

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 110/2011**

**Coram: Dr. Pramod Deo, Chairperson  
Shri S.Jayaraman, Member  
Shri V.S.Verma, Member  
Shri M.Deena Dayalan, Member**

**DATE OF HEARING: 26.7.2011**

**DATE OF ORDER: 2.9.2011**

**In the matter of**

Application under Section 14 read with Section 15(1) of the Electricity Act, 2003 for grant of Transmission Licence to Bhopal-Dhule Transmission Company Limited, New Delhi.

**And in the matter of**

Bhopal-Dhule Transmission Company Limited, New Delhi **Applicant**

**Vs**

- 1 Sterlite Energy Limited, Bhubaneswar
- 2 GMR Kamalanga Energy Limited, Bangalore
- 3 Navbharat Power Pvt.Ltd., Mumbai
- 4 Monnet Power Company Ltd., New Delhi
- 5 H Jindal India Thermal Power Ltd, New Delhi
- 6 Lanco Babandh Power Ltd., Gurgaon
- 7 Ind Barath Energy (Utkal) Ltd., Hyderabad
- 8 M.B Power (Madhya Pradesh) Ltd., New Delhi
- 9 RKM Powergen Ltd., Chennai
- 10Athena Chattisgarh Power Ltd., Hyderabad
- 11Jindal Power Limited, Gurgaon
- 12 SKS Power Generation (Chattisgarh) Ltd., Mumbai
- 13 Korba West Power Co. Ltd., Gurgaon
- 14 DB Power Ltd., Gurgaon
- 15 Visa Power Limited, Kolkata
- 16 KSK Mahanadi Power Company Ltd., Hyderabad
- 17 Bharat Aluminum Company Ltd, Korba
- 18 Vandana Vidyut Ltd., Raipur
- 19 Lanco Amarkantak Power Ltd., Gurgaon
- 20 GMR Chhattisgarh Energy Pvt. Ltd., Bangalore
- 21 Chhattisgarh State Power Trading Co. Ltd, Raipur **Respondents**

**The following were present:**

1. Shri T.A.Reddy, JTCL



2. Miss Deepali, JTCL
3. Shri S.M.Singh, PGCIL
4. Shri Ajay Holani, PGCIL
5. Miss Manju Gupta, PGCIL

### **ORDER**

The Applicant Bhopal-Dhule Transmission Company Limited has filed this application under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (the Act) to undertake the business of establishing, commissioning, operation and maintenance of the transmission systems comprising the following elements:

#### **Transmission lines**

- (i) Jabalpur-Bhopal 765 kV S/C transmission line (ACSR/AAAC Bersemis Quad) -286 kms;
- (ii) Bhopal-Indore 765 kV S/C transmission line (ACSR/AAAC Bersemis Quad)-181 kms;
- (iii) Bhopal-Bhopal (MPPTCL) 400 kV D/C Quad transmission line (ACSR/AAAC Moose)-10 kms;
- (iv) Aurangabad-Dhule (IPTC) 765 kV S/C transmission line (ACSR/AAAC Bersemis Quad)-232 kms;
- (v) Dhule (IPTC)-Vadodara 765 kV S/C transmission line (ACSR/AAAC Bersemis Quad)-276 kms;
- (vi) Dhule (IPTC)-Dhule (MSETCL) 400 kV Quad D/C transmission line (ACSR/AAAC Moose)-20 kms.

#### **Sub-station**

- (i) Bhopal sub-station (2 x1500 MVA, 765/400 kV);
- (ii) Dhule (IPTC) sub-station (2 x 1500 MVA, 765/400 kV).

2. The Applicant was incorporated on 8.9.2009 under the Companies Act, 1956 as a wholly owned subsidiary of Power Finance Corporation Limited (hereinafter referred to as 'PFC') with the objective to "plan, promote and develop an integrated and efficient power transmission system network in all its respects including planning, investigations, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-station, load dispatch stations and communication facilities and appurtenant works, coordination of integration operation of regional and national grid system, execution of turn key jobs for other utilities/organizations, wheeling of power, purchase and sale of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time".

