

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Subject: In the matter of application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System to be constructed/ implemented by M. P. Power Transmission Package-II Limited.

Petition No. 58 / 2021

ORDER

Hearing through Video Conferencing

(Date of Order: 19th May , 2022)

M.P. Power Transmission Package-II Limited

C/o Adani Transmission Limited,

Adani Corporate House, Adani Shantinagram,

Near Vaishno Devi, Ahmedabad - 382421

- **Petitioner**

Vs.

(i) Managing Director

M. P. Power Management Company Ltd.,

Shakti Bhawan, Rampur, Jabalpur – 482008

(ii) Managing Director

M. P. Power Transmission Company Ltd.,

Shakti Bhawan, Rampur, Jabalpur – 482008.

(iii) Chief Executive Officer

REC Transmission Projects Company Ltd.,

ECE House, 3rd Floor, Annexe-II, 28 A,

KG Marg, New Delhi – 110 001

- **Respondents**

Shri Sanjay Sen, Senior Advocate, Shri Hemant Singh, Advocate, Shri Dilip Kumar Moolchandani and Shri Bhavesh Kundalia, Representatives appeared on behalf of the petitioner.

Shri Manoj Dubey, Advocate appeared on behalf of the Respondent No. 1.

Shri Vincent D'Souza, SE and Shri M. M. Dhoke, SE appeared on behalf of the Respondent No. 2.

Shri P. S. Hariharan Addl. CEO and Shri Ankit Kumar, Chief Manager appeared on behalf of the Respondent No. 3.

2. The subject petition has been filed by M. P. Power Transmission Package – II Limited under the provisions of Section 63 of the Electricity Act, 2003 for adoption of Transmission Charges with respect to the Transmission System to be constructed/ implemented by M. P. Power Transmission Package-II Limited.

3. **Petitioner's submission:**

In the subject petition, the petitioner has broadly submitted as under;

- i. *M. P. Power Transmission Package-II Limited has filed the present Application under Section 63 of the Electricity Act, 2003 for Adoption of Tariff / Transmission Charges with respect to the Transmission System to be implemented by M.P. Power Transmission Package-II Limited. The said transmission charges were discovered through transparent process of bidding process conducted by REC Transmission Projects Company Limited ([being the Bid Process Coordinator (BPC)] in accordance with Section 63 of the EA, 2003 read with the guidelines issued by the Central Government. A copy of the List of Elements is enclosed herewith and marked as Annexure A-1.*

Annexure A-1 shows the list of elements as under:

Name of the Scheme: "Development of Intra-State Transmission work in M.P. through Tariff Based Competitive Bidding: Package - II"

Work Covered under the Scheme: -

S No	Name of Work
1	220/132/33kV substation Ajaygarh (District-Panna)
i	Construction of 220/132/33kV substation Ajaygarh
ii	LILO of both circuits of Satna - Chhatarpur 220kV line at Ajaygarh 220kV S/s
iii	Ajaygarh - Panna 132kV DCDS line
iv	Ajaygarh - Luvkushnagar (Laundi) 132kV DCSS line
2	220/132/33kV substation Begamganj (District - Raisen)
i	Construction of 220/132/33kV substation at Begamganj
ii	Sagar - Begamganj 220kV DCDS line
iii	Begamganj - Rahatgarh 132kV DCSS line
iv	Begamganj - Silwani 132kV DCSS line
v	Begamganj - Gyaraspur 132kV DCSS line
vi	Begamganj - Gairatganj 132kV DCDS line
3	220/132kV Substation at Bargawan (District-Singrauli)
i	Construction of 220/132/33kV substation at Bargawan
ii	LILO of both circuits of Sidhi - Hindalco 220kV line at Bargawan 220kV S/s

iii	<i>LILO of both circuits of Rajmilan - Morwa/ Waidhan 132kV line at Bargawan 220kV S/s</i>
4	132/33kV substation at Mehaluwa Chauraha (District-Vidisha)
i	<i>Construction of 132/33kV substation at Mehaluwa Chauraha</i>
ii	<i>LILO of Bina - Ganjbasoda 132kV line at Mehaluwa Chauraha</i>
5	132/33kV substation at Narwar (District-Shivpuri)
i	<i>Construction of 132/33kV substation at Narwar</i>
ii	<i>LILO of one circuit of Madhikheda - Karera 132kV DCDS line at Narwar</i>
6	132/33kV substation at Kanather (District - Bhind)
i	<i>Construction of 132/33kV substation at Kanather</i>
ii	<i>LILO of Mehgaon 220-Seondha 132kV S/C line at Kanather</i>
iii	<i>Hastinapur - Kanather 132kV DCSS line</i>
7	132/33kV substation at Beerpur (District-Sheopur)
i	<i>Construction of 132/33kV substation at Beerpur</i>
ii	<i>LILO of one circuit of Sabalgarh - Sheopur 132kV DCDS line at Beerpur</i>
8	132/33kV substation at MES Gwalior (District-Gwalior)
i	<i>Construction of 132/33kV substation at MES Gwalior</i>
ii	<i>Malanpur 220-MES Gwalior 132kV DCDS line</i>
9	132/33kV substation at Khaniyadana (District-Shivpuri)
i	<i>Construction of 132/33kV substation at Khaniyadana</i>
ii	<i>LILO of Pichhore - Rajghat 132kV line at Khaniyadana</i>
10	132/33kV substation at Chand (District-Chhindwara)
i	<i>Construction of 132/33kV substation at Chand</i>
ii	<i>Chhindwara 220 – Chand - Bichhua 132kV DCSS line</i>
11	132/33kV substation at Keolari (District-Seoni)
i	<i>Construction of 132/33kV substation at Keolari</i>
ii	<i>LILO of one circuit of Seoni220-Nainpur 132kV DCDS (new line) at Keolari</i>
12	132/33kV substation at Devendranagar (District-Panna)
i	<i>Construction of 132/33kV substation at Devendranagar</i>
ii	<i>LILO of remaining part of Satna-Panna 132kV S/c line from Nagod to Panna at Devendranagar.</i>
13	132/33kV substation at Semariya (District-Panna)

