

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 284/ADP/2015

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Hearing: 19.1.2016

Date of Order: 28.1.2016

In the matter of

Application under Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System being established by the Chhattisgarh-WR Transmission Limited.

And

In the matter of

Chhattisgarh-WR Transmission Limited
Achalraj, Opp. Mayor Bungalow, Law Garden,
Ahmedabad-380 006

..... **Petitioner**

Vs

1. Madhya Pradesh Power Management Company Limited
Block No-11, Ground floor, Shakti Bhawan,
Vidhyut Nagar, Rampur,
Jabalpur-482 008, Madhya Pradesh
2. Chhattisgarh State Power Distribution Company Limited
P.O Sunder Nagar, Dangania,
Raipur-492 013, Chhattisgarh
3. Gujarat Urja Vikas Nigam limited
VidhyutBhawan, Race Course,
Vadodara-390 007
4. Maharashtra Electricity Distribution Company Limited
Prakashgad, 4th Floor, Bandra (East),

Mumbai-400051

5. Goa Electricity Department (ED),
Govt. of Goa,
Aquem Alto, Margao, Goa-403 601
6. Electricity Department Dadar and Nagar Haveli,
66kV, Amlilnd. Estate,
Silvassa-396 230, Dadra Nagar Haveli
7. Electricity Department, Administration of Daman and Diu,
Plot No. 35, OI DC Complex, Near Fire Station, Somnath,
Daman-396 210
8. Shri C.Gangopadhyay, Chief Executive Officer,
PFC Consulting Limited,
First Floor, UrjaNidhi,
1, Barakhamba Lane,
Connaught Place,
New Delhi-110 001
9. Chief Executive Officer, CTU Planning,
POWERGRID Corporation of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122 001

.....Respondents

The following were present:

Shri Venkatesh, Advocate for the petitioner
Shri Pratyush Singh, Advocate for the petitioner
Shri M.R.Krishna Rao, ATL
Shri Jignesh Langalia, ATL
Shri Sanjay Nayak, PFFCL
Shri Kumar Ritu Raj, PFFCL

ORDER

The petitioner, Chhattisgarh WR Transmission Limited (CWTL), 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 for “System Strengthening for IPPs in Chhattisgarh and other Generation Projects in Western Region” (hereinafter referred to as 'the Project').

2. 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 LoI 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. PFCCCL was notified by Ministry of Power, Government of India vide its notification No. S.O.1706 (E) dated 8.7.2014 as the Bid Process Coordinator (BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish 'Transmission System Strengthening for IPPs in Chhattisgarh and other Generation

Projects in Western Region' on Build, Own, Operate and Maintain (BOOM) basis through tariff based competitive bidding process.

6. Chhattisgarh WR Transmission Limited was incorporated on 24.12.2014 under the Companies Act, 2013 as a wholly owned subsidiary of PFCCCL with the objective to establish the Transmission System for "Additional System Strengthening for IPPs in Chhattisgarh and other Generation Projects in Western Region" on Build, Own, Operate and Maintain (BOOM) basis 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:

"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. PFCCCL 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 29.12.2014 for selection of developer on BOOM basis for the project. The notice for RfQ was published on 29.12.2014 in all the editions of The Times of India and Financial Times (Global Editions) with the last date of submission of response to RfQ as 27.1.2015. 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 dated 14.12.2014.

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

S No	Events	Date
1	Global Invitation for Tender	29.12.2014
2	Submission of Request for Qualification (RfQ)	27.1.2015
3	Issuance of Request for Proposal (RfP)	13.4.2015
4	Submission of bid	30.6.2015
5	Opening of non-financial bid	8.7.2015
6	Opening of Financial bid	15.7.2015
7	Issuance of Letter of Intent to Successful Bidder	28.7.2015
8	Submission of Contract Performance Guarantee in favour of LTTCs	20.11.2015
9	Signing of Share Purchase Agreement	23.11.2015

