

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 441/AT/2019

**Coram:
Shri P.K. Pujari, Chairperson
Shri I.S.Jha, Member**

Date of Order: 5th March, 2020

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System being established by Fatehgarh-II Transco Limited.

**And
In the matter of**

Fatehgarh-II Transco Limited) (FTL)
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi – 110016.

....Petitioner

Vs

- 1) ReNew Solar Energy (Jharkhand Four) Private Limited
138, Ansal Chambers-II,
Bikaji Cama Place, Delhi- 110 066.
- 2) PFC Consulting Limited
9th Floor, A-Wing,
Statesman House, Connaught Place,
New Delhi- 110 001.
- 3) Power Grid Corporation of India Limited
Saudamini, Plot No. 2, Sector-29,
Gurgaon – 122 001.

.....Respondents

Parties present:

- 1) Shri B. Vamsi, FTL
- 2) Shri Mani Kumar, FTL
- 3) Ms. Aarushi, FTL

ORDER

The Petitioner, Fatehgarh-II Transco Limited, has filed the present Petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as the 'Act') for adoption of

transmission charges in respect of “Transmission System associated with LTA applications from Rajasthan SEZ Part-B” (hereinafter referred to as ‘the Transmission System’ or ‘the Project’) to be established on Build, Own, Operate and Maintain (BOOM) basis.

2. The Petitioner, vide its affidavit dated 28.11.2019, has informed that the name of the company has been changed from ‘Fatehgarh-II Transco Limited’ to ‘Powergrid Fatehgarh Transmission Limited’ with effect from 26.11.2019. The certificate of change of name from ‘Fatehgarh-II Transco Limited’ to ‘Powergrid Fatehgarh Transmission Limited’ dated 26.11.2019 issued by Registrar of Companies, Delhi has been placed on record. Accordingly, the name of the Petitioner has been changed to Powergrid Fatehgarh Transmission Limited on the record of the Commission.

3. Section 63 of the Act provides as under:

“Section 63: Determination of tariff by bidding process: Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

4. Government of India, Ministry of Power has notified the ‘Tariff based Competitive-bidding Guidelines for Transmission Service’ (hereinafter referred to as ‘the Guidelines’) under Section 63 of the Act vide Resolution No. 11/5/2005-PG(i) dated 17.4.2006. The salient features of the Guidelines are as under:

a) The Guidelines are applicable for procurement of transmission services for transmission of electricity through tariff based competitive bidding and for selection of Transmission Service Provider (TSP) for new transmission lines and to Build, Own, Maintain and Operate the specified transmission system elements.

b) For procurement of transmission services, required for inter-State transmission Project, the Central Government shall notify any Central Government Organization or any Central Public Sector Undertakings, or its wholly owned subsidiary (Special Purpose Vehicle) the Bid Process Coordinator (BPC) who would be responsible for coordinating the bid process.

c) BPC shall prepare the bid documents in accordance with the Guidelines and obtain approval of the Appropriate Commission or alternatively, BPC can use the Standard Bid Documents notified by the Ministry of Power, Government of India. Approval of the Appropriate Commission would be necessary, if any material deviation is proposed to be made in the Standard Bid Documents. Intimation about the initiation of the bid process shall be sent by the BPC to the Appropriate Commission.

d) For procurement of transmission services under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualification (RfQ) and Request for Proposal (RfP) or adopt a single stage two envelope tender process combining both RfQ and RfP processes.

e) RfQ or combined RfQ and RfP notice shall be issued in at least two national newspapers, on websites of the BPC and the Appropriate Government and preferably in the trade magazines also to provide wide publicity. For the purpose of issue of RfQ, minimum conditions to be met by the bidder shall be specified in RfQ notice. The bidding shall be by way of International Competitive Bidding.

f) Standard documentations to be provided in the RfQ stage shall include definitions of requirements including brief description of the Project, commissioning

milestones to be achieved by the bidders, qualification required to be met by bidders and conditions as specified by the Appropriate Commission for being eligible to obtain transmission licence, etc.

g) Standard documentations to be provided by BPC in the RfP shall include specified target dates/months for commissioning and commercial operations and start of providing transmission services, Transmission Service Agreement (hereinafter referred to as 'the TSA') proposed to be entered into with the selected bidder, period of validity of offer of bidder, bid evaluation methodology to be adopted by the BPC, Discount Factor to be used for evaluation of the bids, specification regarding the bid bond and project completion guarantee to be furnished by the bidders, proposed indemnification agreement between the TSP and the utilities, amount of contract performance guarantee as percentage of the project cost, the liquidated damages that would apply in the case of delay in start of providing the transmission services and other technical and safety criteria to be met by the bidder/TSP including the provisions of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time (hereinafter referred to as 'Grid Code').

