

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 443/AT/2019

Coram:

Shri P.K. Pujari, Chairperson

Shri I.S.Jha, Member

Date of Order: 5th March, 2020

In the matter of:

Application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System being established by 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. Chief Executive Officer,
REC Transmission Projects Company Limited
Core-4, SCOPE Complex,
7, Lodhi Road, New Delhi- 110003

3. Chief Executive Officer, CTU Planning,
Power Grid Corporation of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122 00

.....Respondents

Parties present:

Shri Parveen Tamak, LBTL

ORDER

The Petitioner, Lakadia Banaskantha Transco Limited, has filed the present Petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as the 'Act')

for adoption of transmission charges in respect of “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” (hereinafter referred to as ‘the Transmission System’ or ‘the Project’) to be established on Build, Own, Operate and Maintain (BOOM) basis.

2. Section 63 of the Act provides as under:

“Section 63: Determination of tariff by bidding process: 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.”

3. Government of India, Ministry of Power has notified the ‘Tariff based Competitive-bidding Guidelines for Transmission Service’ (hereinafter referred to as ‘the Guidelines’) under Section 63 of the Act vide Resolution No. 11/5/2005-PG(i) dated 17.4.2006. The salient features of the Guidelines are as under:

a) The Guidelines are applicable for procurement of transmission services for transmission of electricity through tariff based competitive bidding and for selection of Transmission Service Provider (TSP) for new transmission lines and to Build, Own, Maintain and Operate the specified transmission system elements.

b) For procurement of transmission services, required for inter-State transmission Project, the Central Government shall notify any Central Government Organization or any Central Public Sector Undertakings, or its wholly owned subsidiary (Special Purpose Vehicle) the Bid Process Coordinator (BPC) who would be responsible for co-ordinating the bid process.

c) The BPC shall prepare the bid documents in accordance with the Guidelines and obtain approval of the Appropriate Commission or alternatively, the BPC can use the Standard Bid Documents notified by the Ministry of Power, Government of India. Approval of the Appropriate Commission would be necessary, if any material deviation is proposed to be made in the Standard Bid Documents. Intimation about the initiation of the bid process shall be sent by the BPC to the Appropriate Commission.

d) For procurement of transmission services under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualification (RfQ) and Request for Proposal (RfP) or adopt a single stage two envelope tender process combining both RfQ and RfP processes.

e) RfQ or combined RfQ and RfP notice shall be issued in at least two national newspapers, on websites of the BPC and the Appropriate Government and preferably in the trade magazines also to provide wide publicity. For the purpose of issue of RfQ, minimum conditions to be met by the bidder shall be specified in RfQ notice. The bidding shall be by way of International Competitive Bidding.

f) Standard documentations to be provided in the RfQ stage shall include definitions of requirements including brief description of the Project, commissioning milestones to be achieved by the bidders, qualification required to be met by bidders and conditions as specified by the Appropriate Commission for being eligible to obtain transmission licence, etc.

g) Standard documentations to be provided by BPC in the RfP shall include specified target dates/months for commissioning and commercial operations and start of providing transmission services, Transmission Service Agreement (hereinafter after referred to as 'the TSA') proposed to be entered into with the selected bidder, period of validity of offer of bidder, bid evaluation methodology to be adopted by the BPC, Discount Factor to be used for evaluation of the bids, specification regarding the bid bond and project completion guarantee to be furnished by the bidders, proposed indemnification agreement between the TSP and the utilities, amount of contract performance guarantee as percentage of the project cost, the liquidated damages that would apply in the case of delay in start of providing the transmission services and other technical and safety criteria to be met by the bidder/TSP including the provisions of Indian Electricity Grid Code (hereinafter referred to as 'Grid Code').

h) To ensure competitiveness, the minimum number of qualified bidders shall be two. The BPC shall constitute a committee for evaluation of the bids with at least one member from Central Electricity Authority (CEA) and not less than two members from the concerned Regional Power Committees and at least one independent member. The bids shall be opened in public and the representative of the bidders shall be allowed to remain present. The technical bids shall be scored to ensure that only the bids that meet the minimum technical criteria set out in the RfQ shall be considered for further evaluation on the transmission charge bids. The transmission charge bid shall be rejected if it contains any deviation from the tender conditions for submission of the same. The bidder, who has quoted the

lowest transmission charge as per the evaluation procedure, shall be considered for the award.