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	Completion Target	Conductor per Phase
1	400 kV Interconnection at Gwalior 765/400 kV sub-station		
i.	Gwalior 765/400 kV-Morena 400 kV D/C Transmission Line	30 months	Quad Moose ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
ii.	Establishment of 2X315 MVA, 400/220 KV sub-station at Morena 400 kV -Line bays-2nos. -ICT-2X315 MVA, 400/220kV -ICT bays-2 nos. -Bus Reactor: 1X125 MVAR -Space for 400kV bays-4nos. 220 kV -Line bays-4nos. -ICT bays- 2nos. -Space for 220kV bays-4 nos.	30 months	
2	Additional evacuation line from Vindhyachal-IV and V STPP (3X500 MW)		
i.	Vindhyachal-IV and V STPP-Vindhyachal Pool 400 kV D/C (Quad) 2 nd line		Quad Moose ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor

			temperature of 85°C for both ACSR as well as AAAC.
ii.	2Nos. 400kV Line bays at Vindhyachal-V STPP switchyard	38 month	
3	Additional System Strengthening Scheme for Chhattisgarh IPPs (Part-A)		
i.	Sasan UMPP-Vindhyachal Pooling Station 765kV S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
ii.	1no. of 765kV line bay at Sasan UMPP of M/s SPL, Reliance		
iii.	LILO of one circuit of Aurangabad-Padghe 765 kV S/C line at Pune	40 months	Hexa Zebra ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
iv.	Raigarh (Kotra)-Champa (Pool) 765kV 2 nd S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
V.	Champa (Pool)-Dharamjaigarh 765 kV 2 nd S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
S No	Name of the Transmission Element	Completion Target	Conductor per Phase
1	400 kV Interconnection at Gwalior 765/400 kV sub-station		
i.	Gwalior 765/400 kV-Morena 400 kV D/C Transmission Line	30 months	Quad Moose ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
ii.	Establishment of 2X315 MVA, 400/220 KV sub-station at Morena 401 kV -Line bays-2nos. -ICT-2X315 MVA, 400/220kV -ICT bays-2 nos. -Bus Reactor: 1X125 MVAR -Space for 400kV bays-4nos. 221 kV -Line bays-4nos. -ICT bays- 2nos.	30 months	

	-Space for 220kV bays-4 nos.		
2	Additional evacuation line from Vindhyachal-IV and V STPP (3X500 MW)		
i.	Vindhyachal-IV and V STPP-Vindhyachal Pool 400 kV D/C (Quad) 2 nd line	38 month	Quad Moose ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
ii.	2Nos. 400kV Line bays at Vindhyachal-V STPP switchyard		
3	Additional System Strengthening Scheme for Chhattisgarh IPPs (Part-A)		
i.	Sasan UMPP-Vindhyachal Pooling Station 765kV S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
ii.	1no. of 765kV line bay at Sasan UMPP of M/s SPL, Reliance		
iii.	LILO of one circuit of Aurangabad-Padghe 765 kV S/C line at Pune	40 months	Hexa Zebra ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
iv.	Raigarh (Kotra)-Champa (Pool) 765kV 2 nd S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.
V.	Champa (Pool)- Dharamjaigarh 765 kV 2 nd S/C line	36 months	Quad Bersimis ACSR Conductor or equivalent AAAC. Transmission line shall have to be designed for a maximum operating conductor temperature of 85°C for both ACSR as well as AAAC.

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

S. No	Name of the Long Term Transmission Customers
1	Madhya Pradesh Power Trading Company Limited
2	Chhattisgarh State Power Distribution Company Limited
3	Gujarat Urja Vikas Nigam limited
4	Maharashtra Electricity Distribution Company Limited
5	Goa Power Department
6	Electricity Department, Dadar and Nagar Haveli
7	Electricity Department, Daman and Diu

