

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

IA No. 73/IA/2019
In
Petition No. 175/MP/2019

Coram:
Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I. S. Jha, Member

Date of Order : 25th of September, 2019

In the matter of:

Interlocutory Application under Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for modification of order dated 16.7.2019 and for passing of appropriate directions.

And

In the matter of:

1. Raichur Sholapur Transmission Company Private Limited
Patel Estate Road,
Jogeshwari West, Mumbai – 400 102
2. IDBI Trusteeship Services Limited
Asian Building, Ground Floor, 17 R,
Kamani RD, Ballard Estate, Fort,
Mumbai – 400 001

Versus

1. Power Grid Corporation of India Limited
B-9, Qutub Institutional Area, Katwaria Sarai,
New Delhi – 110 016.
2. Axis Bank Limited
Corporate Finance Banking Branch,
12 Mittal Towers, A Wing, First Floor,
Nariman Point, Mumbai – 400 021.
3. Bank of India
Mumbai Large Corporate Branch,
Bank of India Building, 4th Floor,
70-80, MG Road, Fort, Mumbai - 400 001.
4. Bank of Baroda



Corporate Financial Services Branch,
3rd and 4th Floor, 10/12, Mumbai Samachar Marg,
Horniman Circle, Fort, Mumbai – 400 001.

Parties Present:

For Applicants : Shri Sayan Ray, Advocate
Shri Samrat Sengupta, Advocate
Shri Rahul Bisht, Advocate
Shri Ritesh Biyani

For Respondents : Shri Tushar Solaskar, Axis Bank

ORDER

The Applicants, Raichur Sholapur Transmission Company Limited (RSTCL) and IDBI Trusteeship Services Limited, have jointly filed the present Interlocutory Application (IA) for modification of Record of Proceedings for the hearing dated 16.7.2019 requesting that direction for impleadment of Procurers/ LTTCs as parties and direction consequential thereto contained in paragraphs 2, 3 and 5 of the ROP be dispensed with.

2. The Applicants have mainly submitted as under:

(a) On 4.10.2010, RSTCL entered into a Transmission Service Agreement (TSA) with various LTTCs. The Commission in its order dated 24.8.2011 granted Transmission Licence to RSTPCL. Pursuant to coming into force of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as 'Sharing Regulations'), a fresh Transmission Service Agreement dated 28.8.2014 was executed between RSTCL and Central Transmission Utility (CTU) for the purpose of



billing, collection and disbursement of payments under Sharing Regulations. Consequently, RSTCL has no privity of contract with any of the end consumers i.e. LTTCs. In any event, the proposed alternation of nature of security interest entrusted to IDBI Trusteeship Service Limited in respect of RSTCL project, does not have any effect on these LTTCs. Therefore, there is no legal necessity of impleading LTTCs as parties to the present proceedings.

(b) The Applicants also do not have any knowledge of the LTTCs/ DICs who are currently contracted with RSTCL in respect of its Project.

(c) The Commission in its earlier order dated 27.6.2018 in Petition No. 12/MP/2018 had approved the prevailing financial arrangement and creation of security interest in favour of IDBI Trusteeship Service Limited in which LTTCs were not impleaded as party to the Petition. Therefore, impleadment of LTTCs is not deemed to be necessary for the purpose of the present proceedings.

3. During the course of hearing on 17.9.2019, learned counsel for the Applicants reiterated the submissions made in the application and requested to modify the ROP dated 16.7.2019 wherein RSTCL was directed to implead LTTCs as party to the Petition.

4. The project, Raichur-Sholapur 765 kV S/C Transmission Line, is a tariff-based competitive bidding project on Build, Own, Operate and Maintain (BOOM) basis. Rural Electrification Corporation Transmission Projects Company Limited (RECTPCL) was Bid Process Coordinator. RSTCL was incorporated on 19.11.2009 by RECTPCL as its wholly owned subsidiary to initiate work on the Project to build,



own, operate and maintain the transmission system for evacuation of power from Krishnapattnam UMPP (4000 MW) and export of power from various IPPs coming in the Southern Region to their target beneficiaries in Western region and Northern Region and for synchronization of Southern Region with the rest of the Indian Grid and subsequently to act as a Transmission Service Provider (TSP) after being acquired by the successful bidder. The project was incorporated to build, own, operate and maintain the transmission system, namely 765 kV SC transmission line associated with Krishnapattnam UMPP Synchronous inter-connection between Southern Region and Western Region (Part-B).