3. The applicant has submitted that Ministry of Power, Government of India initiated a scheme for development of Independent Transmission Projects through private sector participation for evacuation of power from the generating station and transmission of power from pooling station to other grid stations up to load centers and system strengthening in India. The said projects were to be awarded to developers selected on the basis of tariff based competitive bidding process. Government of India, Ministry of Power, vide its Resolution No. 11.5.2005-PG(i) dated 17.4.2006 notified the 'Tariff based Competitive-bidding Guidelines for Transmission service' (hereinafter referred to as "the Guidelines") under Section 63 of the Act. In accordance with the Guidelines, the PFC Consulting Limited (PFCCL) was

notified by Government of India, Ministry of Power vide Notification No. 11/12/2006-PG dated 1.7.2009 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish the transmission system for “system strengthening for common WR and NR” through tariff based competitive bidding process.

4. PFC Consulting Limited (PFCCL) in its capacity as BPC initiated the bid process on 2.3.2010 and completed the process on 28.1.2011 as per the Guidelines. M/s Sterlite Transmission Projects private Limited (STPPL) was selected as the successful bidder having quoted the lowest levelised transmission charge in order to establish the transmission project for transmission scheme for System Strengthening for common WR on build, own, operate and maintain basis and provide transmission service to the following identified long-term transmission customers of the projects, namely:

S.No.	Name of long term transmission customers	Allocated capacity (in MW)
1	Sterlite Energy Limited	3.3
2	GMR Kamalanga Energy Limited	6.6
3	Navbharat Power Pvt. Ltd.	5.9
4	Monnet Power Company Ltd.	7.4
5	H Jindal India Thermal Power Ltd	8.5
6	Lanco Babandh Power Ltd.	13.1
7	Ind Barath Energy (Utkal) Ltd.	5
8	M.B Power (Madhya Pradesh) Ltd.	3.2
9	RKM Powergen Ltd.	2.45
10	Athena Chattisgarh Power Ltd.	2.05
11	a. Jindal Power Limited (4x400 MW) b. Jindal Power Limited (4x135 MW and 4x250 MW)	4.2 1.2
12	SKS Power Generation (Chattisgarh) Ltd.	2.05
13	Korba West Power Co. Ltd.	0.70
14	DB Power Ltd.	2.1
15	Visa Power Limited	2

16	KSK Mahanadi Power Company Ltd.	7
17	Bharat Aluminum Company Ltd	0.60
18	Vandana Vidyut Ltd.	0.80
19	Lanco Amarkantak Power Ltd.	2.6
20	GMR Chhattisgarh Energy Pvt. Ltd.	2.45
21	Chhattisgarh State Power Trading Co. Ltd	16.8

5. The applicant has submitted that the 9 bidders submitted their offers at RFP stage. M/s Pandey Dua and Mathurs, Financial Consultant carried out the responsiveness check of the non-financial bids in accordance with conditions of RFP and recommended 9 bids as responsive for opening of financial bids. The applicant has submitted that as per the Bid Evaluation Report dated 28.1.2011, STPPL emerged as the successful bidder with the lowest levelized transmission charges of ₹ 1995.30 million/annum.

6. Consequent to its selection as the lowest bidder, Letter of Intent (LOI) was issued to STPPL by the BPC on 31.1.2011 which has been accepted by STPPL. Under the terms of Request for Proposal (RFP) and the Letter of Intent, the successful bidder is obligated to accomplish the following tasks:

- (a) Provide contract performance guarantee in favour of Long Term Transmission Customers (LTC);
- (b) Execute the Share Purchase Agreement;
- (c) Acquire, for the Acquisition Price, 100% share equity share holding of Jabalpur Transmission Company Ltd. from PFC along with all its related assets and liabilities;

- (d) To execute RFP project document including transmission service agreement with LTTCs;
- (e) Make application to the Central Commission for adoption of transmission charges, as required under Section 63 of the Electricity Act, 2003;
- (F) To apply to the Commission for grant of transmission licence.

7. The applicant has submitted that the STPPL has acquired hundred percent equity holding in Bhopal-Dhule Transmission Company Limited on 31.3.2011. The applicant has further submitted that TSA executed between the TSP and the LTTCs who are the beneficiaries of the transmission project has become effective on the date of acquisition of the applicant by STPPL.