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

- (a) Shri Padmakumar M. Nair, Sr. Vice President and Head, SBI Capital Markets
- Chairman
- (b) Shri S.P.Gupta, Chief Engineer (Procurement), M.P.Power Transmission Company Limited
-Member
- (c) Shri O.K.Yempal, Director (Operations), MSETCL, Mumbai
-Member
- (d) Shri Pankaj Batra, Chief Engineer (F&CA), CEA
-Member
- (e) Shri Goutam Roy, Director (SP&PA), CEA
-Member
- (f) Shri Subir Mulchandani, Chairman, CWTL
Convener- Member

12. Responses to RfQ were received from six bidders by **27.1.2015** as per details given below:

S. No	Name of Bidder
1	Power Grid Corporation of India Limited
2	L & T Infrastructure Development Projects Limited
3	EsselInfraprojects Limited
4	Sterlite Grid 3 Limited
5	Adani Power Limited
6	Kalpataru Power Transmission Limited

13. The responses to the RfQ were opened on 27.1.2015 in the presence of Bid Evaluation Committee and the representatives of the bidders. Based on the evaluation of the responses to RfQ Evaluation Committee recommended all the six bidders as qualified at RfP stage.

14. The following two bidders submitted RfP:

S. No	Name of Bidder
1	Sterlite Grid 3 Limited
2	Adani Power Limited

15. RfP (Financial) bids were opened on 15.7.2015 in the presence of Bid Evaluation Committee and 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 Bidder	Levellised Transmission Charges (in Indian Rupees Million per annum)
1	Sterlite Grid 3 Limited	1446.36
2	Adani Power Limited	1324.02

16. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended Adani Power Limited with the lowest evaluated annual levelised transmission charges of ₹1324.02 million/annum as the successful bidder.

17. Letter of Intent was issued by the BPC on 28.7.2015 to the successful bidder, namely Adani Power Limited. In accordance with para 12.3 of the Guidelines, the BPC has hosted on the website of PFCCCL 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 Chhattisgarh-WR Transmission Limited from PFCCL, 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) execute the RFP Project Documents in required number of originals so as to ensure that one original is retained by each party to the Agreement(s).

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". Lol has been issued to Adani Power Limited by the BPC on 28.7.2015. BPC vide letter dated 30.11.2015, in terms of first proviso to Clause 2.4 of RfP extended the last date of completion of various activities up to 23.11.2015. The selected bidder furnished the Performance Guarantee to the Long Term Transmission Customers of the project for an amount of ₹29,29,50,000. Accordingly, Adani Transmission Limited, the investing affiliate of Adani Power Limited, has acquired hundred percent equity holding in the applicant company on 23.11.2015 after execution of Share Purchase Agreement. The TSP on behalf of the selected bidder filed the application for adoption of tariff on 26.11.2015.

21. On receipt of the present petition, the staff of the Commission vide its letter dated 30.11.2015 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 10.12.2015.

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

23. The petition was heard on 19.1.2016. The representative of PFCCL submitted that Adani Power Limited (APL) vide its letter dated 30.7.2015 requested PFCCL to transfer the SPV, namely Chhattisgarh-WR Transmission Limited' to and execute the Share Purchase Agreement with its investing affiliate Adani Transmission Limited instead of APL as per the provision of RfP. The representative of PFCCL submitted further submitted that legal opinions were sought from the learned Attorney General of India and M/s Link Legal-India Law Services in this regard. The representative of PFCCL submitted that Bid Evaluation Committee in its meeting held on 17.9.2015 after considering the opinions of the Attorney General of India and M/s Link Legal-India Law Services and recommended that the SPV for which Lol was issued can be acquired by the Adani Transmission Limited which is the investing affiliate of the selected bidder, namely Adani Power Limited. Accordingly, SPV was transferred to Adani Transmission Limited on 23.11.2015.

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 6 and 7 of the minutes of meeting held on 15.7.2015, has recorded as under:

“6. As per the above and based on the evaluation carried out, the computed levelised Transmission Charge of Rs. 1324.02 Million per annum is the lowest and accordingly based on the ranking given below, Adani Power Limited is declared as the successful bidder, and the BPC, PFC Consulting Limited, may issue the Letter of Intent (LoI) to Adani Power Limited (L-1 Bidder).

