

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**PETITION No. 93/AT/2018**

**Coram:  
Shri P. K. Pujari, Chairperson  
Shri A. K. Singhal, Member  
Dr. M.K. Iyer, Member**

**Date of Order: 27<sup>th</sup> of August, 2018**

**In the matter of:**

Application under Section 63 of Electricity Act, 2003 for adoption of Tariff with respect to the Transmission System being established by Fatehgarh- Bhadla Transmission Limited.

**And**

**In the matter of:**

Fatehgarh- Bhadla Transmission Limited (FBTL)  
First Floor, Urjanidhi, 1, Barakhamba,  
Connaught Place, New Delhi

**...Petitioner**

**Versus**

1. Adani Renewable Energy Park Rajasthan Limited  
Achalraj Building, Opposite. Mayor Bungalow,  
Law Garden, Ahmedabad - 380006

2. Shri C. Gangopadhyay,  
Chief Executive Officer, PFC Consulting Limited,  
First Floor, Urja Nidhi, 1, Barakhamba Lane,  
Connaught Place, New Delhi-110 001

3. Chief Executive Officer, CTU Planning,  
Powergrid Corporation of India Limited,  
Saudamini, Plot No.2, Sector-29,  
Gurgaon-122 001.

**... Respondents**

**Parties Present:**

Shri Tanmay Vyas, FBTL  
Miss Joyti Prasad, CTU  
Shri Swapnil Verma, CTU

## ORDER

The Petitioner, Fatehgarh- Bhadla 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 the 'Transmission System for Ultra Mega Solar Park, district Jaisalmer Rajasthan" being established by the Fatehgarh-Bhadla Transmission Limited on Build, Own, and Operate and Maintain (BOOM) basis (hereinafter referred to as "Transmission System").

2. Section 63 of the Act 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 documentations 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, 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 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. Therefore, we have to examine whether the process as per provisions of the Guidelines of the Ministry of Power has been followed in the present case for arriving at the lowest levelised transmission charges and for selection of the successful bidder.

5. Ministry of Power, Government of India, vide its Gazette Notification No. 2599 dated 31.10.2016 notified PFC Consulting Limited (hereinafter referred to as PFCCL) to be the Bid Process Coordinator (hereinafter referred to as BPC) for the purpose of selection of bidder as Transmission Service Provider (TSP) to establish "Transmission System for Mega Solar Park in Fatehgarh, district Jaisalmer Rajasthan" through tariff based competitive bidding process.

6. Fatehgarh-Bhadla Transmission Limited was incorporated on 13.12.2016 under the Companies Act, 2013 as a wholly owned subsidiary of PFCCL with the objective to initiate the

activities for execution of the Project and subsequently to act as Transmission Service Provider after being acquired by the successful bidder selected through Tariff Based Competitive Bidding process. The main objectives of the petitioner company in its Memorandum of Associations 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”.

7. PFFCL 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 for selection of developer on BOOM basis for the project. The notice for RfQ was published on 2.12.2016 all the editions of Business Standard (both English and Hindi), with the last date of submission of response to RfQ as 30.12.2016. 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 No. 03/ITP-26/17- 18/ RFQ dated 12.4.2017.

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

S.No.	Events	Date
1.	Publication of RFQ	11.4.2017
2.	Submission of Request for Qualification	18.5.2017
3.	Issuance of Request for Proposal	21.11.2017
4.	Technical and Price bid submission	22.1.2018
5.	Technical bid opening	22.1.2018
6.	Financial Bid opening	15.2.2018
7.	Issuance of Letter of Intent to successful bidder	21.2.2018