i	Construction of 132/33kV substation at Semariya
ii	Patera – Semariya - Hatta 132kV DCSS line
14	132/33kV substation at Khaira (Manikwar) (District-Rewa)
i	Construction of 132/33kV substation at Khaira (Manikwar)
ii	Mauganj - Khaira (Manikwar) -Mangawan 132kV DCSS line
15	132/33kV substation at Bahoribandh (District-Katni)
i	Construction of 132/33kV substation at Bahoribandh
ii	Sleemnabad – Bahoribandh - Katangi 132kV DCSS line
16	220/33kV substation at Manpur (Bijouri) (District - Umariya)
i	Construction of 220/33kV substation at Manpur (Bijouri)
ii	LILO of Birsinghpur - Satna 220kV line at Manpur (Bijouri)
17	132/33kV substation at Gopalganj (Kurai) (District-Seoni)
i	Construction of 132/33kV substation at Gopalganj (Kurai)
ii	LILO of one circuit of PENCH - Seoni 132kV DCDS line at Gopalganj (Kurai).
18	132/33kV substation Harrai (District-Chhindwara)
i	Construction of 132/33kV substation at Harrai
ii	Deonagar - Harrai - Amarwara 132kV DCSS line
19	System Strengthening Works
i	Digoda - Prithivipur 132kV DCSS line
ii	LILO of Nainpur - Mandla 132kV line at Baihar 132kV S/s

ii. The Government of Madhya Pradesh, vide its Gazette Notification No. F-3/02/2020/13 dated 13.04.2020, notified REC Transmission Projects Company Limited to be the Bid Process Coordinator (hereinafter referred to as the “BPC”) for the purpose of selection of Bidder as Transmission Service Provider (hereinafter referred to as the “TSP”) for “Development of intra – state Transmission work in M. P. through Tariff Based Competitive Bidding: Package - II”. A Copy of Notification No. F-3/02/2020/13 dated 13.04.2020 issued by the Government of Madhya Pradesh, is enclosed as Annexure A-2.

iii. Subsequently, the BPC, on 20.08.2020, incorporated M.P. Power Transmission Package-II Limited under the Companies Act 2013, as its 100% wholly owned subsidiary to initiate the activities qua execution of the Project, and subsequently to act as Transmission Service Provider (TSP) after being acquired by the successful bidder selected through Tariff Based Competitive Bidding process. A copy of the Certificate of Registration of the Applicant Company is enclosed herewith and

marked as Annexure A-3. A copy of the Memorandum of Association of the Applicant Company is enclosed herewith as Annexure A-4. A copy of the Article of Associations is enclosed herewith as Annexure A-5.

iv. It is submitted that the said BPC invited all prospective Bidders vide a Request for Qualification (hereinafter referred to as the “RFQ”) dated 04.06.2020 to qualify/shortlist the Bidders for participation in the next stage of bidding, i.e. Request for Proposal dated 02.11.2020 (hereinafter referred to as “RFP”), as part of the process for selection of the TSP on the basis of international competitive bidding in accordance with the “Tariff Based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by Government of India, Ministry of Power under Section 63 of the EA, 2003 and as amended. In this regard, the responsibility of the TSP was to establish the Transmission System titled “**Development of intra – state Transmission work in M. P. through Tariff Based Competitive Bidding: Package - II**” on build, own, operate & maintain basis. A copy of the Global Invitation for Qualification as published in the newspapers is enclosed herewith and marked as Annexure A-6. A copy of the RFQ is enclosed as Annexure A-7.

v. Further, Adani Transmission Limited qualified as a participant for the RFP process, as communicated by the BPC vide letter dated 10.11.2020. A copy of letter dated 10.11.2020 issued by BPC to Adani Transmission Limited is enclosed and marked as Annexure A-8. A copy of the RFP is annexed herewith as Annexure A-9.

