

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 171/TL/2022

Coram:

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of order: 13th September, 2022

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 with respect to grant of transmission licence to Rajgarh Transmission Limited.

And

In the matter of

Rajgarh Transmission Limited (RTL),

2nd Floor, Novus Tower,

Plot No. 18, Sector-18,

Gurugram, Haryana-122015

.....**Petitioner**

Vs.

1. Rewa Ultra Mega Solar Limited,

Urja Bhawan, Shivaji Nagar,

Link Road No. 2,

Bhopal, Madhya Pradesh – 462016

2. REC Power Development and Consultancy Limited,

Core-4, Scope Complex,

7, Lodhi Road, New Delhi- 110003

3. Central Transmission Utility of India Limited,

Ministry of Power Govt. of India,

Shram Shakti Bhawan,

Rafi Marg, New Delhi-110001

Parties present:

Shri Hemant Singh, Advocate, RTL

Ms. Ankita Bafnal, Advocate, RTL

Shri Lavanya Panwar, Advocate, RTL

Shri P.C.Tripathi, RTL

Shri Swapnil Verma, CTUIL

Shri Pratyush Singh, CTUIL
Ms. Priyansi Jadiya, CTUIL

ORDER

The Petitioner, Rajgarh Transmission 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 “Transmission Licence Regulations”) to establish “Transmission System for Evacuation of Power from RE Projects in Rajgarh (2500 MW) SEZ in Madhya Pradesh (hereinafter referred to as “Project”) on Build, Own, Operate and Maintain (BOOM) basis comprising of the following elements mentioned in the Transmission Service Agreement:

S. No.	Name of Transmission Element	Scheduled COD in months from Effective Date
1.	<p><i>Establishment of 400/220 kV, 3x500 MVA at Pachora SEZ PP with 420 kV (125 MVAR) bus reactor</i></p> <p><i>400/220 kV, 500 MVA ICT – 3 nos. 400 kV ICT bays – 3 nos. 220 kV ICT bays – 3 nos. 400 kV line bays – 2 nos. 220 kV line bays – 6 nos. (4 nos. for Agar & Shajapur solar park interconnection & 2 nos. for other RE projects)</i></p> <p><i>125 MVAR, 420 kV reactor-1 no. 420 kV reactor bay – 1 no. 220kV Bus coupler bay- 1 no. 220kV Transfer Bus Coupler (TBC)bay - 1 no.</i></p> <p><i>Future provisions: Space for 400/220kV ICTs along with bays: 6 nos. 400kV line bays: 8 nos. 220kV line bays: 9 nos 420kV bus reactor along with bays: 1 no 220kV Bus sectionalizer bay: 2 nos.</i></p>	18 Months

	(One no. bay for each Main Bus)	
2.	<p>Pachora SEZ PP -Bhopal (Sterlite) 400 kV D/c line (Quad/HTLS) (with minimum capacity of 2100 MVA/ckt at nominal voltage) along with 80MVar switchable line reactors with 400 ohms NGR on each circuit at Pachora end</p> <p>Switchable line Reactors (at Pachora end) –420 kV, 2x80MVar Line reactor bays (at Pachora) – 2 nos.</p>	
3.	2 no. of 400 kV line bays at Bhopal (Sterlite) for Pachora SEZ PP-Bhopal (Sterlite) 400 kV D/c line (Quad/HTLS) (with minimum capacity of 2100 MVA/ckt at nominal voltage)	

Note:

(i) M/s BDTCL (Bhopal Dhule Transmission Company Limited) to provide space for 2 no. of 400 kV line bays at Bhopal (Sterlite) for termination of Pachora SEZ PP - Bhopal (Sterlite) 400 kV D/c line.

(ii) Space for future provisions for 400 kV line bays to be kept including the space for switchable line reactors.

(iii) The implementation of the scheme to be taken up only after grant of LTA at Pachora P.S.

(iv) The schedule of implementation of the scheme would be 18 months from the date of transfer of SPV.”

2. Based on the competitive bidding carried out by REC Power Development and Consultancy Limited (RECPDCL) in its capacity as the Bid Process Coordinator (BPC) in accordance with the Guidelines issued by Ministry of Power, Government of India under Section 63 of the Act, Rajgarh Transmission Limited emerged as the successful bidder with the lowest levelized transmission charges of Rs. 408.09 million.

3. The Commission after considering the application of the Petitioner in the light of the provisions of the Act and the Transmission Licence Regulations, in its order dated 2.8.2022, *prima facie* proposed to grant transmission licence to the Petitioner.

Relevant extract of order dated 2.8.2022 is extracted as under:

“16. The Petitioner has served the copy of the Application on the CTUIL as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL in its letter dated 20.6.2022 has recommended for grant of transmission licence to the Petitioner.

17. We have considered the submissions of the Petitioner, BPC and CTUIL. 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 often (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 31.3.2022, BPC, vide its letter dated 2.6.2022, in terms of Clauses 2.4, 2.5 and 2.6 of RfP extended the date upto 8.6.2022 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. 15.15 crore and has acquired hundred percent equity-holding in the applicant company on 30.5.2022 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 4.6.2022. 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 15.8.2022.

18. It is expected that while carrying out the survey, the Petitioner has complied with the provisions of clause 2.5.7.3, clause 2.5.7.4 and clause 2.5.7.5 of the RfP. The Petitioner will comply with the provisions of bidding documents and TSA for commissioning of the Project within the SCOD.”

4. A public notice under Sub-section (5) of Section 15 of the Act was published on 5.8.2022 in all editions of the Indian Express (English) and Hindustan (Hindi). No suggestions/ objections have been received from the members of the public in response to the public notice.

5. The Petitioner, vide order dated 2.8.2022, was directed to file an affidavit to the effect that the execution of the transmission project shall not be delayed due to

time taken in obtaining statutory clearances required under Request for Proposal (RfP) and the Transmission Service Agreement (TSA) or adjudication of any claim of the Petitioner arising under the TSA.

6. In response, the Petitioner vide its affidavit dated 10.8.2022 has submitted that in terms of RfP dated 9.9.2021, the Petitioner being a Transmission Service Provider, executed TSA dated 2.12.2021 with the LTTC. The terms of the TSA are binding on the parties. Article 12 of the TSA provides for Change in Law which entitles the TSP to claim additional costs incurred due to occurrence of Change-in-Law events. Similarly, Article 11 of the TSA, TSP is entitled to claim time/ cost overrun, etc. due to force majeure events. The Petitioner has undertaken that it will function as a prudent business utility. However, it reserves its right to approach this Commission for any future claims strictly in terms of TSA/ RfP/ Bidding Guidelines read with Section 79 of Act. The Petitioner has submitted that transmission project will not be delayed due to time taken for obtaining statutory approvals, subject to applicability of the said provisions of the TSA. The Petitioner has submitted that the terms of the TSA are binding on the Petitioner/ TSP and Respondent LTTC and any claim qua transmission charges or for extension of time in pursuance of such competitive bidding process, is required to be dealt with in accordance with the bidding documents including the TSA. Post selection of the successful bidder and the decision to award the Project, there cannot be a review of the bidding terms including scope of implications of the clauses such as force majeure and change in law etc. specified in the TSA.

7. The Petitioner has submitted that claim, if any, made by the Petitioner shall be in accordance with the provisions of the RfP/TSA. We direct that the Petitioner shall remain bound by the commitment given by it under affidavit dated 10.8.2022.

8. In the order dated 2.8.2022, the following provisions of the TSA with regard to quality control and workmanship were taken note of:

(a) 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.

(b) Article 5.4 of the TSA provides that the TSP shall ensure that the Project is designed, built and completed in a good workmanlike 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.

(c) 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.

9. Accordingly, the Petitioner was directed to submit information with regard to quality control mechanism available or to be put in place to ensure compliance of the requirements stipulated in Article 5.1.1 and Article 5.4 of the TSA.

10. The Petitioner vide its affidavit dated 10.8.2022 has submitted the following:

(a) As per the TSA, the construction as well as the implementation of the Transmission Project shall be monitored by the Central Electricity Authority and LTTCs.

(b) As per Articles 3.4, 4.1 and 5.3 of TSA, the Petitioner is entrusted with the obligation of providing a monthly progress report to the Respondent/ Long-Term Transmission Customer and CEA, with respect to the status of execution of the Transmission Project in order to enable them to monitor and co-ordinate the development of the Project.

(c) The Petitioner shall ensure that the Transmission Project is constructed by following the required quality standard and prudent utility practices by putting in place the following:

(a) At the procurement stage, the qualification requirement for shortlisting of a supplier/contractor will be adopted on the basis of the technical specifications as mentioned in the TSA. The purchase order/contract will mention the technical standards and the testing requirements. Material dispatch will be allowed after the conformance report is validated.

(b) For tower material, a Manufacturing Quality Plan (MQP) in line with the applicable technical standards and the one followed by CTU is followed.

(c) For ensuring construction quality, a Field Quality Plan (in line with the standards mentioned in TSA and that followed by CTU) is specified to the contractors in advance. The conformance report to the said document is also maintained at site.

(d) In terms of the the TSA, there are sufficient checks and balances available to effectively monitor the execution of the Transmission Project. In this manner, it is evident that the quality control mechanism is also available whereby both, CEA and the Lead LTTC will monitor the overall quality of construction of the Project.

11. We have considered the submission of the Petitioner. In the TSA, there is provision for the lead LTTC to designate up to three employees for inspection of the progress of the Project. Further, the Petitioner is required to give a monthly progress report to the lead LTTC and the CEA about the Project and its execution. The TSA also vests a responsibility in the CEA to carry out random inspection of the Project as and when deemed necessary. We consider it necessary that CEA devises a mechanism for random inspection of the Project every three months to ensure that the Project is not only being executed as per the schedule, but the quality of equipment and workmanship of the Project conform to the Technical Standards and Grid Standards notified by CEA and IS Specifications.

12. The matter was called out for hearing on 9.9.2022. It was submitted by the

learned counsel of the Petitioner that as per order dated 2.8.2022, the Petitioner has submitted the information called for. He further submitted that in response to public notice published by the Commission, no objection has been received. The representative of the CTUIL submitted that CTUIL vide its letter dated 20.6.2022 has recommended to grant transmission licence to the Petitioner company.

