

**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: 26th of March, 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)
7th Floor, Vidyut Bhawan, Salt Lake City,
Bidhannagar, Kolkata-700091

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

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

4) GRIDCO Limited
Director (Commercial)
Grid Corporation of Orissa Ltd., Janpath,
Bhubaneswar-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, 3rd 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 were present:

Shri B. Vamsi, ETL
Shri Ankit Kumar, RECPTCL

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.	Establishment of new 400/220/132 kV, 2x500 MVA + 2x200 MVA S/s at Sitamarhi (New)*	36

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
	<p>400 kV</p> <ul style="list-style-type: none"> • ICTs: 400/220 kV, 2x500 MVA • ICTs bays: 2 no. • 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] • Bus reactor: 420kV, 2x125 MVAR • Bus reactor bay: 2 no. • Space for future line bays (including space for switchable line reactor): 6 no. • Space for future ICT bays: 2 no. <p>220 kV</p> <ul style="list-style-type: none"> • ICTs: 220/132 kV, 2x200 MVA • ICTs bays: 4 no. • 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] • Space for future line bays: 4 no. • Space for future ICT bays: 4 no. <p>132 kV</p> <ul style="list-style-type: none"> • ICTs bays: 2 no. • 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] • Space for future line bays: 4 no. • Space for future ICT bays: 2 no. • Space for future 400/220 kV, 2x500 MVA ICTs • Space for future 220/132 kV, 2x200 MVA ICTs 	
2.	<p>Establishment of new 400/220/132 kV, 3x500 MVA + 3x200 MVA S/s at Chandauti (New)*</p> <p>400 kV</p> <ul style="list-style-type: none"> • ICTs: 400/220 kV, 3x500 MVA • ICTs bays: 3 no. • 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)] • Bus reactor: 420kV, 2x125 MVAR • Bus reactor bay: 2 no. • Space for future line bays (including space for switchable line reactor): 6 no. • Space for future ICT bays: 2 no. <p>220 kV</p> <ul style="list-style-type: none"> • ICTs: 220/132 kV, 3x200 MVA • ICTs bays: 6 no. • Line bays: 4 no. [4 no. for LILO of Gaya (POWERGRID) – Sonenagar 	38

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
	<p>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]</p> <ul style="list-style-type: none"> • Space for future line bays: 4 no. • Space for future ICT bays: 4 no. <p>132 kV</p> <ul style="list-style-type: none"> • ICTs bays: 3 no. • Line bays: 4 no. <p>[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)]</p> <ul style="list-style-type: none"> • Space for future line bays: 4 no. • Space for future ICT bays: 2 no. • Space for future 400/220 kV, 2x500 MVA ICTs • Space for future 220/132 kV, 2x200 MVA ICTs 	
3.	<p>Establishment of new 400/220/132 kV, 2x500 MVA + 2x200 MVA S/s at Saharsa (New) *</p> <p>400 kV</p> <ul style="list-style-type: none"> • ICTs: 400/220 kV, 2x500 MVA • ICTs bays: 2 no. • Line bays with space for switchable line reactor: 4 no. <p>[4 no. for LILo of both circuits Kishanganj – Patna 400kV D/c (Quad Moose) line of POWERGRID at Saharsa (New)]</p> <ul style="list-style-type: none"> • Bus reactor: 420kV, 2x125 MVAR • Bus reactor bay: 2 no. • Space for future line bays (including space for switchable line reactor): 6 no. • Space for future ICT bays: 2 no. <p>220 kV</p> <ul style="list-style-type: none"> • ICTs: 220/132 kV, 2x200 MVA • ICTs bays: 4 no. • Line bays: 4 no. <p>[2 no. for Saharsa (New) – Begusarai and 2 no. for Saharsa (New) – Khagaria (New) 220kV D/c lines]</p> <ul style="list-style-type: none"> • Space for future line bays: 4 no. • Space for future ICT bays: 4 no. <p>132 kV</p> <ul style="list-style-type: none"> • ICTs bays: 2 no. • Line bays: 2 no. <p>[2 no. for Saharsa (New) – Saharsa 132kV D/c (Single Moose) line]</p> <ul style="list-style-type: none"> • Space for future line bays: 6 no. • Space for future ICT bays: 2 no. • Space for future 400/220 kV, 2x500 MVA ICTs • Space for future 220/132 kV, 2x200 MVA ICTs 	38
4.	Substation extension at Darbhanga S/s	36

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date
	<ul style="list-style-type: none"> • 400kV Line bays with space for switchable line reactor: 2 no. <p>[2 no. for Darbhanga – Sitamarhi (New) 400kV D/c line with Triple Snowbird conductor]</p>	
5.	<p>Substation extension at Motihari S/s</p> <p>400kV</p> <ul style="list-style-type: none"> • ICTs: 400/132kV, 315MVA (3rd) • ICT bays: 1 no. • Line bays with space for switchable line reactor: 2 no.[2 no. for Sitamarhi (New) – Motihari 400kV D/c line with Triple Snowbird conductor] <p>132kV</p> <p>ICT bays: 1 no.</p>	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
<p>* TSP has to construct the new Sub-Stations within the following boundaries and intimate the same to CEA:</p> <ol style="list-style-type: none"> 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 has made the following prayers:

“(a) Grant Transmission Licence to the Applicant

(b) Allow the transmission system for Eastern Region Strengthening Scheme-XXI (ERSS-XXI) to be part of Transmission Service Agreement approved by the Hon’ble Commission under PoC Charges Regulations (Sharing of Inter-State Transmission Charges and Losses Regulations, 2010).