Subsequently, the BPC (RECTPCL), on behalf of M.P. Power Transmission Package-II Limited, entered into a Transmission Service Agreement (hereinafter referred to as the “TSA”) dated 05.02.2021 with the identified Long Term Transmission Customers. A copy of the TSA dated 05.02.2021 is enclosed herewith as Annexure A-10.

vi. In this regard, it is submitted that the levelized tariff proposals submitted by the qualified bidders (including Adani Transmission Limited), and as evaluated by BPC, was as follows:

S. No.	Bidder	Levellised Transmission Charges (in Rs. Millions)	Ranking
1.	Adani Transmission Limited	1326.45	1
2.	Power Grid Corporation of India Limited	1463.04	4
3.	Sterlite Grid Twenty Eight Limited	1396.74	3
4.	Dilip Buildcon Limited	1329.78	2

- vii. Pursuant to the above process of competitive bidding conducted by the BPC, M/s. Adani Transmission Limited has been declared as the successful bidder, and accordingly, the BPC, on 13.09.2021 issued a Letter of Intent (hereinafter referred to as "**LoI**") in favour of M/s Adani Transmission Limited. A copy of the Letter of Intent (LoI) dated 13.09.2021 along with the details of Annual Transmission Charges is enclosed herewith as Annexure A-11.
- viii. That the BPC vide its letter dated 27.10.2021 had intimated ATL that the total acquisition price of MP Power Transmission Package II Limited is Rs. 6,12,32,088/- for Acquisition of 100% of equity shareholding alongwith all its related assets and liabilities. A copy of the letter by the BPC dated 27.10.2021 is enclosed and marked as Annexure A-12.
- ix. Further, in accordance with the LoI, Adani Transmission Limited on 28.10.2021 furnished the Contract Performance Guarantees (hereinafter referred to as the "**CPG**") for an aggregate value of Rs. 57.94 Crores separately in favour of Long-Term Transmission Customers listed out in Annexure-1 of the RFP documents and as per the provisions of Clause 2.21 of the RFP documents. A copy of the CPG dated 28.10.2021 furnished by Adani Transmission Limited, is enclosed herewith and marked as Annexure A-13.
- x. In furtherance to the above, Adani Transmission Limited, on 29.10.2021, intimated the BPC that the amount for Acquisition Price had been transferred, and that, the Bank Guarantee has also been furnished. A copy of the letter issued by M/s Adani Transmission Limited dated 29.10.2021 is enclosed herewith as Annexure A-14.
- xi. That M/s Adani Transmission Limited acquired M.P. Power Transmission Package-II Limited on 01.11.2021 after execution of the Share Purchase Agreement (SPA), and completed all procedural requirements as contemplated under the bid documents. A copy of the Share Purchase Agreement dated 01.11.2021 is enclosed herewith and marked as Annexure A-15.
- xii. As such, in terms of the aforesaid SPA, the Applicant, incorporated under the Companies Act, 2013 is now a 100% wholly owned subsidiary of M/s Adani Transmission Limited, who has been selected on the basis of the Tariff Based Competitive Bidding as per the Tariff Based Bidding Guidelines for Transmission Service issued by the Government of India, Ministry of Power and thus eligible for issuance of transmission License.

xiii. *It is further submitted that as per the Clause 2.4 of the RFP, the Applicant is required to apply for Adoption of Transmission Charges as per Section 63 of the EA, 2003. The aforesaid Clause is reproduced herein below:*

"2.4 Within ten (10) days of the issue of the Letter of Intent, the Selected Bidder shall:

- a) provide the Contract Performance Guarantee in favour of the Long-Term Transmission Customers as per the provisions of Clause 2.21;*
- b) execute the Share Purchase Agreement and all other RFP Project Documents as listed in Annexure-3;*
- c) acquire, for the Acquisition Price, one hundred percent (100%) equity shareholding of MP Power Transmission Package-II Limited from REC Transmission Projects Company Limited, who shall sell to the Selected Bidder, the equity shareholding of MP Power Transmission Package-II Limited, along with all its related assets and liabilities;*

Stamp duties payable on purchase of one hundred percent (100%) of the equity shareholding of MP Power Transmission Package-II Limited, along with all its related assets and liabilities, shall also be borne by the Selected Bidder.

- d) make an application to the Appropriate Commission for the adoption of Transmission Charges, as required 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).*

Provided further 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 often (10) days shall be extended, on a day for day basis till the end of the Bid validity period.

All stamp duties payable for executing the RFP Project Documents shall be borne by the Successful Bidder."

In this regard, the Applicant is filing the instant Application under Section 63 of the Act.

xiv. *In terms of the above, reference is made to Section 63 of the Act, which is set out herein below:*

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."

A perusal of Section 63 of the EA, 2003 provides that the Hon'ble Commission has to adopt tariff discovered under a bidding process, if:

- a) the bidding process is transparent; and*
- b) the bidding process has been conducted in accordance with the guidelines issued by the Central Government*

In this regard, it is submitted that the aforesaid statutory mandate has been duly complied with, as evident from the certificate dated 31.08.2021 issued by the BPC. The said certificate confirms that the entire bidding process was conducted in a transparent manner, and in accordance with the guidelines issued by the Central Government. A copy of the certificate dated 31.08.2021 issued by the BPC, is annexed herewith and marked as Annexure A-16.