8.	Signing of Share Purchase Agreement and transfer of Special Purpose Vehicle	14.3.2018
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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.	Establishment of 400 kV Pooling Station at Fatehgrah	30.9.2019	
2.	Fatehgarh Pooling station-Bhadla (PG) 765 kV D/C line (to be operated at 400 kV).		<b>Hexa Zebra ACSR or equivalent AAAC conductor in Hexa bundle configuration</b> The transmission lines shall have to be designed for a maximum operating conductor temperature of 85 deg C for ACSR and 95 deg C for AAAC
3.	2 Nos. of 400 kV line bays at Fatehgarh Pooling Station		
4.	1X125 MVAR Bus reactor at 400 kV Fatehgarh Pooling Station along with associated bay		
5.	Space for future 220 kV (12 Nos.) line bays		
6.	Space for future 400 kV (8 Nos.) line bays along with line reactors at Fatehgarh Pooling Station		
7.	Space for future 220/400 kV transformers (5 Nos.) along with associated transformer bays at each level.		
8.	Space for future 400 kV bus reactor (2 Nos.) along with		

	associated bays.		
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10. The identified Long Term Transmission Customer (LTTTC) of the project is Adani Renewable Energy Park Rajasthan Limited.

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

- a) Smt. Kamlesh Sekhon, Sr. Vice President and Head SBI Capitals Market-Chairman
- b) Shri S. K. Ray Mohapatra, Chief Engineer (PSPA-II), CEA, Member
- c) Shri Awdhesh Kumar Yadav, Director (PSPA-I), CEA, Member
- d) Shri Kamlesh Kumar Meena, Superintending Engineer (Contracts II), Member
- e) Shri Mukul Bhargava , Executive Engineer (Contracts II), Member
- f) Shri H. K. Das (Chairman , Fatehgarh Bhadla Transmission Limited, Convener-Member

12. Responses to RfQ were received from the following nine bidders :

<b>S.NO</b>	<b>Name of Bidders</b>
1.	Power Grid Corporation of India Limited
2.	Sterlite Grid 5 Limited
3.	Adani Transmission Limited
4.	Kalpataru Power Transmission Limited
5.	Essel Infraprojects Limited
6.	Tata Power Company Limited
7.	GMR Energy Limited
8.	CLP india Private Limited & China Southern Power Grid International (HK) Company Limited (CGSI) (CLP- CSGI Consortium)
9.	Energon Aravalli Wind Power Private Limited

13. The responses to the RfQ were opened 18.5.2017 in the presence of the Bid Evaluation Committee and the representatives of the bidders. Subsequently, in a meeting held on 27.6.2017 in CEA, the scope of works for the transmission scheme was modified in view of



number of connectivity applications received by CTU from renewable energy projects developers at Fategarh. Accordingly, the scope was transmission scheme was modified in the 37<sup>th</sup> Empowered Committee on Transmission and Ministry of Power vide its notification dated 23.2.2018 modified the scope of the project. RfP documents were sent to the qualified bidders who interest to purchase the RfP documents. BPC received the RfP (Non-Financial and Financial) bids from five bidders. RfP (Non-Financial) bids of all the five bidders were opened online through MSTC portal by the BEC. Based on the evaluation of RfP (Non-Financial) , the BEC declared of all the following five bidders as responsive for opening of their RfP (Financial) bids:

<b>S.No.</b>	<b>Name of Bidders</b>
1.	Power Grid Corporation of India Limited
2.	Sterlite Grid 5 Limited
3.	Adani Transmission Limited
4.	Kalpataru Power Transmission Limited
5.	Essel Infraprojects Limited

14. The RfP (Financial) Bids Initial Price Offer of the five bidders was opened online by the BEC on 15.2.2018. the lowest Initial Price Offer (IPO) discovered (Best Deal) at MSTC portal was Rs. 409.85 million per annum which was communicated to the following four qualified bidders for participating in the e-reverse bidding process held on MSTC portal on 16.2.2018:

<b>S.No.</b>	<b>Name of Bidders</b>
1.	Power Grid Corporation of India Limited
2.	Sterlite Grid 5 Limited
3.	Adani Transmission Limited
4.	Essel Infraprojects Limited

15. The e-Reverse bidding was carried out on 16.2.2018. All the four bidders participated in the e-reverse bidding. Based on the e- Reverse bidding, the Bid Evaluation Committee in its

meeting held on 16.2.2018 recommended Adani Transmission Limited with the lowest levelised transmission charges of Rs 380.15 Million per annum as the successful bidder.