S. No.	Name of Bidder	Levellised Transmission Charges (in Indian Rupees Million per annum)	Ranking of Bidders based on Levelised Tariffs
1	Sterlite Grid 3 Limited	1446.36	L-2
2	Adani Power Limited	1324.02	L-1

7. The Bid Evaluation Committee also certifies and confirms that the Evaluation of the Responses to RFQ and RFP Bids has been carried out in accordance with the provisions of the Guidelines and the Standard Bid Documents (RFQ &RFP).”

25. Bid Evaluation Committee vide its certificate dated 15.7.2015 has certified as under:

“It is hereby certified that:

1. Adani Power Limited has emerged as the Successful Bidder with the lowest levelised transmission charges of Rs. 1324.02 million per annum for the subject project.
2. The rates quoted by the Successful Bidder Adani Power Limited are in line with the prevalent market prices.
3. 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 and the Standard Bid Documents (RfQ, RfP & TSA) notified by Ministry of Power, Govt. of India.”

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 15.7.2015 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 Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

27. The petitioner has also prayed that the transmission system be allowed to be treated as part of the Transmission Service Agreement approved under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations 2010. At the pre-bid conference, it was clarified by the BPC that TSA signed by the parties would merge with the TSA as notified by this Commission under Sharing Regulations. Thus, merger of the TSA signed by the parties with the TSA notified by this Commission is a condition of the bid and binding on all concerned.

28. The petitioner has further submitted that the Ministry of Power, Government of India has issued Policy dated 15.7.2015 for incentivizing early commissioning of transmission elements before Scheduled Date of Commercial Operation (SCOD) by

way of commencement of transmission charges from actual COD before SCOD. The petitioner has submitted that in the said Policy, it has been clarified that such incentive shall be applicable to transmission project(s)/elements(s) which are under implementation/ yet to be bid out under TBCB. The petitioner has submitted that it will take steps to avail the said incentives by commissioning the transmission elements before SCOD and has requested the Commission to take note of the said Policy and allow recovery of transmission charges from the actual COD in accordance with the Policy.

29. We have noted the submission of the petitioner. The Policy for incentivizing early commissioning of Transmission Projects issued by Ministry of Power vide its letter dated 15.7.2015 is extracted as under:

“The undersigned is directed to say that the Hon`ble Minister of State (IC) for Power has approved the Policy for incentivizing early commissioning of Transmission projects w.e.f.12.6.2015 as given below:

1.1 For transmission system strengthening schemes under Tariff Based Competitive Bidding (TBCB) and also for such schemes awarded to PGCIL under compressed time schedule on cost plus basis, the developer shall get the following incentive for early commissioning of transmission project(s)

- (i) Entitlement of the transmission charges from the actual date of Commercial Operation (COD) prior to the original scheduled COD. However, the number of years of applicability of tariff would remain unchanged i.e. for 25/35 years, as the case may be.

Note: The above incentive will be applicable for the transmission project(s)/element(s) which are under implementation/yet to be bid out under TBCB/yet to be assigned to CTU (PGCIL) under compressed time schedule.”

Thus, the Policy provides for grant of incentive in the form of admissibility of the transmission charges from the date of actual COD which takes place before the scheduled COD. In our view, the above Policy needs to be read in the context of the TSA. Commercial Operation Date has been defined in the TSA as “the date as per

Article 6.2; provided that the COD shall not be a date prior to the Scheduled COD mentioned in the TSA, unless mutually agreed to by all parties. Scheduled COD has been defined as under:

‘Scheduled COD’ in relation to an Element(s) shall mean the date(s) as mentioned in Schedule 3 as against such Element(s) and in relation to the Project, shall mean the date as mentioned in Schedule 3 as against such Project, subject to the provisions of Article 4.4 of this Agreement, or such date as may be mutually agreed among the Parties.”

Scheduled COD has been given in Schedule 3 of the TSA with overall SCOD as 40 months from the effective date and certain elements have been pre-required for declaring the COD. At the end of the Schedule 3, the following has been mentioned:

“The payment of Transmission Charges for any Element irrespective of its successful commissioning on or before its Scheduled COD shall only be considered after successful commissioning of the Element(s) which are pre-required for declaring the commercial operation of such Element as mentioned in the above table.”