xv. *As such, since the entire bidding process is in conformity with the aforesaid mandate of the Electricity Act, 2003, this Hon'ble Commission may be pleased to adopt the Levelized Transmission Charges quoted by the Applicant (now owned by Adani Transmission Limited), with respect to the subject transmission project.*

xvi. *Keeping in view the above, the Hon'ble Commission may kindly adopt the Transmission Charges with respect to the Transmission System being established by the Applicant.*

xvii. *The present application is bonafide and made in the interest of justice. The Applicant craves leave to furnish any other information/ documents as may be required by this Hon'ble Commission for adjudicating the present Application, at a later stage, in the interest of justice.*

4. With the above submission, the petitioner in the aforesaid facts and circumstances prayed that the Commission may be pleased to:

- a. *Allow the present application, thereby adopting Transmission Charges for M.P. Power Transmission Package-II limited, discovered through competitive bidding process conducted by Bid Process Coordinator, as detailed in the present Application;*
- b. *Allow the Applicant to levy Transmission Tariff/ Charges upon the Long-Term Transmission Customers, from actual date of Commercial Operation, in terms of the Transmission Service Agreement dated 05.02.2021 if the element(s) of the Project are commissioned on/ before the original Scheduled Commercial Operation Date (SCOD);*
- c. *Condone any inadvertent errors/ omissions/ shortcomings and permit the Application to add/ modify/ change/alter these filings and make further submissions as may be required at a future date; and*
- d. *Pass any such order(s), as may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.*

5. The Commission observed the following:

- i. 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”.
- ii. Government of India, Ministry of Power vide Resolution No. 11/5/2005-PG(i) dated 13.4.2006 has notified the ‘Tariff based Competitive bidding Guidelines for Transmission Service’ (hereinafter referred to as ‘the Guidelines’) under Section 63 of the Electricity Act, 2003. The subject petition has been considered under the provisions of section 63 of the Electricity Act, 2003 and the aforesaid Guidelines issued by the Central Government.

6. Procedural History;

At the motion hearing held on 25/01/2022, the subject petition was admitted and the petitioner was directed to serve a copy of petition on Respondents within a week. The Respondents were directed to file their detailed replies to the subject petition within two weeks, thereafter. The petitioner was further directed to file its response on the reply received from the Respondents within

two weeks, thereafter. The petitioner was also directed to serve a copy of its response to Respondents simultaneously.

In view of the provisions under Section 63 of the Electricity Act, 2003, the petitioner and Respondent No. 3 were directed to submit the following information in soft copy and hard copies within two weeks:

- i. Details and supporting documents to demonstrate that the tariff in the subject matter has been determined through a transparent process of bidding as per section 63 of the Electricity Act, 2003.
- ii. To confirm on Affidavit that there has been no deviation from the standard bidding documents issued by the Central Government in this matter.
- iii. Detailed information indicating that all relevant provisions of the following guidelines have been complied with in this matter:
 - (a) Tariff Based Competitive Bidding Guidelines for Transmission Service and
 - (b) Guidelines for Encouraging Competition in Development of Transmission Projects issued by Government of India, Ministry of Power under Section 63 of the Electricity Act, 2003.

With the above directions, the case was fixed for hearing on 15th March, 2022.

7. By affidavit dated 05/03/2022, the petitioner broadly submitted the following:
 - i. *In accordance with the aforesaid daily order dated 25.01.2022, the Petitioner submits that the tariff in the subject matter had been determined through a transparent process of bidding envisaged under the provisions of Section 63 of the Electricity Act, 2003, Tariff Based Competitive Bidding Guidelines for Transmission Service and Guidelines for Encouraging Competition in Development of Transmission Projects (“Guidelines”) issued by Government of India, Ministry of Power. In this regard, the Petitioner placed on record the following details and supporting documents:*
 - ii. *The Government of Madhya Pradesh, vide its Gazette Notification No. F-3/02/2020/13 dated 13.04.2020, notified the Respondent No. 3/ RECTPCL to be the Bid Process Coordinator (“BPC”), as envisaged under Clause 3 of the Guidelines, for the purpose of selection of Bidder as Transmission Service Provider (“TSP”) for the proposed transmission work (as Annexure A-2 in the petition);*
 - iii. *Subsequently, the BPC on 20.08.2020, incorporated the Petitioner Company under the Companies Act, 2013, as its 100% wholly owned subsidiary to initiate the activities qua execution of the project, and to act as the TSP after being acquired by the Successful Bidder through the tariff based competitive bidding process (as Annexure A-3 in the petition);*

iv. That the BPC adopted a two-stage process featuring separate Request for Qualification dated 04.06.2020 (“RFQ”) and Request for Proposal dated 02.11.2020 (“RFP”) for the bidding process as per Clause 9.1 of the Guidelines read with Clause 4.1 of the Guidelines. It is stated that the said RFQ and RFP documents were formulated keeping in mind the format stipulated under Clauses 9.4 and 9.5 of the Guidelines respectively (RFQ as Annexure A-7 and RFP as Annexure A-9 in the petition);

v. The Petitioner has also placed on record the certificate dated 31.08.2021 confirming that the entire bidding process was conducted in a transparent manner, and in accordance with various guidelines issued by the Central Government (as Annexure A-16 in the petition);

vi. Pursuant to the bidding process, the Petitioner was selected as the Successful Bidder, the BPC had issued a Letter of Intent on 13.09.2021, in accordance with Clause 12.1 of the Guidelines (as Annexure A-11 in the petition).