i) The Guidelines provide for suggested time tables for the bid process. The timeline suggested for two stage bid process is 145 days and single stage two envelope bid process is 180 days. BPC is empowered to give extended time-frame based on the prevailing circumstances and such alterations shall not be construed as the deviation from the Guidelines.

j) The selected bidder shall make an application for grant of transmission licence to the Appropriate Commission within ten days from the date of issue of Lol or signing of TSA, whichever is later, subject to further extension of time as provided under Clause 2.4 of the RfP. TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid documents before the RfP stage.

k) BPC shall make the final result of evaluation of all bids public. The final TSA along with the certification of Bid Evaluation Committee (BEC) shall be forwarded to the Appropriate Commission for adoption of tariff in terms of Section 63 of the Act.

4. Therefore, we have to examine whether the process as per provisions of the Guidelines has been followed in the present case for arriving at the lowest levelised transmission charges and for selection of the successful bidder.

5. Ministry of Power, Government of India, vide its Notification dated 1.2.2019 has notified REC Transmission Projects Company Limited (RECTPCL) as the Bid Process

Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider to establish Transmission System for “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” through tariff based competitive bidding process.

6. Lakadia Banaskantha Transco Limited was incorporated on 19.3.2019 under the Companies Act, 2013 as a wholly owned subsidiary of RECTPCL with the objective to establish “Transmission System associated with RE Generations at Bhuj-II, Dwarka & Lakadia” and to act as the Transmission Service Provider after being acquired by the successful bidder. The main objectives of the Petitioner Company as mentioned in its Memorandum of Association are 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, substations, 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 and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”.

7. BPC prepared the bidding documents such as RfQ and RfP in accordance with the Standard Bid Documents issued by the Ministry of Power, Government of India. BPC started the process of selection of TSP with the publication of Global Invitation for Qualification for selection of developer on BOOM basis for the Project. The notice for RfQ was published on 12.1.2019 and 13.1.2019 in all editions of Hindustan Times (English), Hindustan (Hindi) and on 16.1.2019 in Financial Times (Worldwide) with the last date of submission of response to RfQ as 11.2.2019. Intimation regarding the initiation of the bid

process was given to the Central Commission in accordance with Clause 4.2 of the Guidelines vide letter No. RECTPCL/RFQ/2018-19/1098 dated 14.1.2019.

8. The key milestones in the bidding process were as under:

S. No.	Events	Date
1.	Publication of Request for Qualification	12.1.2019
2.	Submission of response to Request for Qualification	11.2.2019
3.	Issuance of Request for Proposal	13.3.2019
4.	RfP (Non- Financial) and Price Bid submission	21.8.2019
5.	Technical Bid Opening	21.8.2019
6.	Initial Price Offer-Opening	26.9.2019
7.	e-Reverse Auction	27.9.2019
8.	Issuance of Letter of Intent to successful bidder	28.10.2019
9.	Signing of Share Purchase Agreement and transfer of Special Purpose Vehicle	13.11.2019

9. The scope of the Project as per the RfP and the TSA is as under:

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.	

10. The identified Long Term Transmission Customers (LTTTC) of the Project as specified in the TSA is Powerica Limited. The said LTTTC has signed the TSA as beneficiary of the Project on 23.10.2019.

11. As per the decision of the Empowered Committee on Transmission, the Bid Evaluation Committee (BEC) comprising of the following was constituted:

a)	Ms. Kamlesh Sekhon, Sr. Vice President & Head, SBI Capital Markets Limited, New Delhi	Chairman
b)	Shri Sanjay Srivastava, Chief Engineer, (PSETD), CEA	Member
c)	Shri Awdhesh Kumar Yadav, Director (PSPA-I), CEA	Member
d)	Shri Gaurang Thakkar , Controller of Account Gujarat Energy Transmission Corporation Limited (GETCO)	Member
e)	Shri K.H Rathod, Additional Chief Engineer (Proc.) ,Gujarat Energy Transmission Corporation Limited	Member
f)	Shri AK Tyagi, Chairman, Lakadia Banaskantha Transco Limited	Convener Member