h) To ensure competitiveness, the minimum number of qualified bidders shall be two. The BPC shall constitute a committee for evaluation of the bids with at least one member from Central Electricity Authority (CEA) and not less than two members from the concerned Regional Power Committees and at least one independent member. The bids shall be opened in public and the representative of the bidders shall be allowed to remain present. The technical bids shall be scored

to ensure that only the bids that meet the minimum technical criteria set out in the RfQ shall be considered for further evaluation on the transmission charge bids. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same. The bidder, who has quoted the lowest transmission charge as per the evaluation procedure, shall be considered for the award.

i) The Guidelines provide for suggested time tables for the bid process. The timeline suggested for two stage bid process is 145 days and single stage two envelope bid process is 180 days. BPC is empowered to give extended time-frame based on the prevailing circumstances and such alterations shall not be construed as the deviation from the Guidelines.

j) The selected bidder shall make an application for grant of transmission licence to the Appropriate Commission within ten days from the date of issue of Lol or signing of TSA, whichever is later, subject to further extension of time as provided under Clause 2.4 of the RfP. TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid documents before the RfP stage.

k) BPC shall make the final result of evaluation of all bids public. The final TSA along with the certification of Bid Evaluation Committee (BEC) shall be forwarded to the Appropriate Commission for adoption of tariff in terms of Section 63 of the Act.

5. Therefore, we have to examine whether the process as per provisions of the Guidelines has been followed in the present case for arriving at the lowest levelised transmission charges and for selection of the successful bidder.

6. Ministry of Power, Government of India, vide its Notification dated 1.2.2019 notified PFC Consulting Limited (hereinafter referred to as 'PFCCL') as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider to establish "Transmission System associated with LTA applications from Rajasthan SEZ Part-B" through tariff based competitive bidding process.

7. Fatehgarh-II Transco Limited was incorporated on 26.2.2019 under the Companies Act, 2013 as a wholly owned subsidiary of PFCCL with the objective to establish the "Transmission System associated with LTA applications from Rajasthan SEZ Part-B" and to act as the Transmission Service Provider after being acquired by the successful bidder. The main objectives of the Petitioner Company as mentioned in its Memorandum of Association are as under:

"To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, substations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of state, regional and national grid system, execution of turn-key jobs for other utilities/organizations and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time".

8. BPC prepared the bidding documents such as RfQ and RfP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India. BPC started the process of selection of TSP with the publication of Global Invitation for

Qualification for selection of developer on BOOM basis for the Project. The notice for RfQ was published on 18.1.2019 in all editions of Hindustan Times (English), Business Standard (English and Hindi) and on 21.1.2019 in Financial Times (Worldwide) with the last date of submission of response to RfQ as 19.2.2019. Intimation regarding the initiation of the bid process was given to this Commission in accordance with Clause 4.2 of the Guidelines vide letter No. 04/ITP-32/18-19/RFQ dated 22.1.2019.

9. The key milestones in the bidding process were as under:

S. No.	Events	Date
1.	Publication of Request for Qualification	17.1.2019
2.	Submission of response to Request for Qualification	19.2.2019
3.	Issuance of Request for Proposal	3.6.2019
4.	RfP (Non- Financial) and Price Bid submission	29.8.2019
5.	RfP(Non- Financial) Bid Opening	29.8.2019
6.	RfP(Financial) Initial Price Offer-Opening	4.9.2019
7.	e-Reverse Auction	5.9.2019
8.	Issuance of Letter of Intent to successful bidder	11.9.2019
9.	Signing of Share Purchase Agreement and transfer of Special Purpose Vehicle	14.10.2019

10. The scope of the Project as per the RfP and the TSA is as under:

Sr. No	Name of the Transmission Element	Scheduled COD from Effective Date
1	Fatehgarh-II - Bhadla-II 765 kV D/c line	December 31, 2020
2	2 nos. of 765 kV bays each at Fatehgarh-II and Bhadla-II S/s for Fatehgarh-II- Bhadla-II 765 kV D/c line	
3	2 nos. of 240 MVAR switchable line reactor with NGR of 400 ohm- one on each circuit of Fatehgarh-II-Bhadla 765 kV D/c line at Fatehgarh-II end	

11. The identified Long Term Transmission Customer (LTTC) of the Project as specified in the TSA is ReNew Solar Energy (Jharkhand Four) Private Limited. The said LTTC has signed the TSA as the beneficiary of the Project on 15.7.2019.

