

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 121/AT/2016

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K. Iyer Member

Date of Order: 6th September 2016

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System established by North Karanpura Transco Limited.

And

In the matter of

North Karanpura Transco Limited
C/o North Karanpura Transco Limited,
Core4, SCOPE Complex, 7 Lodhi Road,
New Delhi-110 003

..... **Petitioner**

Vs

1. Jharkhand Bijili Vitran Nigam Limited
Engineer's Building, Dhurwa,
Ranchi-834 004

2. North Bihar Power Distribution Company Limited
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna-800 001

3. South Bihar Power Distribution Company Limited
2nd Floor, Vidyut Bhawan, Bailey Road,
Patna-800 001

4. Gridco Limited
Grid Corporation of Orissa Limited, Janpath,
Bhubneshwar-751 011

5. West Bengal State Electricity Distribution Company Limited
Bidyut Bhawan, A-Block, 3rd Floor,
Bidhannagar, Kolkata-700 091

6. Bhupendra Gupta, Chief Executive Officer,
REC Transmission Projects Company Ltd.
12-21, Upper Ground Floor
Antriksh Bhawan
22-K.G. Marg
New Delhi-110001

7. Chief Executive Officer, CTU Planning
Powergrid Corporation of India Ltd.
Saudamini, Plot No. 2, Sector-29,
Gurgaon-122001

The following was present:

Shri Venkatesh, Advocate, NKTL
Shri Pratyesh Singh, Advocate, NKTL

ORDER

The petitioner, North Karanpura Transco Limited (NKTL), 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 "Immediate evacuation for North Karanpura (3x660 MW) generation project and creation of 400/220 kV sub-station at Dhanbad-proposal of JUSNL (ERSS-XIX)" (hereinafter referred to as "Transmission System").

2. The Section 63 of the Electricity Act, 2003 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 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 discussed in brief 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 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, the Central Government shall notify any Central Government Organization or any Central Public Sector Undertakings the Bid Process Coordinator (BPC) who would be responsible for coordinating the bid process.

(c) The BPC shall prepare the bid documentation 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. 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 charges under the Guidelines, the BPC may adopt at its option either a two-stage process featuring separate Request for Qualifications (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, website 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 the details of location and technical qualifications for each component of the transmission lines, construction milestones, and financial requirements to be met by the bidders; proposed Transmission Service Agreement; period of validity of offer of bidder; conditions as specified by the Appropriate Commission for being eligible to obtain transmission licence and other technical and safety criteria to be met by the bidder/TSP including the provisions of Indian Electricity Grid Code (Grid Code).

(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. TSA proposed to be entered with the selected 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; and the liquidated damages that would apply in the case of delay in start of providing the transmission services.

(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 the concerned Regional Power Committees. The member from CEA shall have expertise in the cost engineering of transmission projects. 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 a two stage bid process is 240 days and single stage two envelope bid process is 180 days. The 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 subject to further extension of time as provided under para 2.4 of the RFP. The TSA shall be signed with the selected bidder in accordance with the terms and conditions as finalized in the bid document before the RFP stage.

(k) The BPC shall make evaluation of the bid public by indicating the terms of the winning bid and anonymous comparison of all other bids. All contracts signed with the successful bidder shall also be made public. The final TSA along with the certification of BPC shall be forwarded to the Appropriate Commission for adoption of tariff in terms of section 63 of the Act.

4. In the light of the above provisions of the Guidelines, we have to examine whether the transparent process of international competitive bidding has been adopted in the present case for arriving at the lowest levelized transmission charges and for selection of the successful bidder.

5. Ministry of Power, Government of India, vide its Notification No. 15/09/2013-Trans dated 17.11.2015, notified the REC Transmission Projects Company Limited (hereinafter referred to as RECTPCL) as the Bid Process Coordinator (BPC) for the

purpose of selection of bidder as Transmission Service Provider (TSP) to establish the project through tariff based competitive bidding process.

