

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 445/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 Vadodara Transmission Project Limited.

And

In the matter of

Lakadia Vadodara Transmission Project Limited (LVTPL)
Ishwar Nagar, Okhla Crossing,
Mathura Road,
New Delhi – 110 065

....**Petitioner**

Vs

- 1) Adani Green Energy MP Limited
Adani House, 4th Floor, South Wing,
Shantigram, S.G. Highway,
Ahmedabad – 382 421.
- 2) Adani Green Energy Limited
Adani House, 4th Floor, South Wing,
Shantigram, S.G. Highway,
Ahmedabad – 382 421.
- 3) Netra Wind Private Limited
B-504, Delphi Building,
Orchard Avenue, Sector-5,
Hiranandani Gardens, Powai,
Mumbai – 400 076.
- 4) PFC consulting Limited
First Floor, Urjanidhi,
1, Barakhamba Lane,
Connaught Place,
New Delhi – 110 001.



5) Powergrid Corporation of India Limited
Saudamini, Plot No. 2, Sector-29,
Gurgaon - 122 001.

.....Respondents

Parties present:

- 1) Shri Pulkit Sharma, Advocate, LVTPL
- 2) Ms. Harneet Kaur, Advocate, LVTPL
- 3) Shri Aryaman Saxena, Advocate, LVTPL
- 4) Shri Bhaskar Wagh, CTU
- 5) Shri Siddharth Sharma, CTU

ORDER

The Petitioner, Lakadia Vadodara Transmission Project 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 “WRSS-21 (Part-B) Transmission System strengthening for relieving over loadings observed in Gujarat Intra-State system due to RE injections in Bhuj PS” (hereinafter referred to as “Transmission System” or “Project”) on Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

S. No.	Name of the line	Commissioning Schedule
1.	Lakadia-Vadodara 765 kV D/c line	December 31, 2020
2.	330 MVar switchable line reactors at both ends of Lakadia - Vadodara 765 kV D/c line along with 500 ohm NGR at both ends of Lakadia- Vadodara 765 kV D/c line. (330 MVAR line reactor-4 nos., 765 kV reactor bay- 4 nos., 1x110 MVar 765 kV, 1 ph. Switchable line reactor (spare unit) at Vadodara end)	
3	2 nos. of 765 kV bays each at Lakadia and Vadodara S/s for Lakadia-Vadodara 765 kV D/c line (765 kV line bay-4 nos.)	



2. The Petitioner has made the following prayers:

“a) Issue the Transmission Licence to the Petitioner for establishing, operating and maintaining the Project as provided in the TSA;

b) Allow the Project to be part of the Inter-State Transmission System and direct that the recovery of transmission charges shall be in accordance with the terms of the CERC (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, PFC Consulting Limited (hereinafter referred to as “PFCCL”) 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 “WRSS-21 (Part-B) Transmission System strengthening for relieving over loadings observed in Gujarat Intra-State system due to RE injections in Bhuj PS” through tariff based competitive bidding process on BOOM basis.

4. PFCCL in its capacity as the BPC initiated the bid process on 17.1.2019 and completed the same on 26.11.2019 in accordance with the Guidelines. Sterlite Grid 18 Limited was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 1788.66 million per annum in order to establish “WRSS-21 (Part-B) Transmission System strengthening for relieving over loadings observed in Gujarat Intra-State system due to RE injections in Bhuj PS” and to



provide transmission service to the following identified Long Term Transmission Customers (LTTCs) of the Project as specified in the TSA.

S. No.	Name of the Long Term Transmission Customers
1	Adani Green Energy (MP) Limited
2	Torrent Power Limited
3	Sitac Kabini Renewables Private Limited
4	Adani Green Energy Limited
5	Netra Wind Private Limited

5. Out of five LTTCs, three LTTCs have signed the Transmission Service Agreement. BPC vide its Amendment Nos. 2 and 3 to the Request for Proposal, had deleted the two LTTCs, namely, Sitac Kabini Renewables Private Limited and Torrent Power Limited. Therefore, presently, only three LTTCs are the beneficiaries of the Project

6. Three bidders, namely, Adani Transmission Limited, Power Grid Corporation of India Limited and Sterlite Grid 18 Limited submitted their offers at RfP stage (Non-financial and Financial). The RfP (Non-Financial) Bids of the three bidders were opened in the presence of representative of the bidders on 25.6.2019. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids – Initial Price Offer of the three bidders were opened on 15.7.2019. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 2329.38 million per annum. Based on the recommendation of BEC, three bidders were qualified to participate in the e-reverse auction stage on 16.7.2019. The e-reverse auction was carried out at MSTC portal on 16.7.2019 and after 102 rounds of bidding, the following levelised transmission tariff for each bidder (in ascending order) emerged:

Sr. No.	Name of Bidders	Levelised Transmission Charges from	Levelised Transmission Charges from	Rank
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		the Initial Price Offer (in Rs. Million)	the Final Offer (in Rs. Million)	
1	Sterlite Grid 18 Limited	2329.38	1788.66	L-1
2	Powergrid Corporation of India Ltd	2561.18	1793.29	L-2
3	Adani Transmission Limited	2398.87	1797.79	L-3

7. As per the Bid Evaluation Report dated 24.7.2019, Sterlite Grid 18 Limited emerged as the successful bidder with the lowest levelised transmission charges of Rs. 1788.66 million per annum. BEC vide its certificate dated 24.7.2019 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.

8. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Sterlite Grid 18 Limited by the BPC on 31.7.2019 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 Vadodara Transmission Project Limited from PFCCCL 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;

9. The Petitioner has furnished the Contract Performance Guarantee (CPG) for an aggregate value of Rs. 47.25 crore on 22.11.2019 and has acquired one hundred percent equity holding in Lakadia Vadodara Transmission Project Limited on 26.11.2019. Accordingly, the Transmission Service Agreement executed between the TSP and the LTTCs dated 23.4.2019 became effective from 26.11.2019.

10. 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 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”.

11. 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 3.5.2019 had issued prior approval to the Project under Section 68 of the Act. The selection of the project developer, Lakadia Vadodara Transmission Project Limited, has been made in accordance with the Guidelines for competitive bidding.

12. 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.”

13. 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 Lakadia Vadodara Transmission Project Limited with respect to the Transmission System as per details given in para 1 above.

14. The Petitioner has made the Application as per Form-I and 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 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. 1788.66 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.

15. The Petitioner vide its affidavit dated 9.1.2020 has placed on record the relevant copies of the newspapers wherein notices were published in terms of the Regulation 7 (10) of the Transmission Licence Regulations. The Petitioner has published the notices in "The Times of India" (English edition), and "Divya Bhaskar" (Gujarati edition) in the State of Gujarat. No objection has been received from the general public in response to the public notices.

16. The Petition was heard on 10.1.2020 after notice to the Respondents. None was present on behalf the Respondents, except Central Transmission Utility (CTU) 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.

17. 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.

18. 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 9.1.2020 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 9.1.2020 is extracted as under:

“This has reference to application dated 26.12.2019 from Trilegal forwarding therewith the Petition No. 445/TL/2019 filed before the Hon’ble Commission for grant of Transmission License to establish “WRSS-21 (Part-B) Transmission System strengthening for relieving over loadings observed in Gujarat Intra-State system due to RE injections in Bhuj PS” project with the scope of work as 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 & Jam Khambhaliya (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 – Vadodara 765kV D/c line which helps in transfer of power from RE sources in the Kutch (Bhuj/Lakadia) and Jam Khambhaliya (Dwarka) area of Gujarat to Vadodara for onward dispersal of power to their respective beneficiaries.*

2. *The proposed Transmission System was discussed and agreed in the 1st meeting of Western Region Standing Committee on Transmission (WRSCT) held on*



5.9.2018. Further in the 2nd WRSCT meeting held on 21.05.2019, 1x110 MVAR, 765kV, 1-ph switchable line reactor (spare unit) at Vadodara end was also agreed. Extract of 1st and 2nd WRSCT 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. Hon'ble Commission has granted Regulatory Approval for the same vide order dated 10.10.2019 in petition no 197/MP/2019.

4. The Government of India, Ministry of Power, vide Gazette notification dated 01.02.2019 has notified PFC Consulting 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. Subsequent to the process of competitive bidding conducted by the BPC, Sterlite Grid 18 Ltd. (SG18L) has emerged as the successful bidder. The letter of Intent was issued to SG18L on 31.07.2019. SG18L has acquired Lakadia Vadodara Transmission Project Ltd. on 26.11.2019, after execution of the Share Purchase Agreement (SPA) and on completion of all procedural requirements specified in the RFP documents. Commissioning Schedule of the proposed ISTS scheme is Dec'20.

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 24.06.2019 (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 comprising of WRSS-21A, & Transmission System for providing connectivity to RE projects at Bhuj-II (2000MW) in Gujarat with commissioning schedule as Dec'20, 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 and Transmission system associated with RE generations at Bhuj-II, Dwarka, & Lakadia with commissioning schedule as Jun'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 Vadodara Transmission Project Ltd., CTU recommends grant of transmission licence to Lakadia Vadodara Transmission Project Ltd. for executing the transmission scheme as mentioned in Annexure-I..."

19. 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 31.7.2019, BPC, vide its letter dated 26.11.2019, in terms of Clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 6.12.2019 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. 47.25 crore and has acquired hundred percent equity-holding in the applicant company on 26.11.2019 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the Application for grant of transmission licence and adoption of tariff on 29.11.2019. 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.

20. 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.

21. 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.

22. 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**

