earlier indicated by CEA, the project is to be completed by the end of current financial year. When seen in the light of this fact,

is appears that the project is already delayed. Therefore, in our opinion the matter does not brook any delay.

15. Based on the material on record and above discussion, we are *prima facie* of the view that applicant can be issued licence for construction and maintenance of the transmission lines associated with the project and given in first para above. 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 suggestion, if any, be filed by any person before the Commission.

16. List for further directions on 29.7.2008, when a final decision on grant of licence shall be taken.

17. The copy of this order shall also be sent to the respondents, the State utilities in the Western Region.

Sd/-  
**(R.KRISHNAMOORTHY)**  
**MEMBER**  
Dated, New Delhi the 27th June 2008

sd/-  
**(BHANU BHUSHAN)**  
**MEMBER**



## Annexure

(Rs. in million)

RETL						
Year	Rajgarh – Karamsad 400 kV D/C transmission line		Limbdi – Vadavi 400 kV D/C transmission line		Vadavi – Zerda 400 kV D/C transmission line	
	Non Escalable	Escalable	Non Escalable	Escalable	Non Escalable	Escalable
1	394.450	1.980	150.040	0.750	252.120	1.270
2	374.920		142.610		239.640	
3	356.360		135.550		227.770	
4	338.720		128.840		216.500	
5	321.960		122.460		205.780	
6	306.020		116.400		195.600	
7	290.870		110.640		185.910	
8	276.470		105.160		176.710	
9	262.790		99.960		167.960	
10	249.780		95.010		159.650	
11	237.420		90.310		151.750	
12	225.660		85.840		144.240	
13	214.490		81.590		137.100	
14	203.880		77.550		130.310	
15	193.780		73.710		123.860	
16	184.190		70.060		117.730	
17	175.070		66.590		111.900	
18	166.410		63.300		106.360	
19	158.170		60.160		101.100	
20	150.340		57.190		96.090	
21	142.900		54.360		91.340	
22	135.830		51.660		86.810	