6. North Karanpura Transco Limited was incorporated on 27.11.2015 under the Companies Act, 2013 as a wholly owned subsidiary of RECTPCL with the objective to establish the “Immediate evacuation for North Karanpura (3x660 MW) generation project and creation of 400/220 kV sub-station at Dhanbad-proposal of JUSNL (RSS-XIX)” and to act as the Transmission Service Provider after being acquired by the successful bidder. The main objectives of the petitioner company in its Memorandum of Associations 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, sub-stations, 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. RECPTL as the 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. The BPC started the process of selection of TSP with the publication of Global Invitation for Qualification on 30.11.2015 for selection of developer on BOOM basis for the project. The notice for RfQ was published on 30.11.2015 in all the editions of Hindustan Times, Mint, Hindustan(Hindi) and Financial Times (Global Editions) with the last date of submission of response to RfQ as 30.12.2015 Intimation regarding the initiation of the bid process was given to the Central Commission in

accordance with para 4.2 of the Guidelines vide letter No. RECTPCL/NK/RFQ/2015-16, dated 30.11.2015.

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

S. No.	Events	Date
1.	Global Invitation for Tender	30.11.2015
2.	Submission of Request for Qualification	30.12.2015
3.	Issuance of Request for Proposal	3.2.2016
4.	Opening of financial bid	10.5.2016
5.	Issuance of Letter of Intent to successful bidder	24.5.2016
6.	Submission of Contract Performance Guarantee in favour of LTTCs	2.6.2016
7.	Signing of Share Purchase Agreement	8.7.2016

9. The scope of the Project as per the Request for Proposal (RfP) and the Transmission Service Agreement is as under:

S. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project
1.	North Karanpura-Gaya 400 kV D/C line with quad moose conductor	40 months (September 2019)	44.01%
2.	North Karanpura-Chandwa (Jharkhand) Pooling Station 400 kV D/C line with quad moose conductor	16 month (September 2017)	22.06%

3.	Establishment of 400/220 kV, 2x500 MVA sub-station at Dhanbad 400 kV <ul style="list-style-type: none"> • ICTs: 400/220 kV, 2X500 MVA • ICTs bays: 2 no • Line bays: 4 no • 400 kV bus reactors bays:2 no • Bus reactor:2x125 MVAR • Space for future bays:4 no • Space for future 400/220 kV, 500 MVA ICT along with associated bay 220 kV <ul style="list-style-type: none"> • ICTs bays: 2 no • Line bays: 2 no • Space for future bays:4 no 	34 months	29.98%
4.	LILO of both circuits of Ranchi-Maithon-RB 400 kV D/C line at Dhanbad	34 months	3.95%

10. The identified Long Term Transmission Customers (LTTCs) of the project are as under:

S No.	Name of the Long Term Transmission Customer
1	North Bihar Power Distribution Company Limited
2	South Bihar Power Distribution Company Limited
3	Jharkhand Bijli Vitran Nigam Limited
4	GRIDCO Limited
5	West Bengal State Electricity Distribution Company Limited

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

- | | |
|--|-----------|
| (a) Shri P.K Nair, S.Vice President and Head,
SBI Capital Markets | .Chairman |
| (b) Shri Pankaj Batra, Chief Engineer (F&CA), CEA | .Member |

(c) Shri Chandra Prakash, Director (SP&PA-I), CEA .Member
(d) Shri Dinesh Kumar, Chairman North Karanpura Transco Ltd.
Convener- Member

12. Responses to RfQ were received from four bidders by 22.5.2015 as per details given below:

S.No.	Name of Bidders
1.	Adani Transmission Limited
2.	Essel Infraprojects Limited
3.	Sterlite Grid 4 Limited
4.	Kalpataru Power Transmission Ltd

13. The responses to the RfQ were opened on 30.12.2015 in the presence of Bid Evaluation Committee and the representatives of the bidders. Evaluation was undertaken by Bid Process Consultant, namely M/s ABPS Infrastructure Advisory Private Limited, Mumbai in consortium with M/s Abacus Legal Group, New Delhi (Bid Process Consultant) and presented to the Bid Evaluation Committee which recommended four bidders as qualified at RfP stage.

