

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 99/TL/2021

Coram:

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

Date of Order: 5th June, 2021

In the matter of

Application under Section 14 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 Transmission Licence to Bikaner-II Bhiwadi Transco Limited.

And

In the matter of

Bikaner-II Bhiwadi Transco Limited
Power Grid Corporation of India Limited, Saudamini,
Plot No.2, Sector -29, Gurgaon-122001, Haryana

.....**Petitioner**

Vs

1. Tata Power Green Energy Limited
34, Sant Tukaram Road,
Carnac Bunder, Masjid Bunder (E)
Mumbai -400009
2. Chief Executive Officer,
PFC Consulting Limited
9th Floor, A-Wing, Statesman House,
Connaught Place, New Delhi – 110001
3. Chief Operating Officer, CTU Planning
Power Grid Corporation of India Limited.
Saudamini, Plot no.2, Sector -29, Gurugram-122001

.....**Respondents**

Parties present:

1. Shri B. Vamsi Rama Mohan, BBTL
2. Shri V. C. Sekhar, BBTL
3. Shri Swapnil Verma, CTU
4. Shri Neeraj Singh, PFC
5. Shir Manish Agarwal, PFC
6. Shri Anubhav, PFC

8. Shri Harish Bhakuni, PFC

ORDER

The Petitioner, Bikaner-II Bhiwadi Transco Limited, has filed the present Petition for grant of transmission licence under Section 14 of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as “the Transmission Licence Regulations”) to establish “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase II-Part F”, on Build, Own, Operate and Maintain (BOOM) basis (hereinafter referred to as “the Project”) consisting of the following elements:

Sr. No.	Name of the Transmission Element	Scheduled COD from Effective Date
1	Establishment of 400 kV switching station at Bikaner –II PS with 420kV (2x125 MVAR) bus reactor. 400 kV line bays – 4 numbers. 125 MVAR, 420 kV bus reactor - 2 numbers. 400 kV bus reactor bay – 2 numbers. 400 kV, 80MVAR line reactor on each circuit at Bikaner –II end of Bikaner -II – Khetri 400 kV 2xD/c Line – 4 numbers. Switching equipment for 400 kV switchable line reactor – 4 numbers. Future provisions: Space for 400/220 kV ICTs along with bays – 10 numbers. 400 kV line bays – 6 numbers. 220 kV line bays – 16 numbers. 420 kV reactors along with bays – 2 numbers. Suitable bus sectionaliser arrangement at 400 kV and 220 kV	18 Months from effective date or June 2022, whichever is later
2	Bikaner-II PS – Khetri 400 kV 2xD/c line (Twin HTLS* on M/c Tower)	

3	1x80 MVAR Fixed Line reactor on each circuit at Khetri end of end of Bikaner -II – Khetri 400 kV 2xD/c Line - 4 numbers.	
4	4 number of 400 kV line bays at Khetri for Bikaner – II PS – Khetri 400kV 2xD/c line	
5	Khetri- Bhiwadi 400 kV D/c line (Twin HTLS)*	
6	2 number of 400 kV line bays at Khetri for Khetri - Bhiwadi 400kV D/c line	
7	2 number of 400 kV(GIS) line bays at Bhiwadi for Khetri- Bhiwadi 400 kV D/c line	
8	STATCOM at Bikaner-II S/s ± 300 MVAR, 2x125 MVAR MSC, 1x125 MVAR MSR	

**With minimum capacity of 2100 MVA on each circuit at nominal voltage.*

Note:

- i. (i)POWERGRID to provide space for 2 number of 400 kV bays at Bhiwadi substation.
 - ii. (ii)Developer of Khetri Substation to provide space for 4 number of 400 kV line bays without any charges & to provide space for 2 number of 400 kV line bays and 4 number of fixed line reactors (for Bikaner-II – Khetri 400 kV 2xD/c line at Khetri end) on chargeable basis.
2. The Petitioner has made the following prayers:

“(a) Grant Transmission License to the Applicant; and

(b) Allow the sharing and recovery of Transmission Charges for Transmission system strengthening scheme for evacuation of power from solar energy zones in Rajasthan (8.1 GW) under phase II – Part F as per Sharing of Inter-state Transmission Charges and Losses CERC Regulations 2020 and other amendment thereon issued from time to time by CERC.”

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 (PFCCL) was notified by Ministry of Power, Government of India vide Gazette notification F. No. 15/3/2018-Trans-Pt(1) dated 24.1.2020 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish ‘Transmission System Strengthening Scheme for Evacuation of Power from Solar

Energy Zones in Rajasthan (8.1 GW) under Phase II- Part F', through tariff based competitive bidding process on BOOM basis.

4. PFCCL in its capacity as the BPC initiated Single Stage Two Envelope bid process by issuing the Request for Proposal (RfP) on 6.3.2020 and completed the same on 25.3.2021 in accordance with the Guidelines. Power Grid Corporation of India Limited (PGCIL) was selected as the successful bidder having quoted the lowest levelized transmission charges of Rs. 1404.86 million per annum in order to establish the Project and to provide transmission service to initial identified Long Term Transmission Customer (LTTC) of the Project, namely, Tata Power Green Energy Limited as specified in the TSA.