8. Section 14 of the Act provides that the Appropriate Commission may, on an application made to under section 15 of the Act grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The word 'person' has been defined in section 2(49) of the Act to include any company or body corporate or association or body of individuals whether incorporated or not or artificial juridical person. The Applicant has been incorporated under the Companies Act, 1956 and as such is eligible to make application for licence. Section 15(1) of the Act provides that every application under section 14 shall be made in such manner and in such form as may be

specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed. The Central Commission has specified the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2009 (hereinafter "transmission licence regulations"). Regulation 3 of the transmission licence regulations provide that the Empowered Committee shall identify the projects included in the transmission plan to be developed under the guidelines for competitive bidding. Regulation 4 of transmission licence regulations provides that in case of projects identified by the Empowered Committee for development under the guidelines for competitive bidding, selection of the project developer shall be made in accordance with the procedure laid down in the guidelines. The transmission project under consideration has been identified by the Empowered Committee. The Ministry of Power, Government of India, vide its letter dated 25.11.2010, has accorded approval to the project under Section 68 of the Electricity Act, 2003. The selection of the project developer, M/s Sterlite Transmission Projects Private Limited, has been made in accordance with the guidelines for competitive bidding.

9. Regulation 7 of the transmission licence regulations provides for the procedure for grant of transmission licence as under:

*"(1) The application for grant of licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fee as may be prescribed by the Central Government from time to time.*

*(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.*

*(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.*

*(4) Before making an application, the applicant shall serve a copy of the application on each of the long-term customers of the project and shall submit evidence to that effect along with the application and shall also post the complete application along with annexures and enclosures on its web site, the particulars of which shall be given in the application.*

*(5) The application shall be kept on the web site till such time the licence is issued or the application is rejected by the Commission.*

*(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.*

*(7) The applicant shall, within 7 days after making the application, publish a notice of its application in Form-II attached to these regulations, in at least two daily newspapers, one in English language and one in vernacular language, having circulation in each State or Union Territory where an element of the project or a long-term customer is situate, in the same language as of the daily newspaper in which the notice of the application is published.*

*(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.*

*(9) In the notice published in the newspapers under clause (7) it shall be indicated that the suggestions and objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated), with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice,*

*(10) The applicant shall within 15 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the newspapers in which the notice has been published and the date and place of their publication and shall also file before the Commission the relevant copies of the newspapers, in original, in which the notice has been published.*

*(11) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:*



*Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant;*

*Provided further that the recommendations of the Central Transmission Utility shall not be binding on the Commission.*

*(12) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notices in the newspapers, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.*

*(13) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant the licence or for reasons to be recorded in writing, reject the application."*

10. The Applicant has approached the Commission by a separate application for adoption of tariff in respect of the transmission system which is presently under consideration of the Commission. The Applicant has filed the present application for grant of transmission licence in accordance with the transmission licence regulations. The Applicant has submitted proof of service of the copies of the application on the LTCs and Central Transmission Utility and proof of web posting of the complete application. The Applicant has further undertaken to pay the applicable licence fee upon the grant of Transmission Licence in terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008. The Applicant has prayed for grant of transmission licence to Bhopal-Dhule Transmission Company Limited with respect to the transmission system as per the details given in para 1 above.

11. The Applicant has made the application as per Form-1 and paid the fee of ₹ 1 lakh as prescribed by the Government. On perusal of the application, it is revealed that the Applicant has served copy of the application on the Long Term Transmission Customers (LTC) for the project which is scheduled to be commissioned 36 months from the effective date under the TSA. The levelised tariff charges quoted by the Applicant which has been recommended by the Bid Evaluation Committee for acceptance, is ₹ 1995.30 million/annum. The Applicant has also enclosed copies of the Bid Evaluation Committee recommendations for selection of the Applicant as the selected bidder and proof of making the evaluation report public by the Bid Process Coordinator as per the Guidelines.

12. The Applicant vide its affidavit dated 30.4.2011 has placed on record the relevant copies of the newspapers in original in which notice of its application has been published. The Applicant has published the notices in Navabharat, Gavakari, Sandesh, Central Chronicle, Free Press Journal, Hitawada, Indian Express, Deshdoot Times and Lokmat Times having publication from Bhopal, Maharashtra, Bhavnagar, Jabalpur, Indore, Vadodara, Dhule, Nashik and Aurangabad. The Applicant has complied with the requirement of Regulation 4(7) of transmission licence regulations.

