

ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Present: Shri S. P. Nanda, Chairperson
Shri B. K. Misra, Member
Shri S. P. Swain, Member

Case No.114 of 2012

M/s. Kalinga Bidyut Prasaran Nigam Ltd.	Petitioner
Vrs		
M/s. CESU & Others	Respondents

In the matter of: **An application under Section 14 & 15 of the Electricity Act, 2003 read with Section 26 of the Odisha Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 for grant of Transmission License for undertaking of Intra-State transmission in the State of Odisha by M/s. Kalinga Bidyut Prasaran Nigam pvt. Ltd. (a joint venture between M/s. PGCIL & M/s. OPTCL).**

For the petitioner: Shri R. P. Mohapatra, the authorized representative
 Shri D. Chakraborty, AGM, M/s. Power Grid Corporation of India Ltd., the Joint Venture Company of Ms. KBPNPL.

For the respondents: Shri L. N. Mohapatra, Advocate on behalf of OPTCL,
 Shri B. P. Mishra, GM(RT&C), OPTCL,
 Shri Sudarshan Nayak, CEO, CESU,
 Ms. Niharika Pattanayak, ALO, DoE, GoO,
 Shri Bibhu Charan Swain, Sr. Consultant, M/s. Power tech Consultants. Nobody is present on behalf of the GRIDCO, SLDC, WESCO, NESCO, SOUTHCO and Central Electricity Authority, New Delhi.

Hearing date: 30.07.2013

Order date:25.09.2013

ORDER

M/s. Kalinga Bidyut Prasaran Nigam Pvt. Ltd. (in short KBPNPL) a Joint Venture Company formed between Odisha Power Transmission Corporation Limited (OPTCL) and Power Grid Corporation of India Limited (in short POWERGRID) on 50:50 share basis, have filed an application under Section 14 and 15 of Electricity Act, 2003 read with Section 26 of the OERC (Conduct of Business) Regulation, 2004 for grant of Intra-State Transmission Licence for undertaking Intra-State Transmission projects in the State of Odisha. A Public Notice

regarding the said application for Transmission Licence had been published by M/s. KBPNPL under Section 15 (2) of the Act on 05.01.2013 in the newspaper inviting objections on the grant of such licence. But no objection had been received by the Commission on the above application of M/s. KBPNPL within the due date i.e. within 30 days from the date of publication. In the meantime, the Commission scrutinized the application of M/s. KBPNPL and directed them to furnish some relevant documents required for the purpose. After, receipt of the required documents from the applicant, a Public Notice was issued by the Commission under Section 15(5) of Electricity Act, 2003 inviting suggestions/ objections if any from the public on grant of transmission licence to M/s. KBPNPL for undertaking intra-State transmission in the State of Odisha. Thereafter, only one objection/suggestion has been received by the Commission from M/s. Power Tech Consultant Ltd. on 06.06.2013 and the matter was heard on 30.07.2013.

2. M/s. KBPNPL has submitted that the present peak demand of the State of Odisha is around 3500 MW and by the end of 12th Five Year Plan it is estimated to be around 6300 MW. This requires significant additional investments in the Intra-State Transmission System. Further due to setting up of a number of Independent Power Producers (IPPs) / Ultra Mega Power Projects (UMPPs)/ expansion of OPGC plants etc., it is expected that by the end of 12th Plan period, the total additional thermal generation capacity of about 48000 MW would come up in the State, out of which the State share would be to the tune of about 12000 MW. In order to meet the requirement intra-State transmission of power as well as evacuation of power from the upcoming generating plants, it has become imperative to develop Intra-State Transmission System in the State at an estimated cost of 10,000 Cr. which will be utilized for creation of the additional transmission capacity during the 12th Plan period. It is proposed that such investments will be facilitated / supplemented through the proposed joint venture company M/s. KBPNPL.
3. The representative of M/s. KBPNPL submitted that they have entered into the Implementation and Transmission Service Agreement (ITSA) with GRIDCO under which they shall make available entire transmission capacity created by it to OPTCL. Thereafter, GRIDCO as an Integrator and Aggregator within the State of Odisha would pay the transmission charges with appropriate Payment Security Mechanism (PSM) such as escrow arrangement etc. M/s. KBPNPL intends to undertake Intra-State Transmission on cost plus basis wherein the tariff of its assets shall be determined by

OERC as per relevant Regulation. M/s. KBPNPL has prayed the Commission to declare it as a transmission licensee in the State of the Odisha under Section 40 of the OERC (Conduct of Business) Regulations, 2004.

