

Subject: In the matter of petition filed 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-I Limited.

Petition No. 1 / 2023

ORDER

(Date of Order: 10th October, 2023)

M. P. Power Transmission Package - I Limited
2nd Floor, Niryat Bhawan, Rao Tularam Marg,
Vasant Vihar, New Delhi - 110057

- **Petitioner**

V/s

- 1) Managing Director**
M.P. Power Management Company limited
Shakti Bhawan, Rampur, Jabalpur – 482008
- 2) Managing Director**
M.P. Power Transmission Company Limited
Shakti Bhawan, Rampur, Jabalpur – 482008
- 3) Chief Executive Officer**
REC Power Development and Consultancy Limited
REC Corporate Head Quarter, Gurugram – 122001
- 4) Principal Secretary**
Government of MP,
Energy Department, Mantrallaya, Bhopal - 462004

- **Respondents**

Shri Yogesh Bhatnagar, Advocate appeared on behalf of the Petitioner.

Shri Manoj Dubey, Advocate & Shri Vishvat Chouhan, Manager appeared on behalf of Respondent No. 1.

Shri Anand Dubey, SE, Shri Hitesh Tiwari, EE & Shri Abhinav Anand, AE appeared on behalf of Respondent No. 2.

Shri P. S. Hariharan, CGM, Shri Anil Yadav, Manager & Shri Amit Chatterjee, Executive appeared on behalf of Respondent No. 3.

Shri Sameer Kumar Nagotia, ED appeared on behalf of Respondent No. 4.

The subject petition has been filed by M. P. Power Transmission Package – I 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-I Limited.

2. **Petitioner's submission:**

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

- i. *M. P. Power Transmission Package-I Limited has filed the present Application under Section 63 of the Electricity Act, 2003 (In short 'EA 2003') for Adoption of Tariff / Transmission Charges with respect to the Transmission System to be implemented by M.P. Power Transmission Package-I Limited. The said transmission charges were discovered through transparent process of bidding process conducted by REC Power Development & Consultancy 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.*
- ii. *The Government of Madhya Pradesh, vide its Gazette Notification No.F-3/02/2020/13 dated 08.05.2020, 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 - I".*
- iii. *The BPC, on 04/08/2020, incorporated M.P. Power Transmission Package-I 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, Memorandum of Association and Article of Associations of the Applicant Company is enclosed.*
- iv. *BPC invited all prospective Bidders vide a standard Single Stage Request for Proposal (hereinafter referred to as "RFP") Document 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- I" on build, own, operate & maintain basis. A copy of the Global Invitation for Qualification as published in the newspapers is enclosed herewith.*
- v. *Megha Engineering & Infrastructures Limited qualified as a participant for the RFP process. BPC communicated vide its Letter dated 22/11/2022 that the offer received from Megha Engineering & Infrastructures Limited., was accepted and declared as a successful Bidder.*
- vi. *Pursuant to the above process of competitive bidding conducted by the BPC, M/s.Megha Engineering & Infrastructures Limited has been declared as the successful bidder, and accordingly, the BPC, on 29.11.2022 issued a Letter of Intent (hereinafter referred to as*

"Lol") in favour of Ms Megha Engineering & Infrastructures Limited. A copy of the Letter of Intent (Lol) dated 29.11.2022 along with the details of Annual Transmission Charges is enclosed.

- vii. The BPC vide its letter dated 14/12/2022 had intimated Petitioner i.e. Megha Engineering & Infrastructures Limited that the total acquisition price of MP Power Transmission Package I Limited is Rs. 6,76,00,515/- for Acquisition of 100 % of equity shareholding along with all its related assets and liabilities.
- viii. Subsequently, the BPC (RECPDCL), on behalf of M.P. Power Transmission Package-I Limited, entered into a Transmission Service Agreement (hereinafter referred to as the "TSA") dated 21.01.2023 with the identified Long Term Transmission Customers.
- ix. The levelized tariff proposal submitted by Megha Engineering & Infrastructures Limited. was Rs 1474.69 million. A copy of the TSA dated 21.01.2023 is enclosed.
- x. In accordance with the Lol, Megha Engineering & Infrastructures Limited on 19/01/2023 furnished the Contract Performance Guarantees (hereinafter referred to as the "PG") for an aggregate value of Rs. 28.90 Crores separately in favour of Long-Term Transmission Customers of the RFP documents and as per the provisions of Clause 2.21 of the RFP documents. A copy of the CPG dated 19/01/2023 furnished by M/s Megha Engineering & Infrastructures Limited, is enclosed. A copy of the letter issued by M/s Megha Engineering & Infrastructures Limited dated 20/01/2023 is also enclosed.
- xi. M/s Megha Engineering & Infrastructures Limited, on 19/01/2023, intimated the BPC that the amount for Acquisition Price had been transferred, and that, the Bank Guarantee has also been furnished.
- xii. M/s Megha Engineering & Infrastructures Limited acquired M.P. Power Transmission Package-I Limited on 21.01.2023 after execution of the Share Purchase Agreement (SPA), and completed all procedural requirements as contemplated under the bid documents.
- 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-I Limited from REC Transmission Projects Company Limited, who shall sell to the Selected Bidder, the equity shareholding of MP Power Transmission Package-I 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-I Limited, along with all its related assets and liabilities, shall also be borne by the Selected Bidder.