12. Responses to RfQ were received from the following eight bidders:

S. No.	Name of Bidders
1.	Adani Transmission Limited
2.	CLP India Private Limited
3.	Kalpataru Power Transmission Limited
4.	L&T Infrastructure Development Projects Limited
5.	Power Grid Corporation of India Limited
6.	Renew Power Limited
7.	Sterlite Grid 11 Limited
8.	Torrent Power Limited

13. The responses to the RfQ were opened 11.2.2019 in the presence of BEC and the representatives of the bidders. Based on the evaluation of the responses to RfQ, the BEC declared all eight bidders as qualified to participate at RfP stage.

14. Out of eight qualified bidders, the following five bidders submitted RfP (Non-Financial and Financial) bids:

S. No.	Name of Bidders
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1.	Power Grid Corporation of India Limited
2.	Adani Transmission Limited
3.	L&T Infrastructure Development Projects Limited
4.	Sterlite Grid 11 Limited
5.	Torrent Power Limited

15. The RfP (Non-Financial) Bids of all the five bidders were opened through MSTC portal on 21.8.2019 by the BEC in the presence of Representatives of the bidders. The RfP (Financial) Bids - Initial Price Offer of five bidders was opened online by the BEC on 26.9.2019. The lowest Initial Price Offer discovered (Best Deal) at MSTC portal was Rs. 991.72 million per annum for participating in the e-Reverse auction. As per the provisions of RfP documents, BEC recommended the following four bidders to participate in the e-Reverse auction stage and to submit their final offers. These bidders quoted the Initial Price Offer (Levelised Transmission Charges) as under:

S.No.	Name of Bidders	Levelised Transmission Charges from the Initial Offer (Rs. in Million)	Rank
1.	Adani Transmission Limited	991.72	L1
2.	Power Grid Corporation of India Limited	998.54	L2
3.	Torrent Power Limited	1148.98	L3
4.	L&T Infrastructure Development Projects Limited	1166.72	L4

16. The e-Reverse auction was carried out at MSTC portal on 27.9.2019 in the presence of members of BEC after intimating to above four bidders regarding lowest initial price offer. After 66 rounds of bidding, the following levelised transmission tariff for each bidder (in ascending order) emerged:

S. No.	Name of the Bidder	Levelised Transmission Chargers from the Final Offer (Rs. in Million)	Rank
1.	Adani Transmission Limited	834.62	L1
2.	L&T Infrastructure Development Projects Limited	836.72	L2
3.	Power Grid Corporation of India Limited	845.49	L3
4	Torrent Power Limited	974.32	L4

17. Based on e-Reverse bidding, BEC in its meeting held on 9.10.2019 recommended Adani Transmission Limited with the lowest Levelised Transmission Charges of Rs. 834.62 million per annum as the successful bidder.

18. Letter of Intent was issued by the BPC on 28.10. 2019 to the successful bidder, namely, Adani Transmission Limited. In accordance with Clause 12.3 of the Guidelines, the BPC has hosted on the website of RECTPCL, the final result of the evaluation of the bids for selection of developer for the Project.

19. In accordance with the provisions of the bid documents and Lol issued in its favour, the Petitioner has prayed for adoption of the transmission charges for the Project which has been discovered through the process of competitive bidding.

20. In accordance with Clause 2.4 of RfP, the selected bidder shall within 10 days of issue of the Letter of Intent, accomplish the following tasks:

- a) Provide Contract Performance Guarantee in favour of the LTTCs;
- b) Execute the Share Purchase Agreement;

- c) Acquire, for the acquisition price, hundred percent equity shareholdings of Lakadia Banaskantha Transco Limited along with all its related assets and liabilities;
- d) Make an application to this Commission for adoption of charges under Section 63 of the Act; and
- e) Apply to this Commission for grant of transmission licence.

21. 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 Rs. 27 crore on 30.10.2019 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 present Petition through e-filing for adoption of transmission tariff under Section 63 of the Act on 18.11.2019.