As such, the Petitioner vide the present affidavit confirms that there has been no deviation from the bidding guidelines issued by the Central Government.

8. The Commission observed that the Respondent No. 3 (Bid Process Coordinator / REC Transmission Projects Co. Ltd.) by affidavit dated 05/03/2022 submitted information on the two-stage bid process for selection of the Transmission service provider for the project under the subject petition. By aforesaid affidavit, the Bid Process Coordinator broadly submitted the following:

i. As per the directions of the Hon’ble Madhya Pradesh Electricity Regulatory Commission vide its daily order in petition no. 58/2021 for adoption of transmission charges with respect to the transmission system being established by **M. P. Power Transmission Package- II Limited** (a wholly owned subsidiary of M/s Adani Transmission Limited), I hereby submit the following information:

a. Copy of the intimation letter dated 04.06.2020.

b. Copy of issued Request for Qualification (RFQ) document dated 04.06.2020.

c. Copy of issued Request for Proposal (RfP) documents comprising of the following:

1. RFP dated 02.11.2020 comprising Request for Proposal Document and Share Purchase Agreement.

- II. *Survey Report dated 06.11.2020*
- III. *Clarifications & Amendment-I dated 16.12.2020*
- IV. *Amendment to Survey Report dated 18.12.2020*
- V. *Amendment – II dated 24.12.2020*
- VI. *Amendment-III dated 31.12.2020*
- VII. *Additional Clarification & Amendment-IV dated 18.01.2021*
- VIII. *Additional clarification dated 22.01.2021*
- IX. *Amendment – V dated 29.01.2021*
- X. *Copy of Executed Transmission Service Agreement dated 05.02.2021*

d. It is hereby confirmed that the bidding process has been conducted as per Standard Bidding Documents & Tariff Based Competitive Bidding Guidelines issued by the Ministry of Power, GoI and no deviation has been taken from the same.

e. *It is hereby confirmed that all relevant provisions of the Tariff Based Competitive Bidding Guidelines for Transmission Service and Guidelines for Encouraging Competition in Development of Transmission Projects issued by Government of India, Ministry of Power under Section 63 of the Electricity Act, 2003 have been complied.*

f. *It is also confirmed that the tariff in the subject matter has been determined through a transparent process of bidding as per section 63 of the Electricity Act, 2003.*

g. *Copies of Minutes of the Meeting of Bid Evaluation Committee held on 02.09.2020, 25.09.2020, 14.10.2020, 26.02.2021, 08.03.2021, 15.03.2021, 01.04.2021 & 31.08.2021.*

h. *Detailed write up on the complete process of competitive bidding (RFQ and RFP stage) for selection of Transmission Service Provider (TSP) to establish “Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE – II” through Tariff Based Competitive Bidding process;*

i. *Key milestones of the Bidding Process.*

9. The Respondent No. 3 (RECTPCL) has also submitted the following on two stage bid process for selection of Transmission Service Provider for “Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE – II” through Tariff Based Competitive Bidding process:

- i. The Government of Madhya Pradesh vide its notification no. F-3/02/2020/13 dated 08.05.2020 has notified REC Transmission Projects Company Limited (presently known as REC Power Development and Consultancy Limited) to be the Bid Process Coordinator (BPC) for the purpose of selection of Bidder as Transmission Service Provider (TSP) to establish Intra-State transmission system for “Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE – II” through tariff based competitive bidding process.
- ii. RECPDCL incorporated a Special Purpose Vehicle (SPV) on 20.08.2020 viz. M. P. Power Transmission Package-II Limited, to initiate the project preparatory activities for the Project and carry out the process of selection of the developer under the competitive bidding framework.
- iii. The Energy Department, Government of Madhya Pradesh, for the purpose of selection of the developer, also constituted a Bid Evaluation Committee (hereinafter referred to as “BEC”) in line with the provisions laid out in the competitive bidding guideline for transmission, comprising the following member.

S. No.	Name	Designation
1.	Shri Sunil Tiwari, Managing Director MP Power Transmission Company Limited	Chairman of the Committee
2.	Shri S. P. Gupta, Chief Engineer (Procurement) MP Power Transmission Company Limited	Member
3.	Shri Mukul Mehrotra, Chief Finance Officer MP Power Transmission Company Limited	Member
4.	Shri Firoj Kumar Meshram, Chief General Manager MP Power Transmission Company Limited	Member
5.	Smt. Manjari Chaturvedi, Director (PSPA) Central Electricity Authority	Member
6.	Shri P S Hariharan Chairman (M. P. Power Transmission Package-II Limited)	Convener - Member of the Committee

- iv. RECPDCL issued the Request for Qualification (RFQ), based on the standard RFQ notified by the Ministry of Power, on 04.06.2020 in accordance with the “Tariff Based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by Government of India, Ministry of Power under section – 63 of The Electricity Act, 2003 and as amended.

v. RECPDCL received the Responses to RFQ from five (5) participants. The responses of the Bidders (list as per table below) were opened on 16.07.2020 in the presence of the Bidders' representatives.