- d) 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).*
- e) Within five (5) working days of the issue of the acquisition of the SPV by the Successful Bidder, the TSP shall apply to the State Commission for grant of Transmission License and make an application to the State Commission for the adoption of Transmission Charges, as required under Section – 63 of The Electricity Act 2003.*

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. 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:

The bidding process is transparent; and 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 Bid Evaluation Committee certificate dated 22/11/2022 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.

- xiv. 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 M/s. Megha Engineering & Infrastructures Limited), with respect to the subject transmission project.*
- xv. 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.*
- xvi. 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.*

3. With the above submission, the Petitioner prayed that the Commission may be pleased to:
 - a. Allow the present application, thereby adopting Transmission Charges for M.P. Power Transmission Package-I 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 21.01.2023 if the elements) of the Project are commissioned on/ before the original Scheduled Commercial Operation Date (SCOD);

Commission's Observations:

4. 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 dated 10th August, 2021 has notified the “Guidelines for Encouraging Competition in Development of Transmission Projects” and ‘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.

5. Procedural History:

- i. At the motion hearing held on 21/02/2023, the Petitioner sought 10 days’ time for submitting all documents in hard & soft copy to complete the petition as per the provisions of the Electricity Act, 2003 and the MPERC (Procedure of Application for License) Regulations, 2004. The Petitioner’s request for 10 days’ time as above was allowed by the Commission.
- ii. At the motion hearing held on 21/03/2023, the Petitioner was heard and the petition was admitted. The Petitioner was directed to serve a copy of the subject petition on Respondents within a week. The Respondents were directed to file their detailed reply to the subject petition within two weeks, thereafter and a copy of the same be served to the Petitioner simultaneously. The Petitioner was further directed to file its response on the reply received from the Respondents within one week, thereafter and simultaneously serve a copy of its response to opposite parties in this matter. The Commission recorded its observations and the parties were asked to clarify the following:
 - a. TSA dated 21/01/2023 filed with the petition mentions “build, own, operate and **transfer** basis” at paragraphs A, B and other places. However, paragraphs 4 and other parts of the petition mention the basis as “build, own, operate & **maintain**”. This discrepancy was required to be rectified.

- b. Section 63 of the Electricity Act, 2003 provides that “*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*”. In view of the above, the Petitioner and Respondents were directed to submit the following information 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) Confirm on Affidavit that there has been no deviation from the standard bidding documents issued by the Central Government in this matter.
 - (iii) Copy of Accepted Letter of Intent.
 - (iv) Detailed information indicating that all relevant provisions of the following Guidelines dated 10/08/2021 issued by Government of India, Ministry of Power under Section 63 of the Electricity Act, 2003 have been complied in this matter:
 - (a) Tariff Based Competitive Bidding Guidelines for Transmission Service and
 - (b) Guidelines for Encouraging Competition in Development of Transmission Projects.
6. i. By affidavit dated 10/04/2023, the Petitioner broadly submitted amendment to the petition and prayed the Commission to allow it to delete the word “maintain” in para no. 4 of the petition and to allow to substitute “maintain” by “transfer”. The amended petition is as mentioned at para 2 of this Order.
- ii. Further, the Petitioner by letter dated 12/04/2023, submitted a copy of accepted letter of intent and stated that it has served copy of the petition to the Respondents by speed post on 27/03/2023 and submitted copy of documents in support of its submission.
- iii. The Respondent No. 1 (MPPMCL) submitted letter No. 52 dated 19/04/2023 enclosing Affidavit dated 18/04/2023 broadly stating that the subject petition appears to be in order in terms of the bid documents and the TSA dated 21/01/2023, except as pointed out by the Commission that the word “maintain” should be replaced by the word “transfer” in the petition in line with the clause D at page No. 4 of the TSA dated 21/01/2023. If the transmission license is granted in favour of the Petitioner in due course, the transmission charges as claimed may be adopted by the Commission.
- iv. The Respondent No. 2 (MPPTCL) submitted letter No. 258 dated 13/04/2023 stating its “No Objection” to the subject petition.