22. The Petitioner has submitted that Ministry of Power, Government of India has issued Policy dated 15.7.2015 regarding incentivising early commissioning of transmission element before Scheduled Commercial Operation Date (SCOD) by way of commencement of transmission charge from the actual COD before SCOD. As per the above Policy, such incentive shall be applicable to transmission project(s)/element(s) which are under

implementation/yet to be bid out under TBCB. The Petitioner has submitted that the above Policy is also applicable to the Petitioner's system. Therefore, the Petitioner will take steps to avail the incentives to allow recovery of transmission charges from the actual COD in accordance with the Policy. Since the present Petition has been filed for adoption of transmission tariff, no direction is warranted at this stage.

23. On receipt of the present Petition, BPC, vide letter dated 6.12.2019, was directed to submit the relevant documents regarding complete process of competitive bidding. The necessary details have been filed by the BPC under affidavit dated 18.12.2019.

24. Notices were issued to all the Respondents including the LTTC of the Project. No reply has been filed by the Respondents despite notice. None was present on behalf of the LTTC.

25. In accordance with the Competitive Bidding Guidelines, BEC has to certify that the tariff has been discovered through a transparent process of bidding and the tariff discovered is in line with prevailing market prices. In the minutes of Bid Evaluation Committee meeting held on 9.10.2019, the following has been recorded:

"2. The Bid Evaluation Committee had met earlier on 26th September, 2019 where the Initial Offers were opened and following were recommended:

- As per provisions of RFP document, following 4 bidders out of 5 are qualified to participate in the electronic reverse auction stage and submit their Final Offer:

S.No.	Name of Bidders	Levelised Transmission Charges from the Initial Offer (in Rs. Million)	Rank
1.	M/s Adani Transmission Limited	991.72	L1
2.	M/s Power Grid Corporation of	998.54	L2

	India Limited		
3.	M/s Torrent Power Limited	1148.98	L3
4.	M/s L&T Infrastructure Development Projects Limited	1166.72	L4

- The lowest levelised Transmission Charges from the Initial Offer submitted by the bidders is Rs. 991.72 Million which shall be the initial ceiling for quoting the Final Offers during e-Reverse Auction.
- To start the e-reverse auction on 27th September, 2019 at 10300 Hrs (IST) after intimation to all the 4 qualified bidders regarding lowest initial price offer.

3. Pursuant to the above, RECTPCL confirmed to BEC that all the above four (4) qualified bidders were informed on 26th September, 2019 regarding the e-reverse Auction start time and lowest initial offer.

4. The e- Reverse Auction started on 27th September, 2019 at 1030 Hrs (IST) on MSTC portal. After 66 rounds of bidding, following levelised Transmission Tariff for each bidder (in ascending order) emerged:

S. No.	Name of the Bidder	Levelised Transmission Charges from the Initial Offer (in Rs. Million)	Levelised Transmission Chargers from the Final Offer (in Rs. Million)	Rank
1.	Adani Transmission Limited	991.72 (L1)	834.62	L1
2.	L&T Infrastructure Development Projects Limited	1166.72 (L4)	836.72	L2
3.	Power Grid Corporation of India Limited	998.54 (L2)	845.49	L3
4	Torrent Power Limited	1148.98 (L3)	974.32	L4

7. As per above, M/s Adani Transmission Limited emerged as the successful Bidder after the conclusion of e-Reverse Auction with the lowest Levelised Transmission Charges of Rs. 834.62 Million which is also the Final Offer.

9. BPC, in their evaluation report (Anne-2) has confirmed the following:

- The levelised tariff for this project based on CERC norms for the same period works out to Rs. 1412.65 million, which has been computed based on the estimated cost as communicated by the cost committee constituted by National Committee on Transmission (NCT) and methodology for calculation of tariff as per prevailing CERC norms.

