

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**
3. **Shri Bhanu Bhushan, Member**
4. **Shri A.H. Jung, Member**

Petition No. 85/2004

In the matter of

Application for grant of transmission licence to Reliance Energy Transmission Limited (RETL).

And in the matter of

Reliance Energy Transmission Limited (RETL) **Applicant**

The following were present:

1. Shri Amit Kapur, Advocate, RETL
2. Shri Akshay Natpal, Advocate, RETL
3. Shri C. Sudhakar, VP, RETL
4. Shri Alok Roy, RETL
5. Shri S.K. Negi, RETL
6. Shri L.N. Mishra, RETL
7. Shri M. Kumar, RETL
8. Shri Vijay Kumar, RETL
9. Dr. Hari Natarajan, Mgr, REL
10. Shri N.K. Deo, REL
11. Shri Ajeet Varma, REL
12. Shri Hemant Sahai, Advocate, CTU
13. Shri Akhil Kumar, PGCIL
14. Shri A.K. Sinha, PGCIL
15. Ms. K.V.S. Lakshmi Rai, PGCIL
16. Shri A.M. Pavgi, PGCIL
17. Shri S. Garg, PGCIL
18. Shri S.R. Narasimha, PGCIL
19. Shri N.K. Gupta, PGCIL
20. Shri Jyoti Prasad, PGCIL
21. Shri D. Khandelwal, MPSEB
22. Shri Kamlesh P. Jangio, GEB
23. Shri N.J. Katekar, MSEB
24. Shri Anil Kothiwale, KPTL

ORDER
(DATE OF HEARING : 22.3.2005)

Heard Shri Amit Kapoor, Advocate for the applicant and Shri Hemant Sahai for the Central Transmission Utility. Shri D. Khandelwal for MPSEB, Shri Kamlesh P. Jangio for GEB and Shri N.J. Katekar for MSEB have been heard.

2. The learned counsel for the Central Transmission Utility (CTU) stated that Secretary, Ministry of Power had held an emergency meeting on 12.11.2003. In the said meeting, the requirement of strengthening Western Regional Grid was endorsed. He submitted that the Standing Committee on Power System Planning in its meeting held on 23.1.2004 had agreed on the necessity of taking up Western Region System Strengthening Scheme-II (WRSSS-II). CTU has placed on record a copy of the letter No.12/7/2004-PG dated 8.6.2004 from Ministry of Power, conveying approval for incurring advance expenditure of Rs.9.59 crore by Power Grid for detailed survey of transmission lines associated with WRSSS-II. It is also noted that the Central Government has issued guidelines under Section 63 of the Electricity Act, 2003 (the Act) for competitive bidding for procurement of generation capacity. However, the guidelines for competitive bidding for procurement of transmission services are yet to be issued.

3. In the above context, the Central Government may advise the Commission on following two aspects, namely:

- (a) Whether the sanction accorded under letter dated 8.6.2004 ibid for incurring advance expenditure by Power Grid was intended to vest in CTU the power and authority to undertake execution of WRSSS-II and

whether execution of the transmission project through a joint venture by the Central Transmission Utility was also envisaged while granting the sanction.

- (b) The timeframe within which guidelines for procurement of transmission services through competitive bidding are likely to be finalised by the Central Government.

4. The above information may be furnished by Ministry of Power by 20.4.2005, and representative may also be deputed to assist the Commission on the next date of hearing, namely 28.4.2005. The inputs from Ministry of Power on the above noted issues are considered essential for a reasonable view on the matter before the Commission.

5. The representative of CEA was present at the hearing on 1.3.2005. His submissions have been briefly recorded in the order dated 9.3.2005 passed after the hearing. A Fax message No.238/4/SP&PA dated 18.3.2005 was received from CEA on 22.3.2004 wherein it is stated that the scheduled target dates of the transmission schemes covered under WRSSS-II fall during 2008-09. CEA has recommended that execution of WRSSS-II may be undertaken by having smaller packages of scheme through competitive bidding route. A copy of the Fax message received from CEA has been furnished to the representatives of the applicant and CTU. CEA may advise, also by 20.4.2005, whether execution of WRSSS-II could be held in abeyance till finalisation of guidelines for competitive bidding by the Central Government for

procurement of transmission services, without detriment to the interest of beneficiaries in the Western Region.

6. CTU is directed to file up-to-date status report, duly supported by an affidavit by 20.4.2005, on the survey of transmission lines associated with WRSSS-II. CTU shall also file a detailed report on all transmission projects it proposes to execute in future.

7. A meeting of WRE Board was held on 15.3.2005 in the light of the present application made for grant of transmission licence. Representative of GEB has brought to our notice minutes of the meeting, circulated under Member Secretary, WREB's letter dated 16.3.2005, a copy of which has been supplied to the representatives of the applicant and CTU. As per these minutes, the following conclusions were arrived at after deliberations:

- “(a) The dual functions of PGCIL as CTU and as Transmission Licensee is to be clearly understood.
- (b) As the WR constituents are to pay the transmission tariff for these Schemes, as finally approved by the CERC, the execution of Transmission Schemes should be cost effective by competitive bidding and should be completed in time.
- (c) As WRSSS-II envisages number of transmission lines and new stations, it should be broken into identifiable groups and should be executed in fixed time-frame.”

8. Based on the above, an affidavit has been filed during the course of the proceedings by MSEB. Also, the submissions have been made by the representatives of MPSEB, GEB and MSEB in the light of conclusions arrived at in the meeting of WREB. They had emphasised that execution of WRSSS-II should be through the process of competitive bidding as this is likely to prove to be cost

effective. They also laid emphasis on timely completion of WRSSS-II. It is on record that CTU has invited bids for forming joint ventures for construction and execution of WRSSS-II. It could not be clarified at the hearing that the joint venture route being pursued by CTU falls within the contemplation of the competitive bidding deliberated in the meeting held on 15.3.2005. The representatives of the beneficiaries in Western Region submitted that for the purpose of clarifying the issue, a fresh meeting of WREB is to be called. They requested for three weeks' time for this purpose. Let the issue be deliberated afresh at WRE Board meeting. The beneficiaries in Western Region shall advise the Commission appropriately of the deliberations and the decision at the WRE Board meeting to be called.

9. At the hearing, the question of applicability or otherwise of third proviso to Section 41 of the Act was hotly debated. It was urged on behalf of CTU that Reliance Energy Trading Limited also supported by Reliance Energy Limited has been granted licence for inter-state trading in electricity. It has been pointed out by the learned counsel for the CTU that the applicant is also supported by Reliance Energy Limited and for this purpose, the learned counsel referred to a number of documents on record. It was urged that it is Reliance Energy Limited who will be the ultimate beneficiary of the businesses of trading and transmission to be undertaken by the applicant after grant of licence. Accordingly, he sought to invoke the third proviso to Section 41 of the Act and pleaded for dismissal of the application. The learned counsel for the applicant with matching strength and vigour refuted the argument made by the learned counsel for CTU. In order to enable us to take a view in the matter, the applicant is directed to file, through an affidavit, the constitution of Board of

Directors of Reliance Energy Limited, Reliance Energy Trading Limited and the applicant separately, indicating the date of appointment of each of the Directors on the respective Board. In the affidavit, the details of each shareholder holding shares of 10% or more in Reliance Energy Trading Limited and Reliance Energy Transmission Limited and the professional staff on these two companies and Reliance Energy Limited shall also be indicated. The affidavit shall be filed by 20.4.2004.

10. List the present petition for further hearing on 28.4.2005.

**Sd/-
(A.H. JUNG)
MEMBER**

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

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi dated the 28th March 2005