4. The representative of OPTCL in support of the above submitted that M/s. KBPNPL is the JV of OPTCL and M/s. POWERGRID. Manpower of this company is envisaged to be drawn from both the partners besides open market. Thus the human resources of the company would a talent pool having sufficient expertise and managerial capability to discharge transmission business in a sustainable manner.
5. However, the representative of OPTCL further submitted that the Govt. of Odisha, Dept. of Energy in their letter No. 235 dtd. 05.01.2013 have approved 20 nos. of projects to be executed by the joint venture company i.e. M/s. KBPNPL in two phases i.e. 10 no. of projects in Phase-I (2015-16) and balance 10 no. of projects in Phase –II (2016-17). The said joint venture company being the first of its kind in the State, its success could be known after it becomes operational and starts executing the allotted projects. Therefore, OPTCL submitted that the transmission license may be granted in favour of M/s. KBPNPL in respect of the 10 projects to be executed in Phase-I and licence for subsequent project should be granted later on depending upon the execution / progress of the projects in Phase-I. OPTCL has further pointed out that CERC has framed Regulations providing therein for grant of Transmission License for specific projects. Para 2 (q), 7 (4), 7 (7), 7 (14), 10 (2), 10 (3) and 10 (4) of CERC (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 stipulate that the Transmission License has to be project specific. CERC has also granted Transmission License to some of the joint venture companies to carry out specific Inter-State Transmission Projects. In view of the above, OPTCL has prayed the Commission to take into consideration the above facts while granting the license in favour of the applicant.
6. The representative of M/s. Power Tech Consultants submitted that at present OPTCL (the STU) is plagued with the problem of system inadequacy to handle the existing load in one hand and in other hand it has to meet the system demand for additional generation to be inducted in the system for meeting the load growth. It seems that OPTCL has no source of finance to deal with the system improvement schemes for which they have formed the Joint Venture Company (JVC) with M/s. POWERGRID. He welcomed and supported the petition filed by the JV M/s. KBPNPL for carrying

out the business of transmission inside the State. However, the license to be granted for to JV Company should be for specific purpose. The investment to be made by the JV Company and consequential tariff should be approved by the Commission. In view of the above the applicant should furnish (a) List of works to be undertaken by the JV Company (b) estimated cost of the project (c) Mode of financing of the project (d) Tariff to be adopted (e) Scheme of operation of the JV Company.

7. Replying to the above objection raised by M/s. OPTCL and M/s. Power Tech Consultants, M/s. KBPNPL has submitted that CERC (Procedure, Terms and Conditions for grant of Transmission License and other related matters) Regulations, 2009 framed to regulate grant of transmission license is only for project which form element(s) of the Inter-State transmission system included in the transmission plan. But M/s. KBPNPL has filed this application before this Commission for grant of transmission license in the State of Odisha as per Clause 26(3) of the OERC (Conduct of Business) Regulations, 2004 laid down in the prescribed form as contained in Appendix- 3B, wherein the details of the area of transmission i.e. the boundaries of the proposed area of transmission and coverage of the transmission network has categorically stated which is within the State of Odisha. The Agreement dated 04.01.2013 executed between the petitioner and M/s.OPTCL provides that the projects to be implemented by the petitioner should be as per the Notification No.235 dated 05.01.2013 issued by the Department of Energy, Govt. of Odisha which is included in Implementation and Transmission Service Agreement (ITSA). However, the petitioner may implement more projects in future as per Notification to be issued by DoE, GoO from time to time with the prior approval of the Commission. Hence the objections raised by M/s. OPTCL may not be accepted by the Commission.
8. Replying to the objection raised by M/s. Power Tech Consultants, M/s. KBPNPL has submitted that M/s. KBPNPL intends to undertake Intra-State Transmission on cost-plus basis to be determined by the Commission as per the relevant regulations. At present OERC has not framed a detailed Regulation for determination of transmission tariff. Hence, the Commission may determine the tariff on cost-plus basis as suggested by the petitioner.
9. We heard the present applicant for transmission licence, the State Transmission Utility (OPTCL) and the objector in detail. The importance of development of transmission network in view of normal load growth and evacuation of power from upcoming IPPs

in the State can't be underestimated. National Electricity Policy in Para 5.3.2 states as follows:

“5.3.2. Keeping in view the massive increase planned in generation and also for development of power market, there is need for adequately augmenting transmission capacity. While planning new generation capacities, requirement of associated transmission capacity would need to be worked out simultaneously in order to avoid mismatch between generation capacity and transmission facilities.”

A well planned and strong transmission system will ensure not only optimal utilization of transmission capacity and generation facilities, it would also facilitate achieving ultimate objective of cost effective delivery of power. The State Transmission Utility has now over 100 Grid sub-stations and associated transmission line nearing about 10,000 ckt. km. There are several new Grid sub-stations such as Lapanga, Dhamara and Umarkote etc. are in the anvil. Similarly, OPTCL has also embarked upon constructing new transmission lines such as Bidanasi-Cuttack, Meramundali-Duburi etc. which would cater to the demand of a resurgent State. Therefore, considering upcoming projects of OPTCL the magnitude of sub-stations and transmission lines would likely to take a quantum jump in near future. The State Transmission Utility has multifarious activities as mandated under Section 39 of the Electricity Act. The wherewithal of the STU at present is also limited. It may not be in a position to do justice to all the works assigned to it. Therefore, at this juncture the application of M/s. KBPNPL is very much relevant. It is worthwhile to mention recital (E) of the Shareholders' Agreement between M/s. OPTCL, M/s. PGCIL and M/s. KBPNPL, here which indicate that *“E. during the interaction between officials of Govt. of Odisha, M/s.OPTCL and M/s. POWERGRID, it was felt that development of the Intra-State transmission system in Odisha can be expedited through collaboration with M/s. POWERGRID in view of its all-round expertise including multi-lateral funding. It was considered appropriate that the transmission system may be develop through a Joint Venture between M/s. OPTCL and POWERGRID”*. Further, in the Gazette Notification No.10331 of Energy Dept. of Govt. of Odisha dtd. 28.12.2012 it is stated that the formation of JV Company with Central/State PSUs will help infusion of fund and techno- managerial competence leading to overall improvement in technical and managerial skills of State Utilities. In addition to that as per recital F of Shareholder Agreement of Joint Venture Company the proposed transmission system in Odisha shall be implemented and operated by the JV Company on Build, Own and Operate