S. No.	Name of the Bidder	Status of Bidder
1.	Adani Transmission Limited	Bidding Company
2.	Dilip Buildcon Limited	Bidding Company
3.	Power Grid Corporation of India Limited	Bidding Company
4.	Sterlite Grid 28 Limited	Bidding Company
5.	Torrent Power Limited	Bidding Company

vi. The Responses to the RFQ were evaluated and presented to the BEC on 02.09.2020.

vii. The BEC, in its meeting held on 02.09.2020, deliberated on various infirmities/ deficiencies / inconsistencies as stated in the presentation and after detailed discussion, BEC decided to seek clarifications and /or compliance from four (4) Bidders on various infirmities / deficiencies / inconsistencies as identified in the evaluation report.

viii. RECTPCL issued letters to the four (4) bidders, seeking necessary clarifications. All the bidders have responded clarifications within due date & time. The clarifications submitted by all the four (4) Bidders were evaluated by BPC. After detailed discussion, the Bid Evaluation Committee advised BPC to seek additional clarifications from Sterlite Grid 28 Limited on the discrepancies/deficiencies.

ix. RECTPCL issued letter to Sterlite Grid 28 Limited, seeking necessary additional clarifications. The last date for submission of clarifications was 07.10.2020 which was extended upto 09.10.2020. The clarifications submitted by Sterlite Grid 28 Limited was evaluated by BPC. Accordingly, based on the recommendation of the Bid Evaluation Committee, all the five (05) bidders are considered as qualified based on their submission of Response to RFQ and subsequent clarification/information submitted by them. In view of the same the qualification status of bidders are as follows: -

S. No.	Name of the Bidder	Whether qualified or not
1.	<i>Adani Transmission Limited</i>	Yes
2.	<i>Dilip Buildcon Limited</i>	Yes
3.	<i>Power Grid Corporation of India Limited</i>	Yes
4.	<i>Sterlite Grid 28 Limited</i>	Yes
5.	<i>Torrent Power Limited</i>	Yes

Accordingly, RECPDCL issued the notification to all the Qualified Bidders for sale of Request for Proposal (RFP) from 02.11.2020 onwards. Last date of submission of Bids was 01.01.2021 which was extended up to 22.02.2021.

- x. RECTPCL received bids from the following Four(4) Bidders by the Bid Deadline i.e. 22.02.2021:-

- a. *Adani Transmission Ltd*
- b. *Dilip Buildcon Limited*
- c. *Power Grid Corporation of India Limited*
- d. *Sterlite Grid 28 Limited*

The Non-Financial Bids of all the Four (4) Bidders were opened on 22.02.2021 in the presence of the Bidder's representatives.

- xi. The BEC met on 26.02.2021 to discuss on the evaluation of the Non-Financial Bids submitted by the Bidders. Based on the Evaluation Report, the BEC recommended seeking necessary clarifications from all the 4 participating bidders:

- a. *Adani Transmission Ltd*
- b. *Dilip Buildcon Limited*
- c. *Power Grid Corporation of India Limited*
- d. *Sterlite Grid 28 Limited*

- xii. Pursuant to the above, BPC sought clarifications from all the four (4) bidders. The clarifications submitted by all the bidders were evaluated by BPC and were found to be in order. Accordingly, based on the recommendation of the Bid Evaluation Committee, the Initial Offer of all the four (4) Bidders were opened on 15.03.2021 in the presence of the Bid Evaluation Committee. After opening of Initial Price Offer following situation emerged:

S. No.	Name of the Bidder	Levelised Transmission charges from Initial Offer (Rs in millions)	Rank
1.	Adani Transmission Ltd	1700.11	L1
2.	Sterlite Grid 28 Limited	1701.21	L2
3.	Dilip Buildcon Limited	1940.59	L3
4.	Power Grid Corporation of India Limited	1990.50	L4

xiii. Accordingly, the lowest Levelised Transmission Charges from the Initial Offer i.e. Rs. 1700.11 Million was informed to all the bidders which was the initial ceiling for quoting the Final Offer during e- Reverse Auction.

xiv. Subsequently, based on the lowest quoted IPO price, the e- Reverse Auction was initiated on 16.03.2021 at 1000 Hrs (IST). After 76 rounds of bidding following Levelised Transmission Charges for each bidder (in ascending order) emerged:

S. No.	Name of the Bidder	Levelised Transmission charges from Initial Offer (Rs in millions)	Levelised Transmission charges from Final Offer (Rs in millions)	Rank
1.	Adani Transmission Ltd	1700.11 (L1)	1326.45	L1
2.	Dilip Buildcon Limited	1940.59 (L3)	1329.78	L2
3.	Sterlite Grid 28 Limited	1701.21 (L2)	1396.74	L3
4.	Power Grid Corporation of India Limited	1990.50 (L4)	1463.04	L4

xv. As per the above, M/s Adani Transmission Limited emerged as the Successful Bidder after the conclusion of e-Reverse Auction with the lowest Levelised Transmission Charges of Rs. 1326.45 million which is also the final offer.

