

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 104/TL/2015

Coram:

**Shri Gireesh B.Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S.Bakshi, Member**

Date of Order: 24.6.2015

In the matter of

Application under Section 14 (a) 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 DGEN Transmission Company Limited.

And

In the matter of

DGEN Transmission Company Limited
305-306, 3rd Floor, Eros Corporate Tower,
Nehru Place,
New Delhi-110 019

...Petitioner

Vs

Torrent Energy Limited
Off Ashram Road,
Ahmedabad-380 009

...Respondent

The following were present:

Shri Ankit Prasoon, Advocate, DGEN
Shri Sachin Gupta, DTCL



ORDER

The petitioner, DGEN 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 "Transmission System associated with DGEN TPS (1200 MW) of Torrent Power Limited" (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following element:

S.No.	Scheme/ Transmission Works	Completion Target	Conductors per Phase
1.	DGEN TPS-Vadodara 400 kV D/C line-114 kms	38 months from the effective date	Twin ACSR Moose or equivalent AAAC be designed for a maximum operating conductor temperature of 85 ⁰ C
2.	Navsari-Bhestan 220 kV D/C line-21 kms	38 months from the effective date	ACSR Zebra or equivalent AAAC be designed for a maximum operating conductor temperature of 85 ⁰ C

2. Based on the competitive bidding carried out by PFC Consulting Limited (hereinafter referred to as PFCCL) in accordance with the Guidelines issued by Ministry of Power, Govt. of India under Section 63 of the Act, M/s Instalaciones Inabensa, SA, Spain emerged as the selected bidder with the lowest levelized transmission charges of ₹ 584.01 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 26.5.2015 is extracted as under:

“17. 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. Instalaciones Inabensa S.A., Spain 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 Instalaciones Inabensa S.A., Spain by the BPC and Instalaciones Inabensa S.A., Spain has acquired 100% stake in the DGEN Transmission Company Limited which has been transferred to the petitioner on 17.3.2015 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 11.6.2015.”

4. A public notice under Section 15 (5) of the Act was published on 3.6.2015 in all editions of Hindustan Times and Hindustan (Hindi). No suggestions/objections have been received from the members of the public in response to the public notice.

5. The petitioner, vide order dated 26.5.2015, was directed to file an affidavit to the effect that the execution of the transmission project, shall not be delayed on the ground solely 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 3.6.2015 has submitted that the terms of the TSA are binding on the signatories of the agreement. The petitioner has submitted that in terms of the TSA, it would implement the transmission system 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 submitted that it shall not approach the Commission for extension of time for execution of the project or for increase in the transmission charges. The petitioner has further submitted that the time overrun and cost overrun shall be claimed in accordance with the provisions of the TSA read with the provisions of the Act and Transmission Licence Regulations. We direct that the petitioner shall remain bound by the commitment given by it under affidavit dated 3.6.2015.

7. Learned counsel for 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. 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.”

9. In our order dated 26.5.2015, 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, DGEN Transmission Company Limited, to establish



“Transmission System associated with DGEN TPS (1200 MW) of Torrent Power Limited” on BOOM basis as per the details given in para 1 above.

10. The grant of transmission licence to the petitioner is subject to the fulfillment of 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 as per the Schedule 3 of the TSA and shall remain bound by the provisions of Article 16.4 of the TSA and its affidavit dated 3.6.2015.

11. 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.

12. Petition No. 104/TL/2015 is disposed of in terms of the above.

Sd/-
(A.S.Bakshi)
Member

Sd/-
(A.K.Singhal)
Member

Sd/-
(Gireesh B.Pradhan)
Chairperson