14. The following two bidders submitted RfP:

S.No.	Name of Bidders
1.	Adani Transmission Limited
2.	Sterlite Grid 4 Limited

15. Bid Evaluation Committee opened RfP (Financial) bids on 10.5.2016 in the presence of the representatives of the bidders. The levelised charges for each bidder, as per the bid evaluation model and the methodology specified in RfP, were found to be in order. Based on the evaluation of the RfP, the levelised transmission charges were worked out as under:

S.No	Name of the Bidder	Levellised Transmission charges in Indian Rupees (Millions/annum)
1.	Adani Transmission Limited	559.9978
2.	Sterlite Grid 4 Limited	626.7751

16. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Adani Transmission Limited with the lowest evaluated annual levelised transmission charges of Rs.559.9978 million/annum as the successful bidder.

17. Letter of Intent was issued by the BPC on 24.5.2016 to the successful bidder i.e Adani Transmission Limited. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of RECTPCL the final results of the evaluation of the bids for selection of developer for the project.

18. 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.

19. In accordance with para 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, one hundred percent equity shareholdings of North Karanpura Transco Limited from RECTPCL, along with all its related assets and liabilities;

(d) Make an Application to the Central Electricity Regulatory Commission for adoption of charges under Section 63 of the Electricity Act, 2003;

(e) Apply to Central Electricity Regulatory Commission for grant of transmission licence.

20. The proviso to para 2.4 of the RfP further provides that "if for any reason attributable to the BPC, the above 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 for day basis till the end of the Bid validity period". Though Lol was issued on 24.5.2016, BPC, vide its letter dated 8.7.2016, in terms of proviso to clause 2.4 of RfP extended the date upto 12.7.2016 for completion of all activities by the successful bidder. The selected bidder furnished the Performance Guarantee to the Long Term Transmission Customers of the project for an amount of Rs. 22.62 crore and has acquired hundred percent equity holding in the applicant company on 2.6.2016 after execution of the Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 11.7.2016.

21. On receipt of the present petition, the staff of the Commission vide its letter dated 15.7.2016 directed the BPC to submit the relevant documents regarding complete process of competitive bidding through affidavit. The necessary details have been filed by the BPC under affidavit dated 28.7.2016.

22. Notices were issued to all the respondents who are the Long Term Transmission Customers of the project. No reply has been filed by the respondents. Notice was also issued to RECTPCL in its capacity as Bid Process Coordinator. RECTPCL has filed the copies of all relevant documents pertaining to the bidding process.

23. The petition was heard on 24.8.2016. None appeared on behalf of the respondents despite notice.

24. Under the Guidelines, BPC 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. The Bid Evaluation Committee, vide para 4 to 7 of the minutes of meeting held on 11.5.2016, has recorded as under:

“Levelised Transmission Charges: The Levelised Transmission Charges for each Bidder (in ascending order) as per the Bid Evaluation model and the methodology specified in the RFP documents is as under:

S. No.	Name of the Bidder	Levelised Tariff (Rs. In million)
1.	Adani Transmission Limited	559.9978
2.	Sterlite Grid 4 Limited	626.7751

13. The calculation sheet for the levelised Transmission Charges for each Bidder as per the Bid Evaluation model is annexed at Annexure-3.

14. As per the above table, M/s Adani Transmission Limited emerges as the successful Bidder with the lowest Levelised Transmission Charges of Rs. 559.9978 million.

15. After detailed discussions on the evaluation report and verification of the bids, wherever required, the Bid Evaluation Committee took the following decisions:

- a) M/s Adani Transmission Limited emerges as the successful Bidder with the lowest Levelised Transmission Charges of Rs. 559.9978 million.
- b) The levelised tariff for this project based on CERC norms for the same period works out to Rs. 751.7488 million, which has been computed based on the estimated cost as communicated by CEA and methodology for calculation of tariff as per CERC norms.
- c) Thus, light of the above, the levelised tariff computed on the basis of rates quoted by the successful Bidder is in line with prevailing prices.
- d) 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.
- e) In view of (a) to (d) above, M/s Adani Transmission Limited may be issued Letter of Intent (LOI).