- xvi. *After detailed discussion on the evaluation report and verification of the bids, wherever required, the Bid Evaluation Committee in its meeting held on 01.04.2021, decided the following:*
- a) *M/s Adani Transmission Limited has emerged as the successful bidder after the conclusion of the e-reverse Auction with the lowest levelised Transmission Charges of Rs. 1326.45 Million.*
 - b) *The levelised tariff quoted by the lowest quoted bidder is higher than the estimated levelised tariff as per MPERC norms. However, the levelised tariff quoted by the lowest quoted bidder is at par with the estimated levelised tariff as per CERC tariff regulations. Additionally, considering that Inter-state Projects normally involve work at one or two sub-station sites where as in the present case the project involve multiple sub-station sites scattered across the State and also that the tariff has been discovered after 76 rounds of bidding in e-reverse auction, tariff discovered is aligned to prevailing prices.*
 - c) *In view of (a) & (b) above, the matter may be referred to Government of Madhya Pradesh and/ or Empowered Committee for consideration so that the LoI may be issued by BPC to M/s Adani Transmission Limited.*
- xvii. *Based on the above, Bid Process Coordinator, M/s REC Power Development and Consultancy Limited (RECPDCL) vide email dated 17.04.2021 forwarded the recommendations of Bid Evaluation Committee to MPPTCL for further necessary directions.*
- xviii. *Accordingly, MPPTCL vide letter dated 25.08.2021 has conveyed the approval of Government of Madhya Pradesh for issuance of Letter of Intent (LoI) and transfer of project specific SPV to the selected bidder i.e. M/s Adani Transmission Limited for "Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE-II".*
- xix. *After, the Bid Evaluation Committee meeting held on 31.08.2021, the Bid Evaluation Committee recommend that the Letter of Intent (LoI) may be issued to M/s Adani Transmission Limited for "Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE -II".*
- xx. *Based on the decisions taken by the BEC, RECPDCL issued the LoI to M/s Adani Transmission Limited on 13.09.2021.*

xxi. As per the provisions of the RFP and TSA, M/s Adani Transmission Limited paid the Acquisition Price for acquisition of 100% of shares in M. P. Power Transmission Package-II Limited from RECPDCL, along with the Contract Performance Guarantee as per terms of the RFP.

The Share Purchase Agreement was executed between REC Power Development and Consultancy Limited and M/s Adani Transmission Limited on 01.11.2021.

10. At the next hearing held on 15th March, 2022, the following was observed by the Commission:

- i. By Affidavit dated 01/03/2022, the petitioner submitted that petition was served on MPPMCL on 07/02/2022 & RECTPCL on 10/02/2022.
- ii. By Affidavit dated 05/03/2022, the petitioner submitted that the tariff in the subject matter had been determined through a transparent process of bidding under Section 63 of the Electricity Act, 2003. The petitioner also submitted copy of Certificate dated 31/08/2021 issued by the Bid Evaluation Committee confirming that the entire bidding process was conducted in a transparent manner and in accordance with the Guidelines issued by the Central Government.
- iii. Respondent No. 2 (MPPTCL / STU) vide letter No. 6747 dated 04/03/2022, submitted that it has No Objection in the subject petition for adoption of Transmission Charges with respect to the Transmission system to be constructed / implemented by the petitioner.
- iv. Respondent No. 3 (RECTTPCL / Bid process Coordinator) by affidavit dated 03/03/2022 submitted details about the bidding process along with supporting documents.
- v. The petitioner and Respondent No. 3 have confirmed that the bidding process has been conducted as per Standard Bidding Documents and Tariff Based Competitive Bidding Guidelines issued by the Ministry of Power, Government of India and no deviation has been taken from the same.
- vi. Respondent No. 1 (MPPMCL) stated that they do not wish to file any written reply and they have nothing to say in this matter. This statement was recorded by the Commission in the daily order dated 16/03/2022.

In view of the foregoing and the documents on record, the case was reserved for Order.

11. The Commission observed that the petitioner has filed certificate dated 31/08/2021 issued by the Bid Evaluation Committee (BEC) at Annexure No. A16 of the petition. The Bid Evaluation Committee comprised of following:
- Shri Sunil Tiwari, Managing Director, MPPTCL (Chairman, BEC)
 - Shri Ajay Kumar Shrivastava, Chief Engineer (Procurement), MPPTCL
 - Shri Chetan Jaiswal, Chief Finance Officer, MPPTCL
 - Shri Firoj Kumar Meshram, Chief General Manager, MPPMCL
 - Ms. Manjari Chaturvedi, Director (PSPA-1), CEA
 - Shri J K Nayak, Director SPV.

The above Certificate dated 31/08/2021 issued by the Bid Evaluation Committee mentions as under:

“It is certified that:

- 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.
 - M/s Adani Transmission Limited emerged as the successful bidder after conclusion of e-Reverse Auction with the lowest **Levelised Transmission Charges of Rs 1326.45 Million.**
 - As the tariff has been discovered after e-bidding followed by e-reverse auction, tariff discovered is reasonable.
12. The Commission further observed that the petitioner has filed copy of Letter of Intent at Annexure No. 11 at page No. 429 to 435 of the petition. This Letter of Intent issued vide letter no. RECPDCL/MP Pkg-II/RFP/2021-22/1284 dated 13/09/2021 by REC Power Development and Consultancy Limited (Bid Process Coordinator) has enclosed the transmission charges quoted by the Bidder (M/s Adani Transmission Limited). The first-year transmission charge is Rs 1744.02 Million and the last year transmission charge is Rs 1220.82 Million. The aforesaid transmission charges for each year quoted by M/s. Adani Transmission Limited is annexed as Appendix-I to this order.
13. The Commission vide order dated 04th May 2022 in petition No. 59 of 2021 has approved Transmission License to the petitioner “**M. P. Power Transmission Package-II Limited**” to establish the Transmission System consisting of elements mentioned in para 3(i) of the aforesaid order, in accordance with the provisions of sections 14 & 15 of the Electricity Act, 2003 on the terms and conditions specified therein. Subsequently, in accordance with the procedure prescribed under Regulations 1.29 & 1.30 of the MPERC (Procedure of Application for License) Regulations, 2004, the Transmission License No. TL/3 dated 17/05/2022 was

issued to the petitioner. The aforesaid Transmission License is for a period of 25 years in accordance with the provisions under section 15(8) of the Electricity Act, 2003. The expiry date of the Transmission Service Agreement is 35 years from the scheduled COD of the project. As per the conditions of the aforesaid License, the licensee may make an application, two years before the expiry of the initial License period, for grant of License for another term in accordance with the MPERC (Procedure of Application for License) Regulations, 2004.

14. In view of foregoing, it is observed from the details and documents placed on record by the petitioner and the Respondents that selection of successful bidder for the project in subject matter has been carried out by the Bid Process Coordinator (RECTPCL) through a transparent process of competitive bidding in accordance with the Guidelines issued by the Ministry of Power, Government of India under section 63 of the Electricity Act, 2003. The petitioner & Respondents have confirmed that no deviation has been taken from the same. The Bid Evaluation Committee in its certificate dated 31/08/2021 has certified that 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 its amendment from time to time. It is also certified by the Bid Evaluation Committee that the petitioner has emerged as the successful bidder after conclusion of e-Reverse Auction with the lowest Levelised Transmission Charges of Rs **1326.45 Million**. The Bid Evaluation Committee has considered the aforesaid levelized transmission charges as reasonable. Based on the documents, submissions and the certificate dated 31/08/2021 issued by the Bid Evaluation Committee on record, the Commission hereby adopts the transmission charges for the project as per Appendix - I to this order, under section 63 of the Electricity Act, 2003.

15. The petition stands disposed of in terms of the above.

(Gopal Srivastava)
Member (Law)

(Mukul Dhariwal)
Member

(S. P. S. Parihar)
Chairman

Applicable transmission charges for “M. P. Power Transmission Package-II Limited”

Year	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (Rs. in Millions)	Escalable Transmission Charges (Rs.in Millions)
1	20-Mar-23	31-Mar-23	1744.02	Nil
2	01-Apr-23	31-Mar-24	1744.02	Nil
3	01-Apr-24	31-Mar-25	1744.02	Nil
4	01-Apr-25	31-Mar-26	1744.02	Nil
5	01-Apr-26	31-Mar-27	1744.02	Nil
6	01-Apr-27	31-Mar-28	1744.02	Nil
7	01-Apr-28	31-Mar-29	1744.02	Nil
8	01-Apr-29	31-Mar-30	1220.82	Nil
9	01-Apr-30	31-Mar-31	1220.82	Nil
10	01-Apr-31	31-Mar-32	1220.82	Nil
11	01-Apr-32	31-Mar-33	1220.82	Nil
12	01-Apr-33	31-Mar-34	1220.82	Nil
13	01-Apr-34	31-Mar-35	1220.82	Nil
14	01-Apr-35	31-Mar-36	1220.82	Nil
15	01-Apr-36	31-Mar-37	1220.82	Nil
16	01-Apr-37	31-Mar-38	1220.82	Nil

17	01-Apr-38	31-Mar-39	1220.82	Nil
18	01-Apr-39	31-Mar-40	1220.82	Nil
19	01-Apr-40	31-Mar-41	1220.82	Nil
20	01-Apr-41	31-Mar-42	1220.82	Nil
21	01-Apr-42	31-Mar-43	1220.82	Nil
22	01-Apr-43	31-Mar-44	1220.82	Nil
23	01-Apr-44	31-Mar-45	1220.82	Nil
24	01-Apr-45	31-Mar-46	1220.82	Nil
25	01-Apr-46	31-Mar-47	1220.82	Nil
26	01-Apr-47	31-Mar-48	1220.82	Nil
27	01-Apr-48	31-Mar-49	1220.82	Nil
28	01-Apr-49	31-Mar-50	1220.82	Nil
29	01-Apr-50	31-Mar-51	1220.82	Nil
30	01-Apr-51	31-Mar-52	1220.82	Nil
31	01-Apr-52	31-Mar-53	1220.82	Nil
32	01-Apr-53	31-Mar-54	1220.82	Nil
33	01-Apr-54	31-Mar-55	1220.82	Nil
34	01-Apr-55	31-Mar-56	1220.82	Nil
35	01-Apr-56	31-Mar-57	1220.82	Nil
36	01-Apr-57	19-Mar-58	1220.82	Nil