

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 442/TL/2019

Coram:

Shri P.K. Pujari, Chairperson

Shri I. S. Jha, Member

Date of Order: 23rd January, 2020

In the matter of:

Application under Sections 14, 15 and 79(1)(e) 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 with respect to grant of Transmission Licence to Lakadia Banaskantha Transco Limited.

And

In the matter of

Lakadia Banaskantha Transco Limited (LBTL)
C 105, Anand Niketan,
New Delhi – 110 021

....Petitioner

Vs

- 1) Powerica Limited
9th Floor, C Wing,
Godrej Coliseum, Sion (E),
Mumbai – 400 022.
- 2) REC Transmission Projects Company Limited
Core-4, SCOPE Complex,
7, Lodhi Road, New Delhi – 110 003.
- 3) Powergrid Corporation of India Limited (CTU)
Saudamini, Plot No. 2, Sector-29,
Gurgaon – 122 001.

.....Respondents

Parties present:

- 1) Shri Praveen Tamak, LBTL
- 2) Shri Bhaskar Wagh, CTU
- 3) Shri Siddharth Sharma, CTU



ORDER

The Petitioner, Lakadia Banaskantha Transco Limited, has filed the present Petition for grant of transmission licence under Sections 14, 15 and 79(1)(e) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”) to establish “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” (hereinafter referred to as “Transmission System” or “Project”) on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

Sr. No.	Name of the Transmission Element	Completion Target
1	Lakadia PS - Banaskantha PS 765 kV D/c line	21 months (June, 21)
2	765 kV Bays at Lakadia and Banaskantha substations for Lakadia PS - Banaskantha PS 765 kV D/c line	
3	2x240 MVAR switchable Line reactor along with bays at Banaskantha end of Lakadia PS-Banaskantha PS 765 kV D/c line and 1x80 MVAR, 765 kV, 1 ph switchable line reactor (Spare unit) at Banaskantha end.	

2. The Petitioner has made the following prayers:

“a) Issue the Transmission License to the Petitioner for establishing, operating and maintaining the Transmission System as provided for in the Transmission Service Agreement;

b) Allow the “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” to be part of Transmission Service Agreement approved by the Commission under PoC Charges Regulations (Sharing of inter-State Transmission Charges and Losses Regulations 2010)

c) Condone any inadvertent errors omissions/ errors/ shortcomings and permit the Petitioner to add/change/modify/alter these filings and make further submissions as may be required at a future date.”



3. The Petitioner has submitted that in accordance with the “Guidelines for Encouraging Competition in Development of Transmission Projects” and “Tariff Based Competitive Bidding Guidelines for Transmission Service” (hereinafter referred to as “the Guidelines”) issued by Ministry of Power, Government of India, under Section 63 of the Act, REC Transmission Projects Company Limited (hereinafter referred to as “RECTPCL”) was notified by Ministry of Power, Government of India vide Notification No. S.O 638(E) dated 1.2.2019 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 “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” through tariff based competitive bidding process on BOOM basis.

4. RECTPCL in its capacity as the BPC initiated the bid process on 12.1.2019 and completed the same on 13.11.2019 in accordance with the Guidelines. Adani Transmission Limited (ATL) was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 834.62 million per annum in order to establish “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” and to provide transmission service to the identified Long Term Transmission Customer (LTTC), namely, Powerica Limited of the Project as specified in the TSA.

5. At RfP stage, five bidders, namely, Power Grid Corporation of India Limited, Adani Transmission Limited, L&T Infrastructure Development Projects Limited, Sterlite Grid 11 Limited and Torrent Power Limited submitted their offers. The RfP (Non-Financial) Bids of the five bidders were opened in the presence of representative of the bidders on 21.8.2019. Based on the recommendation of the Bid

Evaluation Committee (BEC), the RfP (Financial) Bids-Initial Price Offer of the three bidders were opened on 26.9.2019. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 991.72 million per annum. Based on the recommendation of BEC, four bidders were qualified to participate in the e-reverse auction stage on 27.9.2019. The e-reverse auction was carried out at MSTC portal on 27.9.2019 and after 66 rounds of bidding, the following levelised transmission tariff for each bidder (in ascending order) emerged:

S. No.	Name of Bidder	Levelised Transmission Charges from the Final Offer (Rs.in Million)	Rank
1	Adani Transmission Limited	834.62	L-1
2	L&T Infrastructure Development Projects Limited	836.72	L-2
3	Powergrid Corporation of India Limited	845.49	L-3
4	Torrent Power Limited	974.32	L-4

6. As per the Bid Evaluation Report dated 9.10.2019, Adani Transmission Limited emerged as the successful bidder with the lowest levelised transmission charges of Rs. 834.62 million per annum. BEC vide its certificate dated 9.10.2019 has certified that entire bid process has been carried out in accordance with the Guidelines issued by the Ministry of Power under Section 63 of the Act. 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. Therefore, the levelised tariff discovered through e-reverse auction is acceptable.

7. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Adani Transmission Limited by the BPC on 28.10.2019 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 and all other RfP documents;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of Lakadia Banaskantha Transco Limited from RECTPCL along with all its related assets and liabilities;
- (d) Make an application to this Commission for adoption of transmission charges, as required under Section 63 of the Act; and
- (e) Apply to this Commission for grant of transmission licence;

8. The Petitioner has furnished the Contract Performance Guarantee (CPG) for an aggregate value of Rs. 27 crore on 30.10.2019 and has acquired one hundred percent equity holding in Lakadia Banaskantha Transco Limited on 13.11.2019. Accordingly, the Transmission Service Agreement (TSA) executed between the TSP and the LTTC dated 23.10.2019 became effective from 13.11.2019.

2. 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, 2013. 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, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of regional and national grid system, execution of turn-key jobs for other utilities/organizations, wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time".



3. Section 15 (1) of the Act provides that every application under Section 14 of the Act 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 Transmission Licence Regulations in this regard. 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 issued under Section 63 of the Act. Regulation 4 of Transmission Licence 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 Project under consideration has been identified by the Empowered Committee. Central Electricity Authority, vide its letter No. CEA-PS-11-23(20)/1/2018-PSPA-I Division dated 17.5.2019 had issued prior approval to the Project under Section 68 of the Act. The selection of the project developer, Lakadia Banaskantha Transco Limited, has been made in accordance with the Guidelines for competitive bidding.

4. 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 situate, 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.”



5. 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 LTTC 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 Lakadia Banaskantha Transco Limited with respect to the Transmission System as per details given in para 1 above.

6. The Petitioner has made the Application as per Form-I and has paid 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 LTTC for the Project. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 834.62 million per 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.

7. The Petitioner vide its affidavit dated 24.12.2019 has placed on record the relevant copies of the newspapers wherein notices were published in terms of Regulation 7 (10) of the Transmission Licence Regulations. The Petitioner has published the notices in "The Indian Express" (English edition), "Kutch Mitra"



(Gujarati edition) and “Sandesh” (Gujarati edition) in the State of Gujarat. No objection has been received from the general public in response to the public notices.

8. The Petition was heard on 10.1.2020 after notice to the Respondents. Except Central Transmission Utility (CTU), none was present on behalf the Respondents, despite notice. The representative of the Petitioner during the hearing submitted that the Petitioner has complied with all the requirements for grant of transmission licence and requested for grant of transmission licence to the Petitioner.

9. During the course of hearing on 10.1.2020, the representative of CTU submitted that the Commission in its order dated 10.10.2019 in Petition No. 197/MP/2019 has granted regulatory approval for execution of the existing transmission Scheme and CTU through its recommendation for grant of transmission licence to the Petitioner has also placed documents on record regarding compliance of Regulations 9.1 and 9.2 of the Central Electricity Regulatory Commission (Planning, Coordination and Development of Economic and Efficient Inter-State Transmission System by Central Transmission Utility and other related matters) Regulations, 2018.

10. The Petitioner has served the copy of the Application on the CTU as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTU in its letter dated 12.11.2019 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 12.11.2019 is extracted as under:

“This has reference to application dated 14.11.2019 filed by Lakadia Banaskantha Transco Ltd (LBTL) selected through TBCB route before the Hon’ble Commission for grant of Transmission License. The applicant has filed application/petition with CERC for



grant of transmission license to establish "Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia" with the scope given in Annexure-I. In this regard, following is submitted:

1. Govt. of India has set a target for establishing 175 GW renewable capacity by 2022 which includes 100 GW Solar, 60 GW Wind generation capacity. This includes installation of 3.5 GW, 4.5 GW & 20 GW of solar/wind capacity in WR under Phase-I (Dec'20/Mar'21), Phase-II (Dec'21) & Phase-III (Beyond Dec'21) respectively. For integration and evacuation of power from envisaged wind potential in Bhuj (2GW)/Dwarka (1.5GW) areas under Phase-I and Lakadia (2GW) under Phase-II, a high capacity 765kV and 400kV transmission system interconnecting Bhuj, Lakadia, Banaskantha, Vadodara & Dwarka along with establishment of 765/400/220kV new substations at Bhuj-II & Lakadia and 400/220kV new substation at Jam Khambhaliya (Dwarka) have been planned. The subject transmission scheme involves implementation of Lakadia – Banaskantha 765kV D/C line. This would help in transfer of power from RE sources in the Bhuj, Lakadia & Dwarka complexes of Gujarat to Banaskantha for onward dispersal of power to various beneficiaries.