7. The Commission observed that the Respondent No. 3 (Bid Process Coordinator / REC TPCL / presently REC PDCL) by affidavit dated 06/04/2023 submitted information on the bid process for selection of the Transmission service provider for the project under the subject petition. By aforesaid affidavit, the BPC broadly submitted the following:
- 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 – I” through tariff based competitive bidding process;*
 - iii. *That M/s Megha Engineering & Infrastructures Limited has emerged as the Successful Bidder for the said project;*
 - iv. *That M/s REC Power Development and Consultancy Limited has executed the Share Purchase Agreement with M/s Megha Engineering & Infrastructures Limited for transfer of 100% of shares in M. P. Power Transmission Package – I Limited (a company incorporated by M/s REC Power Development and Consultancy Limited for initiating the project activities) on receipt of the Acquisition Price and Contract Performance Guarantee by M/s Megha Engineering & Infrastructures Limited, in line with the provisions of the bidding framework and bidding documents;*
 - v. *That, I hereby submit the following information as per the directions of the Hon’ble Madhya Pradesh Electricity Regulatory Commission vide its petition no. 01/2023 & 02 of 2023 with respect to adoption of transmission charges & grant of Transmission license to M.P. Power Transmission Package –I Limited (a wholly owned subsidiary of M/s Megha Engineering & Infrastructures Limited), I hereby submit the following information:*
 - a. *Copy of the intimation letter dated 31.12.2021 to the Hon’ble Commission*
 - b. *Copy of issued Request for Proposal (RfP) documents comprising of the following:*
 - I. *RFP dated 31.12.2021 comprising Request for Proposal Document and Share Purchase Agreement.*
 - II. *Survey Report dated 11.02.2022*
 - III. *Amendment-I dated 04.03.2022*
 - IV. *Amendment-II & Clarifications dated 10.03.2022*
 - V. *Additional Clarifications dated 29.03.2022*
 - VI. *Amendment-III dated 04.04.2022*
 - VII. *Additional Clarifications dated 16.04.2022*
 - VIII. *Amendment-IV dated 18.04.2022*
 - IX. *Copy of Executed Transmission Service Agreement dated 21.01.2023*
 - X. *Copy of accepted Letter of Intent.*
 - c. ***It is hereby confirmed that the bidding process has been conducted as per Standard Bidding Documents & Tariff Based Competitive Bidding Guidelines issued by issued by the Ministry of Power, GoI and no material change has been made.***
 - d. ***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 Act, have been complied.***

- e. *It is also confirmed that the 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.*
- f. *Copies of Minutes of the Meeting of Bid Evaluation Committee held on 29.04.2022, 18.05.2022, 25.05.2022, 31.05.2022 & 14.06.2022 and 22.11.2022.*
- g. *Detailed write up on the complete process of competitive bidding for selection of Transmission Service Provider (TSP) to establish “Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE – I” through Tariff Based Competitive Bidding process;*
- h. *Key milestones of the Bidding Process.*
8. The Respondent No. 3 (RECTPCL) vide Affidavit dated 06/04/2023 has also submitted copy of relevant documents along with a write up on the single 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 – I” through Tariff Based Competitive Bidding process:
- i. *RECPDCL incorporated a Special Purpose Vehicle (SPV) on 04.08.2020 viz. M. P. Power Transmission Package-I 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.*
- ii. *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.	<i>Shri Sunil Tiwari, Managing Director MP Power Transmission Company Limited</i>	<i>Chairman of the Committee</i>
2.	<i>Shri Ajay Kumar Shrivastava, Chief Engineer (Procurement), MP Power Transmission Company Limited</i>	<i>Member</i>
3.	<i>Shri Chetan Jaiswal, Chief Finance Officer MP Power Transmission Company Limited</i>	<i>Member</i>
4.	<i>Shri Firoj Kumar Meshram, Chief General Manager, MP Power Transmission Company Limited</i>	<i>Member</i>
5.	<i>Smt. Manjari Chaturvedi, Director (PSPA-I) Central Electricity Authority</i>	<i>Member</i>
6.	<i>Shri J K Nayak, Director (M. P. Power Transmission Package-I Limited)</i>	<i>Convener- Member of the Committee</i>