(BOO) basis. Accordingly, in summary synergy between OPTCL and PGCIL would bring about expertise and resources in the transmission sector of Odisha which is starved of those ingredients.

10. Therefore, grant of transmission license to M/s. KBPNPL would be a timely action for us. It would not only bestow required financial resource and expertise to the transmission sector of Odisha but also stimulate competition in this sector which is the corner stone of the Electricity Act. Projects to be carried out by the JV Company shall be as per the decision of their Board with concurrence of Administrative Dept. of the State Government and investment for the same should be duly approved by the Commission.
11. In the light of the above observation, the Commission now grant the Transmission license to M/s. KBPNPL (a Joint Venture Company formed between Odisha Power Transmission Corporation Limited (OPTCL) and M/s. Power Grid Corporation of India Limited (POWERGRID) for implementing intra- State transmission projects as assigned by the Administrative Department i.e Dept. of Energy, Govt. of Odisha and also to be included in Implementation and Transmission Service Agreement (ITSA) with GRIDCO Ltd. by the JV Company. The Govt. of Odisha vide Lr. No. 235 dtd. 05.01.2013 have approved the following projects at the first instance to be executed in first phase which is as follows:

Phase –I (2015-16)

- New 400 KV Switching Station at Meramundali-B for IPP evacuation
- Meramundali – Meramundali-B 400 KV D/C line
- Keonjhar (PG)- Rourkela (PG) 400 KV D/C line (Space constraints at Rourkela, additional land may be required- (150 Km.)
- New 2 x 315 MVA, 400/220 KV S/s at Bhadrak.
- LILO of Duburi – Paradeep 400 Kv D/c line (proposed under PPP) at Bhadrak (80 km.)
- LILO of Bhadrak – Balasore 220 kV D/C line at Bhadrak 400 KV S/s. (20 km.)
- 220 KV Bhadrak-Dhamra line (10 km) (to be connected with the proposed line of OPTCL under construction – 40 km.)
- New 2 x 160 MVA, 220/132 kv S/s. at Karanjia (New)
- 220 kV D/C line from Keonjhar (PGCIL) to Karanjia (50 Km.)
- LILO of 132 kV Karanjia – Polasapanga line at Karanjia (New) (10 km)

The JV Company shall make available the entire transmission capacity to be created by implementing the above projects to GRIDCO, the State designated agency or its successor. The Petitioner is required to seek prior approval of the Commission for the above investment as per Clause 10.1 of the Licence Condition. As and when Govt. of Odisha gives approval for new projects not covered under Phase-I the Petitioner is also required to seek further approval from the Commission for that investment. Now, the Commission also approve the Licence Conditions for Transmission Licence granted to M/s. KBPNPL which is annexed to this order and shall be treated as a part of this order.

12. The Secretary of the Commission is directed to inform the applicant the present approval of Transmission Licence and its associated conditions including the initial and periodical Licence Fees to be paid by the applicant for the grant of the Licence. The Secretary of the Commission is also directed to publish the name and address of the Petitioner in two Odia and one English Newspaper having wide circulation in the State stating the proposal of the Commission to grant Transmission Licence to it. The applicant is directed to intimate its acceptance of the Transmission Licence and its condition to the Commission within 15 days from the date of issue of this Order.
13. After acceptance of the Transmission Licence, M/s. KBPNPL is also directed to keep its licence conditions in its websites and make available the copy of the said licence conditions to the interested persons on payment of reasonable charge. Thereafter, the petitioner is directed to publish a public notice in one English and two Odia dailies having largest circulation in the State of Odisha for two consecutive days, informing the general public about gist of its licence conditions approved by the Commission.
14. The Registry of the Commission is directed to send the copy of this order along with the text of the licence conditions of the aforesaid Transmission Licence to the Deptt. of Energy, Govt. of Odisha and Central Electrical Authority, Govt. of India.
15. Accordingly the matter is disposed of.

Sd/-
(S. P. Swain)
Member

Sd/-
(B. K. Misra)
Member

Sd/-
(S. P. Nanda)
Chairperson