25. Bid Evaluation Committee vide its certificate dated 11.5.2016 has certified as under:

"It is hereby 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 has emerged as the successful bidder with the lowest levelised Transmission Charges of Rs. 559.9978 million for the above project.
- c. The rates quoted by the successful bidder are in line with the prevailing prices."

26. In the light of the discussions in the preceding paragraphs, it emerges that selection of the successful bidder and the process of arriving at the levelised tariff of the

project through competitive bidding has been carried out by the Bid Process Coordinator through a transparent process in accordance with the Guidelines and Standard Bid Documents. The Bid Evaluation Committee has certified that the process is in conformity with the MOP Guidelines. The BPC in its certificate dated 11.5.2016 has certified that the rates quoted by the successful bidder are in line with the prevalent market prices. The Commission is not required to go into the cost details of the bids as per the bidding guidelines and has to adopt the tariff if the same has been discovered in accordance with the Guidelines. Based on the certification of the BEC, we approve and adopt the levelised transmission charges for the project as per the **Appendix** to this order. 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.

27. A copy of this order shall be sent to CTU and Long Term Transmission Customers of the transmission system.

28. The Petition No. 121/AT/2016 is disposed of in terms of the above.

sd/-
(Dr. M. K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B.Pradhan)
Chairperson

Appendix

Year (Term of License)	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non- Escalable Transmission Charges (Rs.Millions)	Quoted Escalable Transmission Charges (Rs. Millions)
1	Scheduled COD September 2019	31-March-20	696.74	0.00
2	1-April-20	31-March-21	696.74	Same as Above
3	1-April-21	31-March-22	696.74	Same as Above
4	1-April-22	31-March-23	696.74	Same as Above
5	1-April-23	31-March-24	696.74	Same as Above
6	1-April-24	31-March-25	696.74	Same as Above
7	1-April-25	31-March-25	696.74	Same as Above
8	1-April-26	31-March-27	488.41	Same as Above
9	1-April-27	31-March-28	488.41	Same as Above
10	1-April-28	31-March-29	488.41	Same as Above
11	1-April-29	31-March-30	488.41	Same as Above
12	1-April-30	31-March-31	488.41	Same as Above
13	1-April-31	31-March-32	488.41	Same as Above
14	1-April-32	31-March-33	488.41	Same as Above
15	1-April-33	31-March-34	488.41	Same as Above
16	1-April-34	31-March-35	488.41	Same as Above
17	1-April-35	31-March-36	488.41	Same as Above
18	1-April-36	31-March-37	488.41	Same as Above
19	1-April-37	31-March-38	488.41	Same as Above
20	1-April-38	31-March-39	488.41	Same as Above
21	1-April-39	31-March-40	488.41	Same as Above
22	1-April-40	31-March-41	488.41	Same as Above
23	1-April-41	31-March-42	488.41	Same as Above
24	1-April-42	31-March-43	488.41	Same as Above
25	1-April-43	31-March-44	488.41	Same as Above
26	1-April-44	31-March-45	488.41	Same as Above
27	1-April-45	31-March-46	488.41	Same as Above
28	1-April-46	31-March-47	488.41	Same as Above
29	1-April-47	31-March-48	488.41	Same as Above
30	1-April-48	31-March-49	488.41	Same as Above
31	1-April-49	31-March-50	488.41	Same as Above
32	1-April-50	31-March-51	488.41	Same as Above
33	1-April-51	31-March-52	488.41	Same as Above
34	1-April-52	31-March-53	488.41	Same as Above
35	1-April-53	31-March-54	488.41	Same as Above
36	1-April-54	35 th anniversary of scheduled COD	488.41	Same as Above