- iii. *RECPDCL issued the Request for Proposal (RFP), based on the standard RFP notified by the Ministry of Power, on 31.12.2021 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.*

- iv. RECPDCL received the Responses to RFP from Six (6) participants. The responses of the Bidders (list as per table below) were opened on 22.04.2022 (1230 Hrs) in the presence of the Bidders' representatives.

<i>S. No.</i>	<i>Name of the Bidder</i>	<i>Status of Bidder</i>
<i>1.</i>	<i>Adani Transmission Limited</i>	<i>Bidding Company</i>
<i>2.</i>	<i>Megha Engineering & Infrastructures Limited</i>	<i>Bidding Company</i>
<i>3.</i>	<i>Power Grid Corporation of India Limited</i>	<i>Bidding Company</i>
<i>4.</i>	<i>Sterlite Grid 12 Limited</i>	<i>Bidding Company</i>
<i>5.</i>	<i>Techno Electric & Engineering Company Limited</i>	<i>Bidding Company</i>
<i>6.</i>	<i>The Tata Power Company Limited</i>	<i>Bidding Company</i>

- v. The BEC met on 29.04.2022 to discuss on the evaluation of the Technical Bids submitted by the Bidders. The Bid Evaluation Committee agreed to the recommendations detailed out in the evaluation report (Annexure-1) and advised BPC to seek clarifications from respective bidders discrepancies/deficiencies identified in the evaluation report:
- vi. In the BEC meeting held on 29.04.2022, the BEC recommended seeking necessary clarifications from following 4 out of 6 participating bidders:
- Megha Engineering & Infrastructures Limited*
 - Sterlite Grid 12 Limited*
 - Techno Electric & Engineering Company Limited*
 - The Tata Power Company Limited*
- vii. Subsequent to decision of BEC, BPC sought clarification vide letter dated 05.05.2022 from above mentioned bidders. The last date of submission of clarification was 12.05.2022.
- viii. After detailed discussion, BEC recommended that all the 6 participating bidders meet qualification requirement of the RFP based on their submission of Response to RFP & subsequent clarification (wherever applicable) and are Qualified Bidder, as per provisions of RFP: -
- Adani Transmission Limited*
 - Megha Engineering & Infrastructures Limited*
 - Power Grid Corporation of India Limited*
 - Sterlite Grid 12 Limited*
 - Techno Electric & Engineering Company Limited*
 - The Tata Power Company Limited*
- ix. BEC also authorized the BPC to open the Initial Offers (Price Bid) of all the 6 (Six) bidders for the subject project in the presence of the BEC.

- x. Based on the recommendation of the Bid Evaluation Committee, the Initial Offer of all the Six (6) Bidders were opened on 25.05.2022 in the presence of the Bid Evaluation Committee. After opening of Initial Price Offer following situation emerged:

S. No.	Name of the Bidder	Quoted Transmission charges from Initial Offer (Rs in millions)	Rank
1.	Power Grid Corporation of India Limited	1727.83	L1
2.	Megha Engineering & Infrastructures Limited	1814.00	L2
3.	Adani Transmission Ltd	1839.50	L3
4.	The Tata Power Company Limited	1840.00	L4
5.	Techno Electric & Engineering Company Ltd.	1840.00	L4
6.	Sterlite Grid 28 Limited	1890.90	L6

- xi. As per provisions of RFP document, following five (5) bidders are qualified to participate in the electronic reverse auction stage and submit their Final Offer.