13. In response to the application, no reply has been received from the respondents. No objection has been received from the general public in response to the public notice.

14. As per para 12.1 of the guidelines, the selected bidder is required to make an application before the appropriate Commission for grant of transmission licence within one month of the issue of Letter of Intent or signing of Transmission Service Agreement (TSA) whichever is later. Lol was issued to the successful bidder on 31.1.2011 and the TSA was signed on 31.3.2011. The applicant has made this application for grant of transmission licence on 8.4.2011. i.e within the period of one month from the date of signing the TSA.

15. The Applicant had served a copy of the application on Central Transmission Utility (CTU) as required under Section 15(3) of the Act and Regulation 4(6) of the transmission licence regulations. The CTU in its letter dated 4.7.2011 has forwarded its recommendations in terms of Section 15(4) of the Act. The CTU has recommended under Section 15(4) for grant of Transmission Licence to Bhopal-Dhule Transmission Company Ltd. Relevant portion of the recommendation of the CTU is as under:

*"2. In order to facilitate power transfer from various upcoming IPP projects in Orissa and Chhattisgarh, a comprehensive high capacity transmission corridor, viz corridor for IPP projects in Orissa and corridor for IPP projects in Chhattisgarh have been identified as part of long-term open access. Regulatory approval for implementation of above transmission corridors was also obtained. However, the Hon`ble Commission directed that commissioning of the elements in the corridors shall be phased out keeping in view the progress of the IPP generation projects. IPPs have signed BPTA*

*with Power Grid for sharing of transmission charges and submitted BG to take up implementation of the corridors.*

*The above referred transmission corridors were agreed in 29<sup>th</sup>/30<sup>th</sup> meeting of Standing Committee on Power System Planning in WR held on 10.9.2009 and 8.7.2010, respectively. It was also agreed in the meeting of Standing Committee on Power System Planning in ER held on 14.9.2009. Further, scheme was agreed in 14<sup>th</sup> WRPC and 16<sup>th</sup> ERPC held on 19.8.2010 and 18.12.2010, respectively.*

*Government of India has identified the above referred transmission elements out of the above corridors for implementation through tariff based competitive bidding as System Strengthening in WR.*

*3. Power Finance Corporation Ltd was notified as Bid Process Coordinator (BPC) by Government of India for the purpose of selection of Transmission Service Provider (TSP) to establish the above referred project on BOOM basis. Bid Evaluation Committee appointed by the BPC has certified M/s Sterlite Transmission Project Pvt. Ltd. as successful bidder with lowest levelised transmission charges. M/s Sterlite Transmission Projects Pvt. Ltd. acquired Bhopal-Dhule Transmission Company Limited after execution of the Share Purchase Agreement (SPA) on 31.3.2011.*

*4. In line with Section 15 (4) of the Electricity Act, 2003 and details furnished by M/s Bhopal-Dhule Transmission Company Limited, POWERGRID as CTU recommends grant of transmission license to Bhopal-Dhule Transmission Company Limited for the scope as described."*

16. The applicant has been selected on the basis of the tariff based competitive bidding as per the guidelines issued by Government of India, Ministry of Power. The applicant has been issued with the Lol as the selected bidder and has acquired 100% stake in the Bhopal-Dhule Transmission Company Limited which has been transferred to the applicant on 31.3.2011 in terms of the Share Purchase Agreement. The applicant has complied with the provisions of the transmission licence regulations for grant of inter-State transmission licence. The CTU has also recommended the applicant for grant of transmission licence.

Considering all the material on record, we are *prima facie* of the view that the applicant satisfies the conditions for grant of inter-State transmission licence for planning, construction, operation and maintenance of the transmission system as described in para 1 of this order. We, therefore, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant of transmission licence aforesaid. The objections or suggestions, if any, be filed by any person before the Commission.

17. List this petition on 27.9.2011 for further directions.

sd/-  
(M. DEENA DAYALAN)  
MEMBER

sd/-  
(V.S.VERMA)  
MEMBER

sd/-  
(S. JAYARAMAN)  
MEMBER

sd/-  
(DR. PRAMOD DEO)  
CHAIRPERSON