5. Four bidders, namely, (i) Power Grid Corporation of India Limited, (ii) Sterlite Grid 26 Limited, (iii) Adani Transmission Limited, and (iv) DBL Power & Energy Transmission Limited submitted their offers at Single Stage RfP (Technical) Bids. The RfP (Technical) Bids of the four bidders were opened online on 11.1.2021 at MSTC (Metal Scrap Trade Corporation Ltd.) portal. Based on the recommendation of the Bid Evaluation Committee (BEC), the RfP (Financial) Bids-Initial Price Offer of all the four bidders were opened on 4.2.2021. Lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 1404.86 million per annum. All the four bidders were qualified to participate in the e-reverse auction stage. The e-reverse auction was carried out at MSTC portal on 5.2.2021. However, no bids were received during the e-reverse auction stage and as per clause 3.6.1 of the RfP, if no bid is received during the e-reverse bidding stage, the bidder with the lowest quoted initial levelised transmission charges ('Initial Offer') during e-bidding stage shall be declared as successful bidder. As per the initial offer, the ranking of the bidders was as under:

Sr. No.	Name of Bidder	Levelised Transmission Charges (Indian Rs. Million per annum)	Rank
1	Power Grid Corporation of India Limited	1404.86	L1
2	Sterlite Grid 26 Limited	2132.43	L2
3	Adani Transmission Limited	2200.06	L3
4	DBL Power & Energy Transmission Private Limited	2405.57	L4

6. Accordingly, as per the final Bid Evaluation Report dated 9.2.2021, Power Grid Corporation of India Limited emerged as the successful bidder with the lowest levelised transmission charges of Rs. 1404.86 million per annum. BEC vide its certificate dated 9.2.2021 has certified that entire bid process has been carried out in accordance with the Guidelines. BEC has further certified that the levelised transmission charges have been discovered through a transparent bidding process involving e-reverse auction and is acceptable.

7. Consequent to its selection as the lowest bidder, Letter of Intent (LoI) was issued to Power Grid Corporation of India Limited by the BPC on 16.2.2021 which was accepted by it. Under the terms of RfP and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- a. Provide Contract Performance Guarantee in favour of LTTCs;
- b. Execute Share Purchase Agreement and all other RfP documents;
- c. Acquire, for the Acquisition Price, 100% share equity share holding of Bikaner-II Bhiwadi Transco 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.

8. The Petitioner has furnished the Contract Performance Guarantee (CPG) for an aggregate value of Rs. 891 million on 26.3.2021 and has acquired hundred percent equity holding in Bikaner-II Bhiwadi Transco Limited on 25.3.2021. Accordingly, the Transmission Service Agreement executed between the TSP and the LTTCs dated 16.10.2020 became effective from 26.3.2021.

9. 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 objective 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”

10. 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 by the Central Government. The 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 the Transmission Licence Regulations provides that in case of projects identified 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 for development under competitive bidding by competent authority in the Ministry of Power/ CEA. Central Electricity Authority, vide its letter No. CEA-PS-11- 21(25)/1/2018-PSPA-I/73-75 division-PSP&A I dated 3.2.2021 had issued prior approval to the Project under Section 68 of the Act. Selection of the Project developer, Bikaner-II Bhiwadi Transco Limited (BBTL), has certified to have been made in accordance with the Guidelines.

11. 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.”

12. 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 Petition for grant of transmission licence in accordance with the Transmission Licence Regulations. The

Petitioner has submitted proof of web posting of the complete application has been submitted. On perusal of the Application, it is also noted that the Petitioner has served copy of the Application on the LTTCs for the Project. The Petitioner has served a copy of the Application on the Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. The Petitioner has prayed for grant of transmission licence to Bikaner-II Bhiwadi Transco Limited with respect to the Transmission System as per details given in paragraph 1 above.

13. The Petitioner has made the Application as per Form-I and paid the prescribed fee of Rs. one lakh. The levelised tariff charges quoted by the Petitioner which have been recommended by the Bid Evaluation Committee for acceptance, is Rs. 1404.86 million per annum. The Petitioner has also enclosed copies of the recommendations of the Bid Evaluation Committee and proof of making the final results of evaluation of all bids public by the BPC as per the Guidelines.

14. The Petitioner vide its affidavit dated 31.5.2021 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 on 12.4.2021 in Rashtradoot (Rajasthan editions), Amar Ujala (Haryana editions) and Times of India (Rajasthan & Haryana edition). No objection has been received from the general public in response to the public notices.

15. The matter was called out for virtual hearing on 4.6.2021 after notice to the Respondents. 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. The Representative

of the CTU submitted that CTU vide its letter dated 3.5.2021 has recommended for grant of transmission licence to the Petitioner. It was further submitted that NRPC approved the transmission scheme finalized in 5th NRST as per the deliberations held in TCC. The learned counsel submitted that the provisions of Regulation 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 has been complied with in the present case.

16. CTU vide its letter dated 3.5.2021 has recommended for grant of transmission licence to the Petitioner. Relevant portion of the said letter dated 3.5.2021 is extracted as under:

"7. In line with Section 15 (4) of the Electricity Act, 2003, fulfillment of the provisions of clause 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, and details furnished by M/s Bikaner Bhiwadi-II (BBTL), CTU recommends grant of transmission licence to M/s Bikaner-II Bhiwadi Transco Limited for the scope indicated in Para 2 above."

17. We have considered the submissions of the Petitioner, BPC and CTU. 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 16.2.2021, BPC, vide its letter dated 25.3.2021, in terms of Clauses 2.4, 2.5 and 2.6 of RfP extended the date up to 5.4.2021 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. 891 million (Rs. 89.1 crore) on 26.3.2021 and has acquired

hundred percent equity holding in the applicant company on 25.3.2021 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for grant of transmission licence through e-portal on 5.4.2021. 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 paragraph 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 20.6.2021.

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 20.6.2021 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.

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 20.6.2021 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 in due course for which separate notice will be issued.

Sd/-
(P.K. Singh)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson