

Rajasthan Electricity Regulatory Commission

Petition No. RERC-648/16

Petition under Section 63 of Electricity Act, 2003 for adoption of tariff in respect of 400 kV D/C Suratgarh-Bikaner (Twin Moose) Transmission Line Project through Public Private Partnership mode availing Viability Gap Funding.

Coram:

Shri Vishvanath Hiremath, Chairman
Shri Vinod Pandya, Member
Shri Raghuvendra Singh, Member

Petitioner : Rajasthan Vidyut Prasaran Nigam Limited (RVPN)

Respondents : 1. Jaipur Vidyut Vitran Nigam Ltd., Jaipur (JVVNL)
2. Ajmer Vidyut Vitran Nigam Ltd., Ajmer (AVVNL)
3. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur (JdVVNL)

Date of hearings : 05.05.2016, 20.05.2016 & 09.06.2016

Presents : 1. Sh. Neelesh Dharwal, Ex. En, RVPN
2. Sh. Mayank Bhardwaj, Consultant for RVPN
3. Ms. Ruchika, Consultant for RVPN
4. Sh. S.T. Hussain, S.E.(RA), JVVNL

Order Date:

21.06.2016

ORDER

1. Rajasthan Vidyut Prasaran Nigam Limited (herein after referred to as 'Petitioner' or 'RVPN') has filed this petition on 18.03.2016 under Section 63 of Electricity Act, 2003 for adoption of tariff in respect of 400 kV D/C Suratgarh-Bikaner (Twin Moose) Transmission Line Project through Public Private Partnership mode availing Viability Gap Funding (VGF).

2. The Petitioner in its petition submitted as under:

- (i) Earlier, RVPN has filed a petition bearing no. RERC/562/15 before the Commission seeking approval of Unitary Charge of 400 kV D/C Suratgarh-

Bikaner (Twin Moose) Transmission Line Project through Public Private Partnership mode availing VGF.

- (ii) Commission vide its order dated 27.11.2015 granted approval to the proposal of RVPN for initiating tariff based bidding process on notional annual unitary charges of Rs. 26.86 crores determined as per the formula provided in Model Transmission Agreement (MTA) on the basis of approved ARR of RVPN for FY 2015-16.
- (iii) Based on the Model Bid Documents of the Planning Commission, RVPN conducted two-stage bidding for selection of bidder for award of the Project.
- (iv) The bidding parameter, as per the MTA of the Planning Commission, was either grant (Viability Gap Funding) in Rupees or premium as a percentage of Unitary Charges. The project has to be awarded to the bidder quoting the lowest grant or the highest premium. Depending upon the market economics and the competitive bidding forces, the bidders may either quote a premium or a grant requirement.
- (v) Request for Qualification (RFQ), as per the Model Bid Documents was published on 06.04.2015 for short listing of applicants for participation in Request for Proposal (RFP) stage. Total four firms submitted their applications which were opened on 26.06.2015. Based on the detailed evaluation and subsequent clarifications received from applicants, RVPN shortlisted all the following four firms for RFP stage:
 - (i) M/s Adani Transmission Limited
 - (ii) M/s Essel Infra Projects Limited
 - (iii) M/s KEC International Limited
 - (iv) M/s Sterlite Grid 3 Limited
- (vi) At the RFP stage, only three shortlisted firms purchased the RFP. Bids from following three bidders were received and opened on 18.02.2016.

S.No	Bidder	Premium/ Grant	Quote (in Rs. Crore)	Grant Quoted (as % of TPC)
1	M/s Adani Transmission Limited	Premium	20% of annual unitary charges	-

2	M/s KEC International Limited	Grant	34.61	14.54%
3	M/s Sterlite Grid 3 Limited	Grant	22.99	9.66%

(vii) Based on the evaluation, M/s Adani Transmission Limited has emerged as L1 (Selected Bidder) quoting highest premium as 20% of annual unitary charges.

(viii) M/s Adani Transmission Limited has been selected through a transparent and open competitive bidding process by following guidelines issued by the Central Govt. RVPN confirmed that bidding process for 400 kV D/C Suratgarh-Bikaner (Twin Moose) Transmission line project conforms to the provision of the scheme for financial support to PPP in infrastructure notified by the Central Government.

(ix) As per provisions of the Transmission Agreement, the Unitary Charges are to be paid by the RVPN to the Concessionaire. Hence, the Commission is requested to grant approval for payment of Unitary Charges and other associated charges in accordance with the provisions made in the Transmission Agreement by RVPN to Concessionaire. Further, the beneficiaries for this transmission system would be the Discoms and other Long-term-open access customers. Hence, the Unitary Charges and associated charges, if any, as per Transmission Agreement to be paid by the RVPN in any financial year shall be recovered from them.

3. Subsequently on 21.04.2016, Petitioner has submitted following documents in the matter:

(a) Copy of Minutes of Meeting of Whole Time Directors Level Purchase Committee held on 10.03.2016 wherein M/s Adani Transmission Ltd. was declared as selected bidder.

(b) Copy of Letter of Award issued to M/s Adani Transmission Ltd. for development of 400 kV D/C Suratgarh-Bikaner (Twin Moose) Transmission Line Project through PPP mode on DBFOT basis.

(c) Certificate stating that the bidding process conforms to the provisions of the scheme for financial support to PPP in infrastructure notified by Central Government.

4. On 05.05.2016, after hearing preliminary submissions, Commission issued notice to Respondent Discoms to file reply on the petition. Discoms have filed their response to the petition on 18.05.2016. The Respondent Discoms submitted as under:
 - (i) Commission has already approved the notional annually unitary charges of Rs. 26.86 crore determined as per formula provided in MTA on the basis of approved ARR of RVPN for FY 2015-16. RVPN has requested to grant approval for adoption of tariff under Section 63 of the Electricity Act, 2003 with a unitary charge of Rs. 26.86 crore as base unitary charges. RVPN has also requested to allow recovery of such charges paid by RVPN from the Discoms and other long term customers.
 - (ii) Accordingly, it is requested to allow Discoms to pass on the unitary charges to be paid by RVPN to Concessionaire in accordance with the provisions made in the transmission agreement to consumers through ARR and tariff of Discoms in the financial year in which these charges are recovered by RVPN from Discoms.
5. Further, the Petitioner on 23.05.2016 submitted a copy of Transmission Agreement signed between RVPN and M/s Adani Transmission Ltd.
6. The matter was heard on 26.05.2016. Sh. Mayank Bhardwaj, Consultant appeared for the Petitioner and Sh. S.T. Hussain, S.E., appeared for Discoms. Commission directed the Petitioner to furnish the information sought during the hearing. Accordingly, RVPN vide its letter dt. 27.05.2016 submitted a copy of e-mail, received from Chief Engineer, Suratgarh Thermal Power Station (STPS), wherein it is intimated that Unit-7 and Unit-8 of STPS are likely to be synchronized in Dec, 2016 and March, 2017 respectively.
7. The matter was heard finally on 09.06.2016. Ms. Ruchika, Consultant appeared for Petitioner and Sh. S.T. Hussain, Ex. En, appeared for Discoms. The Petitioner and Respondents reiterated the same contention as filed in their petition/response. After hearing both the parties, order is reserved.
8. The Commission has considered the submissions of RVPN made in the petition and submissions made by Discoms.

9. We find that the petition has been filed for adoption of tariff, which is covered under section 63 of the Act which provides:

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

10. Section 63 of the Act mandates this Commission to adopt the tariff if such tariff is determined through a transparent process of bidding in accordance with the guidelines issued by Ministry of Power, Government of India. In this regard, Gol has issued "Guidelines for Encouraging Competition in Development of Transmission Projects" and amendments thereof.

11. Aforesaid guidelines as amended on 02.05.2012 read as under:

"As far as the intra-state projects are concerned, the State Government may adopt these guidelines and may constitute similar committees for facilitation of transmission projects within the state. The States also have option to use Viability Gap Funding based Model Transmission Agreement document of Planning Commission for development of transmission system in their states under Public Private Partnerships mode."

12. The Petitioner, as per the aforesaid guidelines, opted VGF based MTA document proposed by Planning Commission for development of the project. Ministry of Finance, Department of Economic Affairs vide O.M. No. 1/5/2005-PPP dt. 12.01.2006 has notified the guidelines containing the scheme for support to Public Private Partnerships in Infrastructure.

13. We observe from the scheme that Gol extends financial support in the form of Viability Gap Funding for facilitating the implementation of various Public Private Partnership projects. The said guidelines contain the scheme for support to Public Private Partnerships in Infrastructure.

14. As per the said Guidelines, VGF or Grant means a grant one time or deferred, provided under the scheme for financial support to the Public Private Partnerships in the infrastructure with the objective of making a project commercially viable. As per para 5.1 of the guidelines, the quantum of financial support (VGF) to be provided under this scheme shall be in the form of a capital grant at the stage of project construction. The amount of VGF shall be equivalent to the lowest bid for capital subsidy, but subject to a maximum of 20% of the total project cost. In case the sponsoring

maximum of 20% of the total project cost. In case the sponsoring Ministry/State Government/ statutory entity proposes to provide any assistance over and above the said VGF, it shall be restricted to a further 20% of the total project cost.

15. As per para 3 (b) (ii) of guidelines "Scheme for financial Support to Public Private Partnerships in Infrastructure", infrastructure projects in the power sector are eligible for VGF under the scheme. Further, guidelines also specify that Private Sector Company is to be selected through an open and transparent bidding process with the criterion for the bidding being the amount of VGF required by the private sector company for implementing the project where all other parameters are comparable or premium as a percentage of Unitary Charges offered to be paid by the private sector company.

16. We have examined the process of competitive bidding adopted in the present case by RVPN for selection of the successful bidder on the basis of the lowest grant or the highest premium. Further, RVPN has also submitted a certificate confirming that the bidding process is as per the scheme for financial support to Public Private Partnership in infrastructure notified by Central Government.

17. This Commission vide its order dt. 27.11.2015 has granted approval for the proposal of RVPN for initiating tariff based bidding process on notional unitary charges of Rs.26.86 crores determined as per the formula provided in MTA on the basis of approved ARR of RVPN for FY 2015-16. The Selected Bidder has been selected on the basis of a premium of 20% on the Unitary Charges payable by the Selected Bidder to RVPN.

18. Considering the submissions made by RVPN and the documents produced in support, we are satisfied that selection of the successful bidder by RVPN has been carried out through a transparent process of competitive bidding in accordance with the Guidelines. Further, the process of arriving at the Base Unitary Charge of the aforesaid project has also been carried out as per Guidelines/Model Transmission Agreement issued by Planning Commission, Govt. of India.

19. In the light of above, Commission decides to

- (i) adopt Base Unitary Charge of Rs. 26.86 crores per annum as the tariff determined through transparent process of bidding in accordance with the guidelines issued by the Central Govt. under Section 63 of the Electricity Act, 2003.
- (ii) allow payment of Unitary Charges and other associated charges by RVPN to concessionaire in accordance with provisions made in the Transmission Agreement (TSA).
- (iii) allow recovery of such charges paid by RVPN through their ARR.

20. Further, since the Selected Bidder has offered premium at 20% of the Unitary Charges, the amount of premium shall be recovered from the concessionaire as per the terms of TSA.

21. The adoption of the aforesaid charges in this order is subject to the fulfillment of all other conditions in the "Guidelines for Encouraging Competition in the Development of Transmission Projects" by the Petitioner and the selected Bidder/concessionaire.

22. The copy of the order may be sent to State Govt., CEA, Petitioner and Discoms.

(Raghuvendra Singh)
Member (T)

(Vinod Pandya)
Member (F)

(Vishvanath Hiremath)
Chairman