Sr. No.	Name of the Bidder	Quoted Transmission charges from Initial Offer (Rs in millions)	Rank
1.	Power Grid Corporation of India Limited	1727.83	L1
2.	Megha Engineering & Infrastructures Limited	1814.00	L2
3.	Adani Transmission Ltd	1839.50	L3
4.	The Tata Power Company Limited	1840.00	L4
5.	Techno Electric & Engineering Company Limited	1840.00	L4

- xii. The Bid Evaluation Committee recommended for starting the e-reverse auction on 26.05.2022 at 1000 Hrs (IST) after intimation to all the five (5) qualified bidders regarding lowest Initial Price offer
- xiii. Accordingly, the lowest Quoted Transmission Charges from the Initial Offer i.e. Rs. 1727.83 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 26.05.2023 at 1000 Hrs (IST). After 59 rounds of bidding following transmission tariff for each bidder (in ascending order) emerged:

<i>Sr. No.</i>	<i>Name of the Bidder</i>	<i>Quoted Transmission charges from Initial Offer (Rs in millions)</i>	<i>Quoted Transmission charges from Final Offer (Rs in millions)</i>	<i>Rank</i>
1.	<i>Megha Engineering & Infrastructures Limited</i>	<i>1814.00 (L2)</i>	<i>1474.69</i>	<i>L1</i>
2.	<i>Adani Transmission Ltd</i>	<i>1839.50 (L3)</i>	<i>1482.11</i>	<i>L2</i>
3.	<i>Power Grid Corporation of India Limited</i>	<i>1727.83 (L1)</i>	<i>1497.05</i>	<i>L3</i>
4.	<i>The Tata Power Company Limited</i>	<i>1840.00 (L4)</i>	<i>1550.50</i>	<i>L4</i>
5.	<i>Techno Electric & Engineering Company Ltd.</i>	<i>1840.00 (L4)</i>	<i>1685.08</i>	<i>L5</i>

xv. *As per the above, M/s Megha Engineering & Infrastructures Limited emerged as the Successful Bidder after the conclusion of e-Reverse Auction with the lowest Transmission Charges of Rs. 1474.69 million which is also the final offer.*

xvi. *BPC, in their evaluation report (Annex-2) has confirmed the following*

a) *The estimated tariff for the project based on MPERC tariff regulations works out to Rs. 1136.05 million. This has been computed based on the estimated cost as communicated by cost committee and methodology for calculation of tariff as per MPERC tariff regulations. Further, the estimated tariff for the project based on estimated cost as communicated by cost committee and methodology for calculation of tariff as per CERC tariff regulations works out to Rs. 1386.10 million.*

b) *As per provisions of RFP Document, M/s Megha Engineering & Infrastructures Limited has submitted original hard copies of Annexure-3 and Annexure-14A and the same is in line with online submission.*

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.*

xvii. *After detailed discussion on the above, the Bid Evaluation Committee in its meeting held on 31.05.2022 & 14.06.2022, decided following:*

a) *M/s Megha Engineering & Infrastructures Limited has emerged as the lowest quoted bidder after the conclusion of the e-reverse Auction with the lowest Transmission Charges of Rs. 1474.69 Million.*

- b) *The tariff quoted by the lowest quoted bidder, during e-reverse auction, is higher than the estimated tariff as per MPERC tariff regulations and also as per CERC tariff regulations.*
- c) *In view of (a) & (b) above, the matter may be referred to Government of Madhya Pradesh and/ or Empowered Committee for further directions.*
- xviii. *Based on the above, Bid Process Coordinator, M/s REC Power Development and Consultancy Limited (RECPDCL) vide letter dated 15th June, 2022 forwarded the recommendations of Bid Evaluation Committee to MPPTCL for further necessary directions.*
- xix. *Accordingly, MPPTCL vide letter dated 16th June, 2022 forwarded the recommendations of Bid Evaluation Committee to Energy Department for obtaining further directives of Govt. of Madhya Pradesh and/or Empowered Committee.*
- xx. *Energy Department, Govt. of Madhya Pradesh referred the matter to Empowered Committee on 24.06.2022. The record note on the proceedings of the meeting of the Empowered Committee held on 12th July 2022 & 26th August 2022 was forwarded to the Energy Department, Govt. of MP by MPPTCL on 14.09.2022. The Empowered Committee recommended that rates offered by the L-1 bidder discovered through e-reverse auction M/s Megha Engineering and Infrastructures Limited are reasonable and accordingly matter is referred to Energy Department, Government of MP.*
- xxi. *In response to the same, Energy Department vide letter dated 21st November 2022 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 Megha Engineering & Infrastructures Ltd for "Development of Intra-State Transmission Work in MP through Tariff Based Competitive Bidding: PACKAGE-I" which was forwarded to BPC by MPPTCL vide letter dated 22nd November 2022.*
- xxii. *Based on the above, the Bid Evaluation Committee during the VC meeting dated 22.11.2022 recommended that the Letter of Intent (LoI) may be issued to M/s Megha Engineering & Infrastructures Ltd. for lowest quoted transmission charges of Rs. 1474.69 Million for "Development of Intra-State Transmission Work in M.P. through Tariff Based Competitive Bidding: PACKAGE - I".*
- xxiii. *Based on the decisions taken by the BEC, RECPDCL issued the LoI to M/s Megha Engineering & Infrastructures Ltd. on 29.11.2022.*
- xxiv. *As per the provisions of the RFP and TSA, M/s Megha Engineering & Infrastructures Ltd. paid the Acquisition Price for acquisition of 100% of shares in M. P. Power Transmission Package-I Limited from RECPDCL, along with the Contract Performance Guarantee as per terms of the RFP.*
- xv. *The Share Purchase Agreement was executed between REC Power Development and Consultancy Limited and M/s Megha Engineering & Infrastructures Ltd. on 21.01.2023.*