12. As per the decision of the Empowered Committee on Transmission, the Bid Evaluation Committee (BEC) comprising of the following was constituted:

- | | |
|--|--------------------|
| a) Ms. Kamlesh Sekhon, Sr. Vice President & Head, SBI Capital Markets Limited, New Delhi | Chairman |
| b) Shri Sanjay Srivastava, Chief Engineer, (PSETD), CEA | Member |
| c) Shri Awdhesh Kumar Yadav, Director (PSPA-I), CEA | Member |
| d) Suresh Chauhan, Director (Technical) JVVNL | Member |
| e) M.S Palawat Director, (Finance) JVVNL | Member |
| f) Shri Sanjay Mehrotra, Chairman (Fatehgarh-II Transco Limited) | Member
convenor |

13. Responses to RfQ were received from the nine bidders as per details given below:

S. No.	Name of Bidders
1.	ReNew Power Limited
2.	Tata Power Company Limited
3.	Sterlite Grid 20 Limited
4.	Power Grid Corporation of India Limited
5.	Kalpataru Power Transmission Limited
6.	L&T Infrastructure Development Projects Limited
7.	Torrent Power Limited
8.	Adani Transmission Limited
9.	CLP India Private Limited

14. The responses to the RfQ were opened on 19.2.2019 in the presence of BEC and the representatives of the bidders. Based on the evaluation of the responses to RfQ, BEC declared all nine bidders as qualified to participate in RfP stage.

15. Out of nine qualified bidders, the following four bidders submitted RfP (Non-Financial and Financial) bids:

S.No.	Name of Bidders
1.	Adani Transmission Limited

2.	Torrent Power Limited
3.	Power Grid Corporation of India Limited
4.	L&T Infrastructure Development Projects Limited

16. The RfP (Non-Financial) Bids of all the four bidders were opened online through MSTC portal on 29.8.2019 by the BEC in the presence of representatives of the bidders. The RfP (Financial) Bids - Initial Price Offer of four bidders was opened online by the BEC on 4.9.2019. The lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 795.57 million per annum for participating in the e-Reverse auction. BEC recommended all four bidders to participate in the e-Reverse auction stage and to submit their final offers. These bidders quoted the Initial Price Offer (Levelised Transmission Charges) as under:

S. No.	Name of Bidders	Levelised Transmission Charges from the Initial Offer (Rs. in Million)	Rank
1.	Power Grid Corporation of India Limited	795.57	L1
2.	Adani Transmission Limited	819.80	L2
3.	Torrent Power Limited	835.38	L3
4	L&T Infrastructure Development Projects Limited	935.13	L4

17. Out of the above four bidders, three bidders participated in the e-Reverse Auction which was carried out at MSTC portal on 5.9.2019 in the presence of members of BEC after intimating to above four bidders regarding lowest initial price offer. After 40 rounds of bidding, the following levelised transmission tariff for each bidder (in ascending order) emerged:

S. No.	Name of the Bidder	Levelised Transmission Chargers from the Final Offer (Rs. in Million)	Rank
1.	Power Grid Corporation of India Limited	715.58	L1

2.	Adani Transmission Limited	717.38	L2
3.	Torrent Power Limited	787.58	L3
4	L&T Infrastructure Development Projects Limited	935.13	L4

18. Based on e-Reverse bidding, BEC in its meeting held on 6.9.2019 recommended Power Grid Corporation of India Limited with the lowest Levelised Transmission Charges of Rs. 715.58 million per annum as the successful bidder.

19. Letter of Intent was issued by the BPC on 11.9.2019 to the successful bidder, namely, Power Grid Corporation of India Limited. In accordance with Clause 12.3 of the Guidelines, BPC has hosted on the website of PFCCL, the final result of the evaluation of the bids for selection of developer for the Project.

20. In accordance with the provisions of the bid documents and Lol issued in its favour, the Petitioner has prayed for adoption of the transmission charges for the Project which has been discovered through the process of competitive bidding.

21. In accordance with Clause 2.4 of RfP, the selected bidder shall within 10 days of issue of the Letter of Intent, accomplish the following tasks:

- a) Provide Contract Performance Guarantee in favour of the LTTCs;
- b) Execute the Share Purchase Agreement and all other RFP Project documents;
- c) Acquire, for the acquisition price, hundred percent (100%) equity shareholdings of Fatehgarh -II Transco Limited along with all its related assets and liabilities;
- d) Make an application to this Commission for adoption of charges under Section 63 of the Act; and

e) Apply to this Commission for grant of transmission licence.

