

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 42/TL/2018**

**Coram:  
Shri P.K.Pujari, Chairperson  
Shri A.K.Singhal, Member  
Shri A.S.Bakshi, Member  
Dr. M.K.Iyer, Member**

**Date of Order: 24<sup>th</sup> of April, 2018**

**In the matter of**

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003 for grant of Transmission Licence to ERSS XXI Transmission Limited.

**And**

**In the matter of**

ERSS XXI Transmission Limited  
B-9, Qutab Institutional Area,  
Katwaria Sarai, New Delhi 110016

..... **Petitioner**

**Vs**

1) West Bengal State Electricity Distribution Company Ltd.  
Chief Engineer (PTP)  
7<sup>th</sup> Floor, Vidyut Bhawan, Salt Lake City,  
Bidhannagar, Kolkata-700091

2) North Bihar Power Distribution Company Ltd.  
Chief Engineer (Commercial)  
2<sup>nd</sup> Floor, Vidyut Bhawan, bailey Road,  
Patna-800001

3) South Bihar Power Distribution Company Ltd.  
Chief Engineer (Commercial)  
2<sup>nd</sup> Floor, Vidyut Bhawan, Bailey Road,  
Patna-800001

4) GRIDCO Limited  
Director (Commercial)  
Grid Corporation of Orissa Ltd., Janpath,

Bhubaneshwar-751022

5) Jharkhand Bijli Vitran Nigam Ltd.  
Chief Engineer (C&R)  
Engineer's Building, Dhurwa,  
Ranchi-834004

6) Damodar Valley Corporation  
Principal Chief Engineer (Commercial)  
DVC Headquarters, DVC Tower, VIP Road,  
Kolkata-700054

7) Energy and Power Department, Sikkim  
Chief Engineer (Trans/RE)  
Kazi Road, Gangtok,  
Sikkim

.....Respondents

1) Chief Executive Officer  
REC Transmission Projects Company Ltd.,  
ECE House, 3<sup>rd</sup> Floor, Annex-II,  
28 A, KG Marg, New Delhi-110001

2) Chief Operating Officer, CTU Planning  
Power Grid Corporation of India Ltd.,  
Saudamini, Plot No. 2, Sector-29,  
Gurgaon-122001

.....Proforma Respondents

**The following was present:**

Ms. Joyti Prasad, ERSS XXI

**ORDER**

The Petitioner, ERSS XXI Transmission 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 for "Eastern Region Strengthening Scheme-XXI (ERSS

XXI) (hereinafter referred to as "Transmission System") on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
1.	<p>Establishment of new 400/220/132 kV, 2x500 MVA + 2x200 MVA S/s at Sitamarhi (New)*</p> <p><b>400 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 400/220 kV, 2x500 MVA</li> <li>• ICTs bays: 2 no.</li> <li>• Line bays with space for switchable line reactor: 4 no. [2 no. for Darbhanga – Sitamarhi (New) 400kV D/c line with Triple Snowbird conductor and 2 no. for Sitamarhi (New) – Motihari 400kV D/c line with Triple Snowbird conductor]</li> <li>• Bus reactor: 420kV, 2x125 MVAR</li> <li>• Bus reactor bay: 2 no.</li> <li>• Space for future line bays (including space for switchable line reactor): 6 no.</li> <li>• Space for future ICT bays: 2 no.</li> </ul> <p><b>220 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 220/132 kV, 2x200 MVA</li> <li>• ICTs bays: 4 no.</li> <li>• Line bays: 4 no. [2 no. for Sitamarhi (New) – Motipur (BSPTCL) 220kV D/c line and 2 no. for Sitamarhi (New) – Raxaul (New) 220kV D/c (Twin Moose) line]</li> <li>• Space for future line bays: 4 no.</li> <li>• Space for future ICT bays: 4 no.</li> </ul> <p><b>132 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs bays: 2 no.</li> <li>• Line bays: 4 no. [2 no. for Sitamarhi (New) – Sitamarhi 132kV D/c (Single Moose) line and 2 no. for Sitamarhi (New) – Pupri 132kV D/c line]</li> <li>• Space for future line bays: 4 no.</li> <li>• Space for future ICT bays: 2 no.</li> <li>• Space for future 400/220 kV, 2x500 MVA ICTs</li> <li>• Space for future 220/132 kV, 2x200 MVA ICTs</li> </ul>	36
2.	<p>Establishment of new 400/220/132 kV, 3x500 MVA + 3x200 MVA S/s at Chandauti (New)*</p> <p><b>400 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 400/220 kV, 3x500 MVA</li> <li>• ICTs bays: 3 no.</li> <li>• Line bays with space for switchable line reactor: 4 no. [4 no. for LILO of both circuits of Nabinagar-II – Gaya 400kV D/c (Quad Moose) line of POWERGRID at Chandauti (New)]</li> <li>• Bus reactor: 420kV, 2x125 MVAR</li> <li>• Bus reactor bay: 2 no.</li> <li>• Space for future line bays (including space for switchable line reactor): 6 no.</li> </ul>	38

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
	<ul style="list-style-type: none"> <li>• Space for future ICT bays: 2 no.</li> </ul> <p><b>220 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 220/132 kV, 3x200 MVA</li> <li>• ICTs bays: 6 no.</li> <li>• Line bays: 4 no. [4 no. for LILO of Gaya (POWERGRID) – Sonenagar 220kV D/c at Chandauti (New). Gaya (POWERGRID) – Sonenagar shall be LILOed at Bodhgaya (BSPTCL) also, so as to form Gaya (POWERGRID) – Bodhgaya (BSPTCL) – Chandauti (New) – Sonenagar 220kV D/c line]</li> <li>• Space for future line bays: 4 no.</li> <li>• Space for future ICT bays: 4 no.</li> </ul> <p><b>132 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs bays: 3 no.</li> <li>• Line bays: 4 no. [2 no. for LILO of Chandauti (BSPTCL) – Rafiganj and 2 no. for LILO of Chandauti (BSPTCL) – Sonenagar 132kV S/c (HTLS conductor of 240MVA, ampacity - 1050A) lines at Chandauti (New)]</li> <li>• Space for future line bays: 4 no.</li> <li>• Space for future ICT bays: 2 no.</li> <li>• Space for future 400/220 kV, 2x500 MVA ICTs</li> <li>• Space for future 220/132 kV, 2x200 MVA ICTs</li> </ul>	
3.	<p>Establishment of new 400/220/132 kV, 2x500 MVA + 2x200 MVA S/s at Saharsa (New) *</p> <p><b>400 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 400/220 kV, 2x500 MVA</li> <li>• ICTs bays: 2 no.</li> <li>• Line bays with space for switchable line reactor: 4 no. [4 no. for LILO of both circuits Kishanganj – Patna 400kV D/c (Quad Moose) line of POWERGRID at Saharsa (New)]</li> <li>• Bus reactor: 420kV, 2x125 MVAR</li> <li>• Bus reactor bay: 2 no.</li> <li>• Space for future line bays (including space for switchable line reactor): 6 no.</li> <li>• Space for future ICT bays: 2 no.</li> </ul> <p><b>220 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs: 220/132 kV, 2x200 MVA</li> <li>• ICTs bays: 4 no.</li> <li>• Line bays: 4 no. [2 no. for Saharsa (New) – Begusarai and 2 no. for Saharsa (New) – Khagaria (New) 220kV D/c lines]</li> <li>• Space for future line bays: 4 no.</li> <li>• Space for future ICT bays: 4 no.</li> </ul> <p><b>132 kV</b></p> <ul style="list-style-type: none"> <li>• ICTs bays: 2 no.</li> <li>• Line bays: 2 no. [2 no. for Saharsa (New) – Saharsa 132kV D/c (Single</li> </ul>	38