(c) Pass such other order(s), as this Hon`ble Commission may be deemed fit and proper in the facts and circumstances of the case.”

3. The Petitioner has submitted that in accordance with "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. 15/3/2016 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 "Eastern Region Strengthening Scheme-XXI" 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 12.1.2018 in accordance with the Guidelines. M/s Power Grid Corporation of India Limited was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 1385.86 million/annum in order to establish the Transmission System for "Eastern Region Strengthening Scheme-XXI" and provide transmission service to the following identified long-term transmission customers (LTTCs) of the project:

S. No.	Name of the Long Term Transmission Customers
1.	North Bihar Power Distribution Company Limited
2.	South Bihar Power Distribution Company Limited
3.	Jharkhand Bijili Vitran Nigam Limited
4.	GRIDCO Limited
5.	West Bengal State Electricity Distribution Company Limited
6.	Energy and Power Department, Sikkim
7.	Damodar Valley Corporation

5. The Petitioner has submitted that six bidders submitted their offers at RfP stage. Based on the recommendation of the Bid Evaluation Committee (BEC), out of six bidders, 4 bidders were qualified to participate in the electronic reverse auction stage and submitted their final offer. E-Reverse auction was started on

19.9.2017 and even after expiry of initial period for conducting the e-reverse bidding, no bidder placed its bid. In the BEC meeting held on 19.9.2017, it was decided that the levelised tariff for the project based on CERC norms for the same period works out to Rs. 2520.00 million per annum, which has been computed based on the estimated cost as communicated by CEA and methodology for calculation of tariff as per CERC norms. As per the Bid Evaluation Report dated 19.9.2017, M/s Power Grid Corporation of India Limited emerged as the successful bidder with the lowest levelized transmission charges of Rs. 1385.86 million per annum.

6. Consequent to its selection as the lowest bidder, Letter of Intent (Lol) was issued to M/s Power Grid Corporation of India Limited by the BPC on 17.10.2017 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;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of ERSS XXI Transmission Limited from RECTPCL along with all its related assets and liabilities;
- (d) To execute RfP project document including Transmission Service Agreement (TSA) with LTTCs;
- (e) Make an application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003;

(f) To apply to the Central Commission for grant of transmission licence.

7. The Petitioner has submitted that M/s Power Grid Corporation of India Limited has acquired one hundred percent equity holding in ERSS XXI Transmission Limited on 12.1.2018. 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, purchase and sale 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. The Government of India, Ministry of Power, Central Electricity Authority vide its letter No. 68/ER/2017-PSP and A-II/80 dated 7.2.2017 had issued prior approval to the project under Section 68 of the Act. The selection of the project developer, ERSS XXI 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 to ERSS XXI 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 Rs. 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 Long Term Transmission Customer (LTTCs) for the project. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 1385.86 million/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 25.1.2018, has placed on record the relevant copies of the newspapers published on 22.1.2018 in Sanmarg (Hindi edition) and the Telegraph (English edition) in the State of Bihar.

14. No reply has been filed by the respondents. No objection has been received from the general public in response to the public notice.

15. The petition was heard on 22.3.2018. The representative of the Petitioner submitted the Petitioner has complied with all the requirements for grant of transmission licence and requested to grant transmission licence to the Petitioner.

16. The Petitioner has served a copy of the application on the Central Transmission Utility (CTU) on 12.1.2018 as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 19.2.2018 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 19.2.2018 is extracted is as under:

“The scheme was agreed in the 18th meeting of the Standing Committee on Power System Planning of Easter Region held on 13th June 2016, 33rd TCC/ERPC meetings held on 24th-25th June, 2016.

Based on the details furnished by M/s ERSS XXI Transmission Limited and in line with Section 15 (4) of the Electricity Act, 2003, CTU (POWERGRID) recommends grant of transmission licence to M/s ERSS XXI Transmission Limited for scope of works and commissioning schedules as mentioned in the RfP documents.”

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.

18. 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 13.4.2018 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.

19. 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 13.4.2018 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.

20. The Petition shall be listed for hearing on 19.4.2018.

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

Sd/-
(A.S. Bakshi)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(P.K.Pujari)
Chairperson