- ii. The entire bid process has been carried out in accordance with the "Tariff based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission Projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.
 10. After detailed discussions on the evaluation report prepared by BPC (Annex-2), the Bid Evaluation Committee decided the following:
 - i. M/s Adani Transmission Limited is the successful Bidder with the lowest Levelised Transmission Charges of Rs. 834.62 Million after the conclusion of the e-reverse Auction.
 - ii. The levelised tariff computed on the basis of rates quoted by the successful Bidder, during e-reverse auction, is lower than the Levelised Tariff estimated by BPC (Para 9 (a)), hence the levelised tariff discovered through e-Reverse Auction is acceptable.
 - iii. In view of para 8 above, BPC shall issue Letter of Intent to successful bidder i.e. M/s Adani Transmission Limited, only after signing of TSA."
26. Bid Evaluation Committee vide its certificate dated 9.10.2019 has certified as under:

"It is certified that:

- a. The entire bid process has been carried out in accordance with the "Tariff based Competitive Bidding Guidelines for Transmission Service" and "Guidelines for encouraging competition in development of the Transmission Projects" issued by Ministry of Power, Govt. of India under Section 63 of the Electricity Act, 2003 and as amended from time to time.
 - b. M/s Adani Transmission Limited emerged as the successful Bidder after the conclusion of e-Reverse Auction with the lowest Levelised Transmission Charges of Rs. 834.62 Million.
 - c. 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, hence, the levelised tariff discovered through e-reverse auction is acceptable."
27. In the light of the discussions in preceding paragraphs, it emerges that selection of the successful bidder and the levelised tariff of the Project has been carried out by the BPC through a transparent process of competitive bidding in accordance with the

Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act. BEC has certified that the process is in conformity with the Ministry of Power Guidelines. BEC in its certificate dated 9.10.2019 has certified that Adani Transmission Limited has emerged as the successful bidder after conclusion of e- reverse auction with lowest levelised transmission charges of Rs. 834.62 million per annum. 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. Based on the certification of the BEC, we approve and adopt the transmission charges for the Project as per the Appendix to this order which shall remain valid throughout the period covered in the TSA. The sharing of the transmission charges by the LTTCs shall be governed by the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

28. A copy of this order shall be sent to CTU and Long Term Transmission Customer of the Transmission System.

29. Petition No. 443/AT/2019 is disposed of in terms of the above.

Sd/-
(I.S.Jha)
Member

sd/-
(P. K. Pujari)
(Chairperson)

Appendix

Year (Term of Licence)	Commencement Date of Contract Year	End Date of Contract Year	Non- Escalable Transmission Charges (Rs. in Millions)	Quoted Escalable Transmission Charges (Rs. in Millions)
1	Scheduled COD June-21	31-Mar-22	1002.76	0.00
2	1-Apr-22	31-Mar-23	1002.76	
3	1-Apr-23	31-Mar-24	1002.76	
4	1-Apr-24	31-Mar-25	1002.76	
5	1-Apr-25	31-Mar-26	1002.76	
6	1-Apr-26	31-Mar-27	1002.76	
7	1-Apr-27	31-Mar-28	1002.76	
8	1-Apr-28	31-Mar-29	702.94	
9	1-Apr-29	31-Mar-30	702.94	
10	1-Apr-30	31-Mar-31	702.94	
11	1-Apr-31	31-Mar-32	702.94	
12	1-Apr-32	31-Mar-33	702.94	
13	1-Apr-33	31-Mar-34	702.94	
14	1-Apr-34	31-Mar-35	702.94	
15	1-Apr-35	31-Mar-36	702.94	
16	1-Apr-36	31-Mar-37	702.94	
17	1-Apr-37	31-Mar-38	702.94	
18	1-Apr-38	31-Mar-39	702.94	
19	1-Apr-39	31-Mar-40	702.94	
20	1-Apr-40	31-Mar-41	702.94	
21	1-Apr-41	31-Mar-42	702.94	
22	1-Apr-42	31-Mar-43	702.94	
23	1-Apr-43	31-Mar-44	702.94	
24	1-Apr-44	31-Mar-45	702.94	
25	1-Apr-45	31-Mar-46	702.94	
26	1-Apr-46	31-Mar-47	702.94	
27	1-Apr-47	31-Mar-48	702.94	
28	1-Apr-48	31-Mar-49	702.94	
29	1-Apr-49	31-Mar-50	702.94	
30	1-Apr-50	31-Mar-51	702.94	
31	1-Apr-51	31-Mar-52	702.94	
32	1-Apr-52	31-Mar-53	702.94	
33	1-Apr-53	31-Mar-54	702.94	
34	1-Apr-54	31-Mar-55	702.94	
35	1-Apr-55	31-Mar-56	702.94	
36	1-Apr-56	35 th anniversary of the Schedule COD	702.94	