5. RECTPCL invited bids on 26.2.2010 in accordance with the Tariff Based Competitive Bidding Guidelines for Transmission Service issued by the Government of India. Based on the evaluated levelised transmission charges, the Bid Evaluation Committee recommended the consortium of M/s Patel Engineering Limited with Simplex Infrastructure Limited and BS Transcomm Limited as the successful bidder. The letter of intent (LOI) was issued to the Consortium on 16.12.2010 and consortium acquired RSTCL on 7.1.2011. TSA was entered into between the various LTTCs as mentioned in Schedule 1 of the TSA and RSTCL on 4.8.2010.

6. In compliance with the TSA dated 4.8.2010 entered into with LTTCs as mentioned at Schedule I of the TSA, RSTCL filed Petitions No. 5/2011 and 6/2011 before this Commission for grant of transmission licence and for adoption of transmission charges respectively, in which they were made parties to the said Petitions. The Commission in its order dated 24.8.2011 in Petition No. 5/2011



granted transmission licence and in order dated 12.8.2011 in Petition No. 6/2011 adopted the tariff of the transmission system.

7. The Applicants have filed Petition No. 175/MP/2019 for creation of security in favour of IDBI Trusteeship Services Limited as Security Trustee acting on behalf of and for the benefit of lenders, namely (i) Axis Bank, Mumbai branch, with respect to RTL facility, (ii) Bank of India, Mumbai branch, with respect to RTL facility, and (iii) Bank of Baroda, Mumbai branch, with respect to RTL facility, in connection with the project of 765 kV S/C quad transmission line running from Raichur, Karnataka to Sholapur, Maharashtra. The Petition was heard on 16.7.2019 and the Applicants were directed to implead LTTCs as parties to the Petition and file revised memo of parties.

8. The Applicants have contended that pursuant to execution of fresh Transmission Service Agreement dated 28.8.2014 with CTU under the Sharing Regulations for billing, collection and disbursement of payment, there is no privity of contract between RSTCL and the LTTCs. The Applicants have submitted that the proposed alteration of nature of security interest entrusted to Security Trustee, namely IDBI Trusteeship Service Limited in respect of RSTCL project, does not have any bearing or effect on these LTTCs and the Applicants do not have any knowledge of the LTTCs who are currently contracted with the RSTCL. Therefore, there is no legal necessity of impleading them as the parties to the present proceedings.

9. We note that RSTCL has entered into the TSA dated 4.8.2010 with LTTCs for 35 years to provide transmission service to them. CTU is an agency identified



under Sharing Regulations to undertake billing, collection and disbursement of transmission charges for the ISTS on the behalf of all transmission licensees. RSTCL has entered into the TSA with CTU to facilitate the billing, collection and disbursement of payment. Since LTTCs are ultimately paying the transmission charges for the transmission line, they are necessary party to the Petition. Accordingly, the Applicants are directed to implead the LTTCs which were party to the TSA dated 4.8.2010 and its amendments, if any and file revised memo of parties by 27.9.2019.

10. The Applicants are directed to serve copy of the Petition to such LTTCs immediately. Respondents including the LTTCs are directed to file their replies, if any, by 4.10.2019 with an advance copy to the Applicants, who may file their rejoinder, if any, by 11.10.2019.

11. Accordingly, IA No. 73/2019 is disposed of.

12. Petition No. 175/MP/2019 will be listed for hearing in due course for which separate notice will be issued.

Sd/-
(I.S.Jha)
Member

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

Sd/-
(P.K. Pujari)
Chairperson