22. The proviso to Clause 2.4 of the RfP provides that "if for any reason attributable to the BPC, the said activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this clause, such period of 10 days shall be extended, on a day to day basis till the end of the Bid validity period". Though Lol was issued on 11.9.2019, BPC, vide its letters dated 14.10.2019, in terms of Clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 24.10.2019 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customers of the Project for an amount of Rs. 17.55 crore and has acquired hundred percent equity-holding in the applicant company on 14.10.2019 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the Petition for adoption of transmission tariff under Section 63 of the Act on 22.10.2019.

23. On receipt of the present Petition, BPC, vide letter dated 28.11.2019, was directed to submit the relevant documents regarding complete process of competitive bidding. The necessary details have been filed by the BPC under affidavit dated 7.12.2019.

24. Notices were issued to all the Respondents including the LTTC of the Project. No reply has been filed by the Respondents despite notice. None was present on behalf of the LTTC.

25. In accordance with the Competitive Bidding Guidelines, BEC has to certify that the tariff has been discovered through a transparent process of bidding and the tariff

discovered is in line with prevailing market prices. In the minutes of Bid Evaluation Committee meeting held on 6.9.2019, the following has been recorded:

“2. The BEC in its meeting held on 4th September, 2019 for opening of the Initial Offer recommended the following:

- i. As per provisions of the RfP document, following four (04) bidders are qualified to participate in the e-Reverse Auction:

S.No.	Name of Bidders	Levelised Transmission Charges from the Initial Offer (in Rs. Million)	Rank
1.	Power Grid Corporation of India Limited	795.57	L1
2.	Adani Transmission Limited	819.90	L2
3.	Torrent Power Limited	835.38	L3
4.	L&T Infrastructure Development Projects Limited	935.13	L4

- ii. The lowest Levelised Transmission Charges from the Initial Offer submitted by the Bidders is Rs. 795.57 million per annum which shall be the initial ceiling for quoting the Final Offers during e-Reverse Auction.

- iii. To start the e-reverse auction on 5th September, 2019 at 1000 hrs (IST) after intimation to above four (04) qualified bidders regarding lowest initial Price Offer.

3. Pursuant to the above, PFCCL confirmed to BEC that all the above four (4) bidders were informed vide letter dated 4th September 2019, regarding the e-Reverse Auction start time and lowest initial Price Offer.

4. The e- Reverse Auction started on 5th September, 2019 at 1000 hrs (IST).

6. After 40 rounds of bidding, the e-RA was closed on September 05, 2019 at 1738 hrs. It was observed that out of the Four (04) Qualified Bidders the following three (03) bidders participated in the e-RA. After the closing of e-RA, the following Levelised Transmission Charges for each Bidder (in ascending order) emerged:

S. No.	Name of the Bidder	Levelised Transmission Charges from the Initial Offer (in Rs. Million)	Levelised Transmission Chargers from the Final Offer (in Rs. Million)	Rank
1.	Power Grid Corporation of India Limited	795.57 (L-1)	715.58	L-1

2.	Adani Transmission Limited	819.80 (L-2)	717.38	L-2
3.	Torrent Power Limited	835.38 (L-3)	787.58	L-3
4.	L&T Infrastructure Development Projects Limited	935.13(L-4)	935.13	L-4

9. As per Para 6 above, M/s Power Grid Corporation of India Limited emerged as the Successful Bidder after the conclusion of e-RA with the lowest Levelised Transmission Charges of Rs. 715.58 million per annum.

10. BPC, in their evaluation report (enclosed at Annexure-B) has confirmed the following:

- i. The levelised tariff for this project based on CERC norms works out to Rs. 1583.93 million per annum. This has been computed based on methodology as per CERC norms and the estimated cost as communicated by the Cost Committee constituted by National Committee on Transmission (NCT).
- ii. The entire bid process has been carried out in accordance with the “Tariff based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for encouraging competition in development of the Transmission Projects” issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.

11. After detailed discussions on the evaluation report prepared by BPC (Annex-B), the BEC decided the following:

- i. M/s Power Grid Corporation of India Limited is the successful Bidder after the conclusion of the e-RA with the lowest Levelised Transmission Charges of Rs. 715.58 million per annum.
- ii. The levelised tariff computed on the basis of rates quoted by the Successful Bidder, during e-RA, is lower than the Levelised Tariff estimated by BPC (Para 10 (i)), hence the levelised tariff discovered through e-RA is acceptable.
- iii. In view of (i) to (ii) above, M/s Power Grid Corporation of India Limited may be issued Letter of Intent (LoI).