16. Letter of Intent was issued by the BPC on 21.2.2018 to the successful bidder i.e. Adani Transmission Limited. In accordance with para 12.3 of the Guidelines, the BPC posted on the website of PFCCL, the final result of the evaluation of the bids for selection of developer for the project.

17. 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.

18. 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 and all other RFP project documents.
- (c) Acquire, for the acquisition price, one hundred percent equity shareholdings of Fatehgarh- Bhadla Transmission Limited 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) Apply to the Central Electricity Regulatory Commission for grant of transmission licence.

19. 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 to day basis till the end of the Bid validity period". Though Lol was issued on 21.2.2018, BPC, vide its letter dated 14.3.2018, in terms of proviso to clause 2.4 of RfP extended the date upto 24.3.2018 for completion of all activities by the successful bidder. The selected bidder furnished the Contract Performance Guarantee to the Long Term Transmission Customer of the project for an amount of Rs. **14.85 crore** and has acquired hundred percent equity-holding in the applicant company on 14.3.2018 after execution of the Share Purchase Agreement. The TSP on behalf of selected bidder filed the application through e-filing portal for adoption of tariff on 16.3.2018.

20. On receipt of the present petition, BPC vide letter dated 4.4.2018 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 17.4.2018.

21. Notice was issued to the respondent who is the Long Term Transmission Customer of the project. No reply has been filed by the respondents. Notice was also issued to PFCCCL in its capacity as Bid Process Coordinator. BPC has filed the copies of all relevant documents pertaining to the bidding process.

22. The petition was heard on 29.5.2018. During the course of hearing, the representative of the petitioner reiterated the submissions made in the petition and requested to adopt the transmission tariff of the transmission system.

23. 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 paras 2,3,4, 5 and 6 of the minutes of meeting held on 16.2.2018, has recorded as under :

“2. The e-reverse bidding was carried out at MSTC Portal on February 16, 2018 from 11:00 Hrs which closed on February 16, 2018 at 16:02 hrs. The Evaluation report is attached as **Annexure-A**.

3. The final offer (levelised Transmission Charges) of each Bidder as quoted at the time of closing of e-reverse bidding on February 16, 2018 at 16:02 hrs is as under

S.No	Name of the Bidder	Levelised Transmission Charges (in Indian Rupees Million per annum)	Ranking of Bidders bases on Levelised Tariffs
1.	Adani Transmission Limited	380.15	L-1
2.	Power Grid Corporation of India Limited	381.07	L-2
3.	Essel Infraprojects Limited	783.10	L-3
4.	Sterlite Grid 5 limited	800.00	L-4

Based on the e-reverse bidding, the lowest final offer (levelised Transmission Charge) is Rs 380.15 Million per annum.

4. M/s Adani Transmission Limited is declared as the successful bidder as per e-reverse bidding process and the lowest Levelised Transmission Charge discovered is Rs 380.15 Million per annum. The BPC i.e. PFC Consulting Limited shall issue Letter of Intent (LOI) to . M/s Adani Transmission Limited (L-1 Bidder)

5. The BEC further deliberated the following:

(i) The estimated cost of the project as communicated by CEA vide its letter dated 29, 8.2017 is Rs 575 crore.

(ii) As per CERC tariff norms and cost provided by CEA, the Levelised Transmission charges worked out to be Rs. 838.75 million per annum which is 14.6% of the estimated project cost.

(iii) The lowest Levelised Transmission charges discovered through the e- reverse bidding process is Rs 380.15 Million per annum.

(iv) BEC observed that the Levelised Transmission charges discovered through e-reverse bidding process is 54.68% lower that the levelised tariff worked out as per CERC Tariff Regulations.

(v) The rated quoted by the Successful Bidder M/s Adani Transmission Limited are in line with the prevalent market price.

6. 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 standard Bid Documents (RFQ & RFP).”

24. Bid Evaluation Committee vide its certificate dated 16.2.2018 has certified as under:

a. M/s Adani Transmission Limited has emerged as the successful bidder with the lowest levelised transmission charge of Rs 380.15 Million per annum for the subject project after completion of e- reverse bidding at MSTC portal.

b. The rates quoted by the successful bidder, M/s Adani Transmission Limited are in line with the prevalent market prices.

c. 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 Standard Bid Documents (RfQ, RfP & PPA) notified by Ministry of Power, Govt. of India.”

25. 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 16.2.2018 has certified that the rates quoted by the successful bidder are in line with the prevailing 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 the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

26. A copy of this order shall be sent to CTU and Long Term Transmission Customer of the transmission system.

27. The Petition No 93/AT/2018 is disposed of in terms of the above.

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

**sd/-**  
**(A.K. Singhal)**  
**Member**

**sd/-**  
**(P. K. Pujari)**  
**Chairperson**

**Appendix**

<b>Year (Term of Licence)</b>	<b>Commencement Date of Contract Year</b>	<b>End Date of Contract Year</b>	<b>Non- Escalable Transmission Charges ( Rs. Millions)</b>	<b>Escalable Transmission Charges (Rs. Millions)</b>
1	Scheduled COD 30.9.2019	31-Mar-20	337.11	0.00
2	1-Apr-20	31-Mar-21	480.90	Same as Above
3	1-Apr-21	31-Mar-22	480.90	Same as Above
4	1-Apr-22	31-Mar-23	480.90	Same as Above
5	1-Apr-23	31-Mar-24	480.90	Same as Above
6	1-Apr-24	31-Mar-25	480.90	Same as Above
7	1-Apr-25	31-Mar-26	480.90	Same as Above
8	1-Apr-26	31-Mar-27	337.11	Same as Above
9	1-Apr-27	31-Mar-28	337.11	Same as Above
10	1-Apr-28	31-Mar-29	337.11	Same as Above
11	1-Apr-29	31-Mar-30	337.11	Same as Above
12	1-Apr-30	31-Mar-31	337.11	Same as Above
13	1-Apr-31	31-Mar-32	337.11	Same as Above
14	1-Apr-32	31-Mar-33	337.11	Same as Above
15	1-Apr-33	31-Mar-34	337.11	Same as Above
16	1-Apr-34	31-Mar-35	337.11	Same as Above
17	1-Apr-35	31-Mar-36	337.11	Same as Above
18	1-Apr-36	31-Mar-37	337.11	Same as Above
19	1-Apr-37	31-Mar-38	337.11	Same as Above
20	1-Apr-38	31-Mar-39	337.11	Same as Above
21	1-Apr-39	31-Mar-40	337.11	Same as Above
22	1-Apr-40	31-Mar-41	337.11	Same as Above
23	1-Apr-41	31-Mar-42	337.11	Same as Above
24	1-Apr-42	31-Mar-43	337.11	Same as Above
25	1-Apr-43	31-Mar-44	337.11	Same as Above
26	1-Apr-44	31-Mar-45	337.11	Same as Above
27	1-Apr-45	31-Mar-46	337.11	Same as Above
28	1-Apr-46	31-Mar-47	337.11	Same as Above
29	1-Apr-47	31-Mar-48	337.11	Same as Above
30	1-Apr-48	31-Mar-49	337.11	Same as Above
31	1-Apr-49	31-Mar-50	337.11	Same as Above
32	1-Apr-50	31-Mar-51	337.11	Same as Above
33	1-Apr-51	31-Mar-52	337.11	Same as Above
34	1-Apr-52	31-Mar-53	337.11	Same as Above
35	1-Apr-53	31-Mar-54	337.11	Same as Above
36	1-Apr-54	35 <sup>th</sup> anniversary of the Schedule COD	337.11	Same as Above