

RAJASTHAN ELECTRICITY REGULATORY COMMISSION, JAIPUR

Petition No. RERC/1254/17

In the matter of petition filed under Section 63 of the Electricity Act, 2003 for adoption of transmission charges, discovered through the process of competitive bidding as per the guidelines for determination of tariff by competitive bidding process, with respect to transmission system being established by M/s Thar Power Transmission Service Ltd.

Coram:

Shri Vishvanath Hiremath, Chairman
Shri R.P. Barwar, Member
Shri S. C. Dinkar, Member

Petitioner : M/s Thar Power Transmission Service Ltd.

Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,

Date of hearing : 24.08.17 and 14.09.17

Presents: 1. Sh. Bhavesh Kundalia for Petitioner
2. Sh. O.P. Bansal, Superintending Engineer, RVPN

Date of Order: 26.09.2017

ORDER

1. Petitioner, M/s Thar Power Transmission Service Ltd. (in short "M/s Thar Power") filed this petition under Section 63 of the Electricity Act, 2003 on 10.08.2017, for adoption of transmission charges, for the projects to be developed based on selection of successful bidder through competitive bidding process.

2. Petitioner submitted that M/s Thar Power was incorporated by RVPN as its wholly owned subsidiary to initiate the work on identified transmission projects and subsequently to act as Transmission Service Provider (TSP) after being acquired by successful bidder.
3. Petitioner submitted that M/s Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,(RVPN), authorized by the Government of Rajasthan, functioned as Bid Process Coordinator (BPC) and prepared Request for Qualification (RFQ) & Request for Proposals (RFP) documents in accordance with Standard Bid Documents (SBD) issued by Ministry of Power, Government of India. RVPN invited RFP for selection of Transmission service Provider (TSP) through competitive bidding process to establish transmission system, as per guidelines issued by Ministry of Power, Government of India (hereinafter referred as 'Gol guidelines').
4. Petitioner further submitted that on evaluation of bids M/s Adani Transmission Ltd. was declared lowest bidder for project namely Raj/PPP-10. Following 132 kV Grid Sub-Stations along with associated Transmission lines and associated scheme/works were covered under Raj/PPP-10:
 - (a) 132 kV GSS at Rajmathai (Satapur), Distt Jaisalmer,
 - (b) 132 kV GSS at Bengantikalan, Distt. Jodhpur,
 - (c) 132 kV GSS at Shekhsar, Distt. Bikaner,
 - (d) 132 kV GSS at Ghamurwali, Distt. Sri Ganganagar, and
 - (e) 132 KV GSS at Sorda, Distt Sirohi
5. Subsequently M/s Adani Transmission Ltd. acquired M/s Thar Power, after execution of Share Purchase Agreement (SPA). M/s Thar Power signed Transmission Service Agreement (TSA) with JVVNL, AVVNL & JdVVNL and also filed petition for grant of license before the Commission. Petitioner prayed for adoption of transmission charges, in accordance with Section 63 of the Act, arrived through competitive bidding process.

6. Notice was issued to Respondent RVPN on 28.08.2017 for filing the reply on the petition. Accordingly, RVPN filed its reply to the same on 11.09.2017.

7. RVPN in its reply submitted as under:

(1) The Govt. of Rajasthan vide letter no. F.12 (21) Energy/2004/part. dated 19.10.2012 constituted a State Level Empowered Committee (SLEC) with a view to encourage competition in private sector participation for development of transmission projects in State.

(2) The Govt. of Rajasthan vide letter dated 24.09.2015 notified RVPN to be the Bid Process Coordinator (BPC) for the purpose of selection of Bidders to establish transmission system through tariff based competitive bidding process as per Gol guidelines on Build, Own, Operate and Maintenance (BOOM) basis.