2. The proposed Transmission System was discussed and agreed in the 1st meeting of Western Region Standing Committee on Transmission (WRSCOT) held on 5.9.2018. Further in the 2nd WRSCOT meeting held on 21.05.2019, 240 MVAR, 765 kV switchable line reactor (along with 1x80 MVAR, 765 kV, 1ph spare unit) was agreed to be installed at Banaskantha PS end in place of Lakadia end of Lakadia PS-Banaskantha PS 765 kV D/c line. Extract of 1st and 2nd WRSCOT MOM are enclosed at Annexure-II.

3. The Transmission System has also been agreed in 38th WRPC meeting held on 28.06.2019. Extracts of 38th WRPC MoM are enclosed at Annexure-III. However, the change in the location of 240MVAR, 765kV switchable line reactor (along with 1x80 MVAR, 765 kV, 1ph spare unit) from Lakadia PS end to Banaskantha PS end of Lakadia PS – Banaskantha PS 765kV D/c line shall be taken up for ratification in 39th WRPC meeting which is scheduled on 17.12.2019.

4. The Government of India, Ministry of Power, vide Gazette notification dated 01.02.2019 has notified REC Transmission Company Ltd. as the Bid Process Coordinator for the purpose of selection of Bidder as Transmission Service Provider (TSP) to establish the above transmission scheme through Tariff Based Competitive Bidding Process on build, own, operate and maintain basis. Pursuant to the process of competitive bidding conducted by the BPC, Adani Transmission Ltd. has been declared as the successful bidder. The letter of Intent was issued to Adani Transmission Ltd. on 28.10.2019. Adani Transmission Ltd. has acquired Lakadia Banaskantha Transco Limited on 13.11.2019, after execution of the Share Purchase Agreement (SPA) and on completion of all procedural requirements specified in the RFP document. Commissioning Schedule of the proposed ISTS scheme is Jun'21. Hon'ble Commission has also granted Regulatory Approval for the same vide order dated 10.10.2019 in petition No. 197/MP/2019.

5. In line with the provisions of clause 9.1 & 9.2 of the CERC (Planning, Coordination and Development of Economic and Efficient Inter-State Transmission System by Central Transmission Utility and other related matters) Regulations, 2018 following are submitted:

5.1. The details of the scheme, its justification, estimated cost and its tariff impact, results of the system studies, study assumptions, stakeholder consultation/approval

details etc. were published on CTU's website on 23.04.2019 for comments by 07.06.2019. Results of system studies and assumptions are enclosed at Annexure-IV. The observations of stakeholders viz. GUVNL, POSOCO and Torrent Power Ltd. were suitably addressed by CTU vide letter dated 24.06.019 (Annexure-V), 02.07.2019 (Annexure-VI) and email dated 06.06.2019 (Annexure-VII) respectively. Observations from an individual vide email dated 14.05.2019 and 07.06.2019 were also addressed vide email dated 05.12.2019 (Annexure-VIII).

5.2. Upstream/downstream transmission system at Lakadia comprising of WRSS-21A, WRSS-21B & Transmission System for providing connectivity to RE projects at Bhuj-II (2000MW) in Gujarat with commissioning schedule of Dec'20 and Transmission System for Jam Khambhaliya pooling station and interconnection of Jam Khambhaliya pooling station for providing connectivity to RE projects (1500MW) in Dwarka (Gujarat) with commissioning schedule as Mar'21 are under implementation through TBCB route.

6. In line with Section 15(4) of the Electricity Act, 2003, based on details furnished by Lakadia Banaskantha Transco Ltd., CTU recommends grant of transmission licence to Lakadia Banaskantha Transco Ltd. for executing the transmission scheme as mentioned in Annexure-I.

11. We have considered the submissions of the Petitioner and BPC. 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 28.10.2019, BPC, vide its letter dated 13.11.2019, in terms of Clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 21.11.2019 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. 27 crore and has acquired hundred percent equity-holding in the applicant company on 13.11.2019 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the Application through e-filing for grant of transmission licence and adoption of tariff on 18.11.2019. 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 11.2.2020.

12. 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 5.2.2020 to the effect that the execution of the 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.

13. 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 5.2.2020 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.

14. The Petition shall be listed for hearing in due course for which separate notice will be issued.

Sd/-
(I.S.Jha)
Member

sd/-
(P. K. Pujari)
Chairperson