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
	Moose) line] <ul style="list-style-type: none"> <li>• Space for future line bays: 6 no.</li> <li>• Space for future ICT bays: 2 no.</li> <li>• Space for future 400/220 kV, 2x500 MVA ICTs</li> <li>• Space for future 220/132 kV, 2x200 MVA ICTs</li> </ul>	
4.	<b>Substation extension at Darbhanga S/s</b> <ul style="list-style-type: none"> <li>• 400kV Line bays with space for switchable line reactor: 2 no.</li> </ul> [2 no. for Darbhanga – Sitamarhi (New) 400kV D/c line with Triple Snowbird conductor]	36
5.	<b>Substation extension at Motihari S/s</b> <b>400kV</b> <ul style="list-style-type: none"> <li>• ICTs: 400/132kV, 315MVA (3rd)</li> <li>• ICT bays: 1 no.</li> <li>• Line bays with space for switchable line reactor: 2 no.[2 no. for Sitamarhi (New) – Motihari 400kV D/c line with Triple Snowbird conductor]</li> </ul> <b>132kV</b> ICT bays: 1 no.	36
6.	Darbhanga – Sitamarhi (New) 400kV D/c line with Triple Snowbird conductor	36
7.	Sitamarhi (New) – Motihari 400kV D/c line with Triple Snowbird conductor	36
8.	LILO of both circuits of Nabinagar-II – Gaya 400kV D/c (Quad Moose) line of POWERGRID at Chandauti (New)	38
9.	LILO of both circuits of Kishanganj – Patna 400kV D/c (Quad Moose) line of POWERGRID at Saharsa (New)	38
* TSP has to construct the new Sub-Stations within the following boundaries and intimate the same to CEA: 1. Sitamarhi Sub-station in Dumra Tehsil / block of Sitamarhi District, 2. Chandauti Sub-station in Bodh Gaya Tehsil / block of Gaya District 3. Saharsa Sub-station in Satara Kataiya Tehsil / block of Saharsa District		

2. The Petitioner, vide its affidavit dated 19.3.2018, has informed that the name of the company has been changed from ERSS XXI Transmission Limited to Powergrid Mithilanchal Transmission Limited with effect from 15.3.2018. The certificate of change of name from ERSS XXI Transmission Limited to Powergrid Mithilanchal Transmission Limited dated 15.3.2018 issued by Registrar of Companies, Delhi has been placed on record. Accordingly, the name of the

Petitioner has been changed to Powergrid Mithilanchal Transmission Limited on the record of the Commission.

3. Based on the competitive bidding carried out by REC Transmission Projects Company Limited (hereinafter referred to as 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 emerged as the successful bidder with the lowest levelized transmission charges of ₹ 1385.86 million/annum.

4. The Commission after considering the application of the Petitioner in the light of the provisions of the Act and the 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 26.3.2018 is extracted as under:

“17. We have considered the submissions of the Petitioner 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. M/s Power Grid Corporation of India Ltd. 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 M/s Power Grid Corporation of India Ltd by the BPC on 17.10.2017. BPC vide letter dated 8.1.2018 extended the last date of completion of various activities up to 16.1.2018. Accordingly, the Petitioner filed the present petition on 17.1.2018. M/s Power Grid Corporation of India Ltd has acquired 100% stake in the ERSS XXI Transmission Limited which has been transferred to the Petitioner on 12.1.2018 after execution of Share Purchase 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 13.4.2018.

5. A public notice under Section 15 (5) of the Act was published on 7.4.2018 and 8.4.2018 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.

6. The Petitioner, vide order dated 26.3.2018, 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 3.4.2018 has submitted that the transmission project is governed by the TSA and all the terms of the TSA including Article 16 of the TSA are integral part of the TSA and are binding on the signatories of the agreement. 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."

7. The Petitioner has submitted that the time over-run and cost over-run shall be claimed by the Petitioner in accordance with the applicable provisions of the

TSA read with the provisions of the Electricity Act, 2003, bidding documents and the Regulations of the Commission.

8. In our order dated 26.3.2018, the following provisions of the TSA with regard to quality control and workmanship were taken note of:

(a) 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

(b) 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.

(c) 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 to submit the information with regard to quality control mechanism available or to be put in place 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 3.4.2018 , has 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 quality of 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. CEA is requested to promptly bring the same to the notice of the Commission so that appropriate direction can be issued to the licensee for compliance.

11. As regard the grant of transmission licence, 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 26.3.2018, 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 Mithilanchal Transmission Limited, to establish the transmission system for “Eastern Region Strengthening Scheme -XXI (ERSS XXI) 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 (hereinafter referred to as 'licensee') 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 licensee 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 information and necessary action.

16. Petition No. 42/TL/2018 is disposed of in terms of the above.

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

sd/-  
**(A.S. Bakshi)**  
Member

sd/-  
**(A.K. Singhal)**  
Member

sd/-  
**(P.K.Pujari)**  
Chairperson