BEC has also issued a separate certificate in this regard (Annexure-C).”

26. Bid Evaluation Committee vide its certificate dated 6.9.2019 has certified as under:

“It is hereby certified that:

1. The entire bid process has been carried out in accordance with the "Tariff based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission Projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.
2. M/s Power Grid Corporation of India Limited emerged as the Successful Bidder after the conclusion of e-RA with the lowest Levelised Transmission Charges of Rs. 715.58 million per annum.
3. The levelised tariff computed on the basis of rates quoted by the Successful Bidder, during e-RA, is lower than the Levelised Tariff calculated based on CERC norms, hence the levelised tariff discovered through e-RA is acceptable."

27. In the light of the discussions in preceding paragraphs, it emerges that selection of the successful bidder and the levelised tariff of the Project has been carried out by the BPC through a transparent process of competitive bidding in accordance with the Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act. BEC has certified that the process is in conformity with the Ministry of Power Guidelines. BEC in its certificate dated 6.9.2019 has certified that Power Grid Corporation of India Limited has emerged as the successful bidder after conclusion of e-Reverse Auction with lowest levelised transmission charges of Rs. 715.58 million per annum. BEC has further certified that the levelised tariff computed on the basis of rates quoted by the successful bidder, during e-Reverse Auction, is lower than the levelised tariff calculated based on CERC norms. Based on the certification of the BEC, we approve and adopt the transmission charges for the Project as per the Appendix to this order which shall remain valid throughout the period covered in the TSA. The sharing of the transmission charges by the LTTCs shall be governed by the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

28. A copy of this order shall be sent to CTU and Long Term Transmission Customer of the Transmission System.

29. Petition No. 441/AT/2019 is disposed of in terms of the above.

Sd/-
(I.S.Jha)
Member

Sd/-
(P. K. Pujari)
(Chairperson)

Appendix

Year (Term of Licence)	Commencement Date of Contract Year	End Date of Contract Year	Non- Escalable Transmission Charges (Rs. in Millions)	Quoted Escalable Transmission Charges (Rs. in Millions)
1	31-Dec-20	31-Mar-21	616.03	0.00
2	1-Apr-21	31-Mar-22	745.37	Same as Above
3	1-Apr-22	31-Mar-23	876.91	Same as Above
4	1-Apr-23	31-Mar-24	876.91	Same as Above
5	1-Apr-24	31-Mar-25	876.91	Same as Above
6	1-Apr-25	31-Mar-26	876.91	Same as Above
7	1-Apr-26	31-Mar-27	876.91	Same as Above
8	1-Apr-27	31-Mar-28	876.91	Same as Above
9	1-Apr-28	31-Mar-29	876.91	Same as Above
10	1-Apr-29	31-Mar-30	833.06	Same as Above
11	1-Apr-30	31-Mar-31	789.22	Same as Above
12	1-Apr-31	31-Mar-32	745.37	Same as Above
13	1-Apr-32	31-Mar-33	701.53	Same as Above
14	1-Apr-33	31-Mar-34	616.03	Same as Above
15	1-Apr-34	31-Mar-35	616.03	Same as Above
16	1-Apr-35	31-Mar-36	616.03	Same as Above
17	1-Apr-36	31-Mar-37	616.03	Same as Above
18	1-Apr-37	31-Mar-38	616.03	Same as Above
19	1-Apr-38	31-Mar-39	616.03	Same as Above
20	1-Apr-39	31-Mar-40	616.03	Same as Above
21	1-Apr-40	31-Mar-41	616.03	Same as Above
22	1-Apr-41	31-Mar-42	616.03	Same as Above
23	1-Apr-42	31-Mar-43	616.03	Same as Above
24	1-Apr-43	31-Mar-44	616.03	Same as Above
25	1-Apr-44	31-Mar-45	616.03	Same as Above
26	1-Apr-45	31-Mar-46	616.03	Same as Above
27	1-Apr-46	31-Mar-47	616.03	Same as Above
28	1-Apr-47	31-Mar-48	616.03	Same as Above
29	1-Apr-48	31-Mar-49	616.03	Same as Above
30	1-Apr-49	31-Mar-50	616.03	Same as Above
31	1-Apr-50	31-Mar-51	616.03	Same as Above
32	1-Apr-51	31-Mar-52	616.03	Same as Above
33	1-Apr-52	31-Mar-53	616.03	Same as Above
34	1-Apr-53	31-Mar-54	616.03	Same as Above
35	1-Apr-54	31-Mar-55	616.03	Same as Above
36	1-Apr-55	35 th anniversary of the Schedule COD	616.03	Same as Above