Article 6.2.1 of the TSA provides as under:

“6.2.1 An Element of the Project shall be declared to have achieved COD seventy (72) hours following the connection of the Element with the Interconnection Facilities or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or seven (7) days after the date of determent, if any, pursuant to Article 6.1.2:

Provided that the Element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to achieve COD as defined in Schedule 3 of this Agreement, have been declared to have achieved their respective COD.”

From the above provisions, it emerges that certain elements can be considered for grant of transmission charges on completion of their successful commissioning on or before its Scheduled COD only after the successful commissioning of the pre-required elements. Therefore, the commissioning of the elements of the transmission system for

the purpose of incentive should take into account the pre-required commissioning of the elements as per scheduled COD. Further there may be upstream or downstream assets which are executed by PGCIL on cost plus basis or by any other transmission licensee through competitive bidding. Since the SCOD of the transmission elements mentioned in Schedule 3 have been decided matching with the commissioning of the upstream or downstream assets, that is a requirement of matching commissioning of these upstream or downstream assets with the commissioning of the transmission system in case of early commissioning for the purpose of availing incentives as per the Policy direction of Ministry of Power. If the matching commissioning does not take place, then the transmission assets which have commissioned before the SCOD for the purpose of availing incentive will remain unutilized and in the absence of the assets being put into service, it will not be appropriate to load the DICs with the transmission charges. It is, therefore, directed that the petitioner should realistically forecast early commissioning of the element, liaise with the developer of the upstream and downstream assets and mutually decide the COD of the transmission assets matching with the COD of the upstream or downstream assets so that both can be benefited by the Policy of the Govt. for incentivizing the early commissioning of the transmission assets. In case of an element which can be put to use without the commissioning of the pre-required asset, the same can be commissioned, if the CEA certifies that the commissioning of the asset will be in the interest of the safety and security of the grid and the asset can be put to useful service after its commissioning.

30. The Petition No. 284/ADP/2015 is disposed in terms of the above. We direct that copies of this order shall be endorsed to all Long Term Transmission Customers of the transmission system.

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 28.11.2018	31-March	1171.00	0.00
2	01-April	31-March	1650.00	Nil
3	01-April	31-March	1650.00	Nil
4	01-April	31-March	1650.00	Nil
5	01-April	31-March	1650.00	Nil
6	01-April	31-March	1650.00	Nil
7	01-April	31-March	1650.00	Nil
8	01-April	31-March	1650.00	Nil
9	01-April	31-March	1160.00	Nil
10	01-April	31-March	1160.00	Nil
11	01-April	31-March	1160.00	Nil
12	01-April	31-March	1160.00	Nil
13	01-April	31-March	1160.00	Nil
14	01-April	31-March	1160.00	Nil
15	01-April	31-March	1160.00	Nil
16	01-April	31-March	1160.00	Nil
17	01-April	31-March	1160.00	Nil
18	01-April	31-March	1160.00	Nil
19	01-April	31-March	1160.00	Nil
20	01-April	31-March	1160.00	Nil
21	01-April	31-March	1160.00	Nil
22	01-April	31-March	1160.00	Nil
23	01-April	31-March	1160.00	Nil
24	01-April	31-March	1160.00	Nil
25	01-April	31-March	1160.00	Nil
26	01-April	31-March	1160.00	Nil
27	01-April	31-March	1160.00	Nil
28	01-April	31-March	1160.00	Nil
29	01-April	31-March	1160.00	Nil
30	01-April	31-March	1160.00	Nil
31	01-April	31-March	1160.00	Nil
32	01-April	31-March	1160.00	Nil
33	01-April	31-March	1160.00	Nil
34	01-April	31-March	1160.00	Nil
35	01-April	31-March	1160.00	Nil
36	01-April	35th anniversary of the Schedule COD	1160.00	Nil