13. As regards grant of transmission licence, Clause (15) and Clause (16) of Regulation 7 of Transmission Licence Regulations provide as under:

“(15) The Commission may after consideration of the further suggestions and objections, if any, received in response to the public notice as aforesaid, grant licence as nearly as practicable in Form-III attached to these regulations or for reasons to be recorded in writing, reject the application if such application is not in accordance with the provisions of the Act, the rules or regulations made thereunder or any other law for the time being in force or for any other valid reason.

(16) The Commission may, before granting licence or rejecting the application, provide an opportunity of hearing to the applicant, the Central Transmission Utility, the long-term customers, or the person who has filed suggestions and objections, or any other person:

Provided further that the applicant shall always be given a reasonable opportunity of being heard before rejecting the application.”

14. In our order dated 2.8.2022, we had proposed to grant transmission licence to the Petitioner company and directed for issue of public notice. In response to the public notice, no suggestions/objections have been received. CTUIL in its letter dated 20.6.2022 has recommended for grant of transmission licence to the Petitioner. We are satisfied that the Petitioner company meets the requirements of the Act and the Transmission Licence Regulations for grant of transmission licence for the subject Transmission System mentioned at paragraph 1 of this order. Accordingly, we direct that transmission licence be granted to the Petitioner, Rajgarh Transmission Limited, to establish to establish “Transmission System for Evacuation of Power from RE Projects in Rajgarh (2500 MW) SEZ in Madhya Pradesh” on Build, Own, Operate

and Maintain basis as per the details given in paragraph 1 above.

15. The grant of transmission licence to the Petitioner (hereinafter referred to as “the licensee”) is subject to the fulfilment of the following conditions throughout the period of licence:

(a) The transmission licence shall, unless revoked earlier, remain in force for a period of 25 years from the date of issue;

(b) The transmission licensee shall comply with the provisions of the Transmission Licence Regulations or any subsequent enactment thereof and the terms and condition of the TSA during the period of subsistence of the licence.

(c) Since the expiry date as per the TSA is 35 years from the scheduled COD of the Project, the licensee may make an application, two years before the expiry of initial licence period, for grant of licence for another term in accordance with Regulation 13(2) of the Transmission Licence Regulations which shall be considered by the Commission in accordance with law;

(d) The licensee shall not enter into any contract for or otherwise engage in the business of trading in electricity during the period of subsistence of the transmission licence;

(e) The licensee shall have the liability to pay the license fee in accordance with the provisions of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, as amended from time to time or any subsequent enactment thereof. Delay in payment or non-payment of licence fee or a part thereof for a period exceeding sixty days shall be construed as breach of the terms and conditions of the licence;

(f) The licensee shall comply with the directions of the National Load Despatch Centre under Section 26 of the Act, or the Regional Load Despatch

Centre under sub-section (3) of Section 28 or sub-section (1) of Section 29 of the Act, as may be issued from time to time for maintaining the availability of the transmission system;

(g) The licensee shall remain bound by the Central Electricity Regulatory Commission (Standard of Performance of inter-State transmission licensees) Regulations, 2012 or subsequent enactment thereof;

(h) The licensee shall provide non-discriminatory open access to its Transmission System for use by any other licensee, including a distribution licensee or an electricity trader, or generating company or any other person in accordance with the Act; the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008; the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009; the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, as amended from time to time or any subsequent re-enactments thereof;

(i) The licensee shall not undertake any other business for optimum utilization of the Transmission System without prior intimation to the Commission and shall comply with the provisions of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for other business) Regulations, 2020;

(j) The licensee shall remain bound by provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2020 as amended from time to time;

(k) The licensee shall remain bound by the provisions of the Act, the rules and regulations framed thereunder, in particular the Transmission Licence Regulations, the Grid Code, the Standards specified by the Central Electricity Authority, orders and directions of the Commission issued from time to time;

(l) The licensee shall ensure execution of the Project within timeline specified in the Schedule 3 of the TSA and as per the Technical Standards and Grid Standards of CEA prescribed in Article 5.1.1 and Article 5.4 of the TSA;

(m) The licensee shall coordinate with the licensees (including deemed licensees) executing the upstream or downstream transmission projects, the Central Electricity Authority and CTUIL for ensuring smooth execution and commissioning of the Project; and

(n) The licensee shall submit all such report or information as may be required under Transmission Licence Regulations, Standard of Performance Regulations, Transmission Service Agreement or any other regulation of the Commission or as per the directions of the Commission as may be issued from time to time.

16. Central Electricity Authority shall monitor the execution of the Project and bring to the notice of the Commission any lapse on the part of the licensee to meet the schedule for further appropriate action in accordance with the provisions of the Act and the Transmission Licence Regulations.

17. Let an extract copy of this order be sent to CEA for information and necessary action.

18. Petition No. 171/TL/2022 is allowed in terms of the above.

sd/-
(P. K. Singh)
Member

Sd/-
(Arun Goyal)
Member

Sd/-
(I.S. Jha)
Member