

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 150/AT/2022

Coram:

**Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 23rd July, 2022

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 the Khetri-Narela Transmission Limited (a 100% wholly owned subsidiary of Power Grid Corporation of India Limited)

And

In the matter of

Khetri-Narela Transmission Limited,
(Now known as 'Powergrid Narela Transmission Limited')
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi 110 016

.....Petitioner

Vs.

1. Chief General Manager (IPC),
Southern Power Distribution Company of Telangana Limited
TSSPDCL, Corporate Office,
6-1-50, Mint Compound
Hyderabad -500063

2. Chief General Manager (IPC&RAC),
Northern Power Distribution Company of Telangana Limited
H.No: 2-5-31/2, Vidyut Bhawan,
Nakkalagutta, Hanamkonda,
Telangana 506001

3. Chief Executive Officer,
PFC Consulting Limited
9th Floor, A-Wing, Statesman House,
Connaught Place, New Delhi – 110001

4. Chief Operating Officer,
Central Transmission Utility of India Limited,
Saudamini, Plot No.2,
Sector-29, Gurugram-122001, Haryana

Parties present:

Shri Burra Vamsi Rama Mohan, KNTL
Shri V. C. Sekhar, KNTL
Ms. Supriya Singh, KNTL
Shri Neeraj Singh, PFCCL
Shri Sanjay Naik, PFCCL
Shri Manish Agrawal, PFCCL
Ms. Nirmala Meena, PFCCL
Shri Harish Bhakuni, PFCCL
Shri Kashish Bhambani, CTUIL
Shri Yatin Sharma, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Ms. Kavya Bhardwaj, CTUIL

ORDER

The Petitioner, Khetri-Narela Transmission 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 Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II Part-G" (hereinafter referred to as 'the Transmission System' or 'the Project') to be established on Build, Own, Operate and Maintain (BOOM) basis.

2. On receipt of the present Petition, the Bid Process Coordinator (BPC), PFC Consulting Limited, vide letter dated 13.6.2022 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 27.6.2022.

Hearing dated 5.7.2022

3. The matter was called out for virtual hearing on 5.7.2022 through video conferencing after notice to all the Respondents. No reply has been filed by the

Respondents. None was present on behalf of the LTTCs.

4. The Petitioner, vide its affidavit dated 12.7.2022, has informed that the name of the Petitioner company has been changed from 'Khetri-Narela Transmission Limited' to 'Powergrid Narela Transmission Limited' with effect from 8.7.2022. The certificate of change of name from 'Khetri-Narela Transmission Limited' to 'Powergrid Narela Transmission Limited' dated 8.7.2022 issued by Registrar of Companies, Delhi has been placed on record. Accordingly, the name of the Petitioner has been changed to 'Powergrid Narela Transmission Limited' on the record of the Commission.

5. We have considered the submissions of the Petitioner and perused the documents available on record. 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."

6. Government of India, Ministry of Power has notified the "Tariff based Competitive bidding Guidelines for Transmission Service" and "Guidelines for Encouraging Competition in Development of Transmission Projects" (hereinafter referred to as "the Guidelines") under Section 63 of the Act vide Resolution No. 11/5/2005-PG(i) dated 13.4.2006 as amended from time to time. 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 coordinating 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. Approval of the Appropriate Commission would be necessary, if any material deviation is proposed to be made in the Standard Bid Documents. Intimation about 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 carried out 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, 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 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 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, 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 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 bid. 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 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 Letter of Intent (LoI) or signing of TSA, whichever is later, subject to further extension of time as provided under Clause 15.4 of the RfP.

(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.

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

7. Ministry of Power, Government of India, vide its Notification No. 354, dated 27.1.2020 notified PFC Consulting Limited (hereinafter referred to as “PFCCL”) as Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider to establish “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II Part-G” through tariff based competitive bidding process.

8. Khetri-Narela Transmission Limited (the Petitioner) was incorporated on 15.5.2020 under the Companies Act, 2013 as a wholly owned subsidiary of PFCCL with the objective to establish “Transmission System Strengthening Scheme for Evacuation of Power from Solar Energy Zones in Rajasthan (8.1 GW) under Phase-II Part-G” 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 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”.

9. 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.

10. 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 of RfP was published on 6.3.2020 in all editions of India Express (English), Jansatta (Hindi), The Financial Express (English) and Financial Express (Worldwide) with the last date of submission of response to RfP as 8.5.2020. Intimation regarding initiation of the bid process was given to this Commission in accordance with Clause 4.2 of the Guidelines vide letter No. 04/ITP-41/19-20/RfP dated 20.3.2020.

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

S. No.	Events	Date
1	Publication of Request for Proposal	6.3.2020
2	Submission of RfP technical bid and financial bid	4.1.2022
3	Opening of RFP Technical Bid	4.1.2022
4	Opening of RfP financial bid (Initial offer)	3.2.2022
5	e-Reverse Auction	4.2.2022
6	Issuance of Letter of Intent to successful bidder	28.2.2022
7	Signing of Share Purchase Agreement and transfer of Special Purpose Vehicle	11.5.2022

12. The scope of the Project as per the Request for Proposal and the Transmission Service Agreement is as under:

Sr.	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	Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element
1.	Establishment of 765/400 kV, 3X1500 MVA GIS substation at Narela with 765 kV (2x330 MVAR)	18 Months from Effective	100%	Elements marked at Sl. No. 1 to 4 are