(3) SLEC in its meeting held on 30.08.2016 & 22.02.2017 decided that 1 No. 220 kV GSS and 15 Nos. 132 kV GSS along with associated lines to be implemented through tariff based competitive bidding process on PPP mode as per Gol guidelines on BOOM basis in three packages, given as under:

Project No.	Project Details
RAJ/PPP-8	Development of 1 No. 220 kV GSS and 4 Nos. 132 kV GSS with associated lines.
RAJ/PPP-9	Development of 6 Nos. 132 kV GSS with associated lines.
RAJ/PPP-10	Development of 5 Nos. 132 kV GSS with associated lines.

(4) As per decision of 238th BoD of RVPN meeting held on dated 09.11.2015, a Special Purpose Vehicle (SPV) was created namely M/s Thar Power Transmission Service Limited (TPTSL) under RAJ/PPP-10 under the Companies Act, 2013. The SPV would perform the role of the Transmission

Service Provider under the Tariff based bidding guidelines. The SPV would eventually be taken over by the successful bidder after payment of all the costs incurred by RVPN for the selection of the transmission service provider and other associated clearances etc.

- (5) The bid documents have been prepared in accordance with para of 4.1 of Gol guidelines and notice inviting bids published in Danik Bhasker and The Hindu newspapers and also placed on e-procurement portal of the State Government.
- (6) Request for Qualification (RFQ) based on Standard Bidding Documents of MoP, Gol, was issued on 26.05.2016 without any material deviation for selection of Transmission Service Provider through competitive bidding process on BOOM basis against RAJ/PPP-10. The pre bid meeting was held on dated 06.06.2016. The RFQ of bids for the Transmission Projects were opened on dated 20.09.2016. The following 4 Nos. Bidders/Consortiums furnished their bids:
- (i) M/s Power Grid Corporation of India Limited, Gurgaon.
 - (ii) M/s Adani Transmission Limited, Ahmedabad.
 - (iii) M/s Sterlite Grid 4 Limited, New Delhi.
 - (iv) M/s Techno Electric & Engineering Co. Ltd., Kolkata.
- (7) RVPN vide its order dated 30.08.2016 constituted a Bid Evaluation Committee (BEC) for selection of bidders as TSP through tariff based competitive bidding process. The committee consists of the following members:-
- (i) Chief Engineer, Rajasthan Urja Vikas Nigam Ltd.
 - (ii) Chief Engineer (PPD), RVPN.
 - (iii) Chief Engineer (NPP&RA), RVPN
 - (iv) Chief Engineer (Proc), RVPN
 - (v) Chief Controller of Accounts, RVPN
 - (vi) M/s Gopal Dutta, FCA, (Independent Financial Expert)

- (8) The Bid Evaluation Committee on 26.10.2016 recommended the following three firms as responsive for RFQ stage and eligible to participate in RFP stage against Transmission Project under RAJ/PPP-10:
- (i) M/s Power Grid Corporation of India Limited, Gurgaon.
 - (ii) M/s Adani Transmission Limited, Ahmedabad.
 - (iii) M/s Sterlite Grid 4 Limited, New Delhi.
- (9) RFP documents based on Standard Bidding Documents of MoP, Gol, for implementation of above transmission schemes and Share Purchase Agreement, were uploaded on e-procument on 30.11.2016.
- (10) All three RFQ qualified bidders furnished the cost of RFP documents & RISL processing fee against RAJ/PPP-10 but bids have been furnished by two bidders. Therefore non-financial bids of RFQ stage were opened on dated 16.02.2017 for the following bidders:-
- (i) M/s Adani Transmission Limited, Ahmedabad
 - (ii) M/s Sterlite Grid 4 Ltd., New Delhi
- (11) On 02.03.2017 in view of recommendations of Bid Evaluation Committee meeting held on dated 28.02.2017, following Bidders were qualified for opening of their financial bid of RFQ stage:
- (i) M/s Adani Transmission Limited, Ahmedabad.
 - (ii) M/s Sterlite Grid 4 Limited, New Delhi.
- (12) Accordingly, the financial bids of the qualified Bidders were opened on dated 02.03.2017. The clause 3.4.1.1 of RFP bid documents states that the Levelised transmission charges calculated as per clause 3.3.2 (of RFP) shall be compared and rank from the lowest to the highest and bidder with the lowest levelized transmission charges shall be declared as successful bidder and the Letter of Intent shall be issued to such bidder.

(13) The WTDs of RVPN meeting held on 30.03.2017 (approved the recommendations of the Bid Evaluation Committee held on 24.03.2017 and decided to issue Letter of Intent (LOI) to the lowest bidder (L-1) i.e. M/s Adani Transmission Limited, Ahmedabad as successful bidder under the Transmission project under RAJ/PPP-10, the details is given as under. Accordingly, LOI issued to Successful Bidder on 31.03.2017.

Bidder/ Consortium	Raj/PPP-10: Development of 5 Nos. 132 KV GSS with associated lines	
	Levelized Charges	Ranking
M/s Adani Transmission Limited, Ahmedabad	286.593	L-1
M/s Sterlite Grid 4 Ltd., New Delhi	340.788	L-2

(14) Transmission Service Agreement between SPV M/s Thar Power Transmission Service Limited and Long Term Transmission Customers i.e. Discoms for development of 5 Nos. 132 kV Transmission Projects with associated lines through tariff based competitive bidding process as per Gol guidelines under RAJ/PPP-10 have been executed on dated 24.05.2017.

(15) Share Purchase Agreement was executed on 04.08.2017 between RVPN, M/s Thar Power Transmission Service Limited and M/s Adani Transmission Ltd.

(16) BEC in view of Clause no. 12.4 of Tariff based Competitive Bidding Guidelines for Transmission Service has certified that the bid process evaluation for selection of TSP through tariff based competitive bidding process to establish transmission system for project RAJ/PPP-10: 5 Nos. 132 kV GSS with associated lines has been carried out in conformity in provisions of the MoP, Gol, guidelines for tariff based competitive bidding.

8. The matter was heard on 14.08.2017. Sh. Bhavesh Kundalia, on behalf of Petitioner submitted that they have been selected through the transparent process of bidding and prayed for adoption of tariff discovered through the bidding. Sh. O.P. Bansal, SE (NPP&R) appeared on behalf of RVPN and supported the prayer of the Petitioner. It is also submitted that M/s Adani Transmission Ltd. with the lowest levelised transmission charges, over a period of 35 years of Rs. 286.593 milions has been declared as successful bidder for aforesaid transmission project.

Commission's Analysis and decisions

9. We find that the petition has been filed for adoption of tariff under Section 63 of the Electricity Act, 2003 which reads as under:

"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. Under the above provision, if tariff is determined through a transparent bidding process and in accordance with the Gol guidelines, the Commission may consider the same for adoption.

11. Commission has gone through the records to verify whether the tariff discovered is adoptable in terms of Section 63 quoted above.

12. It is observed from the submissions made by the parties in the preceding paragraphs 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 RVPN through a transparent process in accordance with the Gol guidelines and Standard Bid Documents.

13. The Bid Evaluation Committee, constituted for the purpose has also certified that the bid process is in conformity with the Gol guidelines.

14. When the tariff is discovered as per Section 63 of the Electricity Act, 2003 Commission is not required to go into the cost details of the rates discovered for acceptance.
15. Based on the certification of the BEC and other material placed before Commission, Commission approve and adopt the levelised transmission charges for the project Raj/PPP-10 discovered in the bid process and incorporated in TSA dated 24.05.2017 signed between Petitioner and Discoms.
16. The copy of the order may be sent to State Govt., CEA, Petitioner and Discoms.
17. The petition is disposed of accordingly.

(S.C. Dinkar)
Member

(R.P. Barwar)
Member

(Vishvanath Hiremath)
Chairman