9. At the hearing dated 25th April 2023, the Commission observed the following:
- (i) The Petitioner submitted letter dated 12/04/2023 regarding service of copy of petition to Respondents vide its letters dated 27/03/2023.
 - (ii) The Petitioner submitted Affidavit dated 12/04/2023 to rectify basis as Built, Own, Operate and Transfer (BOOT) as per revised Guidelines & Transmission Service Agreement dated 21/01/2023 in place of Built, Own, Operate and Maintain (BOOM) erroneously mentioned in petition.
 - (iii) The Respondent No. 1 (MPPMCL) submitted letter dated 19/04/2023 stating that after grant of transmission license, the transmission charges as claimed may be adopted.
 - (iv) The Respondent No. 2 (MPPTCL) has submitted letter dated 13/04/2023 stating its “No Objection” in the matter.
 - (v) The Respondent No. 3 (REC PDCL) submitted letter dated 06/04/2023 stating that standard bidding documents were used and submitted copy of accepted letter of Intent, documents regarding process of bidding and other relevant information / documents.
 - (vi) The information indicating compliance of relevant provisions of the revised Guidelines dated 10/08/2021 issued by the Ministry of Power, Government of India under section 63 of the Electricity Act, 2003 was sought at paragraph 4(iv) of the daily Order dated 24/03/2023. However, the Respondents No. 1 & 2 have not submitted information in the matter.

In view of the above, the Respondents No. 1 & 2 were directed to submit a certificate on affidavit regarding compliance of relevant provisions of the Guidelines dated 10/08/2021, within one week.

10. i. Respondent No. 1 (MPPMCL) filed letter No. 63 dated 10/05/2023 on Affidavit broadly submitting the following:
- a. The bidding 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 material change has been made.
 - b. All relevant provisions of the “Tariff based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for encouraging competition in development of Transmission projects” dated 10/08/2021 issued by MoP u/s 63 of the Electricity Act, 2003 have been complied.
- ii. Respondent No. 2 (MPPTCL) filed letter No. 1010 dated 11/05/2023 on Affidavit broadly stating that the invitation, evaluation & finalization of bids under the Transmission works (Package – I) have been completed as per the stipulations in the Guidelines dated 10/08/2021 for encouraging competition in development of transmission works & for transmission services issued by MoP, Government of India under section 63 of the Electricity Act, 2003.

11. At the hearing held on 23rd May 2023, the Commission observed that an objection letter dated May 20, 2023 related to the process of bid finalization has been received in the Office of the Commission by e-mail. Hence, the Commission decided to include the Government of MP, Energy Department, Mantrallaya, Bhopal as Respondent in the petition and sought responses from the Petitioner and Respondents on the aforesaid letter, addressed to the Commission, within two weeks. The details of the objection and the responses are enclosed as Annexure No. 1 to this Order.
12. At the hearing held on 13th June, 2023, the Petitioner and the Respondents were heard and the case was reserved for Orders.

Commission's observations:

13. The Commission deliberated on the submissions made by the Petitioner, Respondents, stakeholder and the documents placed on record. The detailed submissions of the Petitioner & Respondents and Commission's observations have been mentioned in the previous part of this Order and have not been repeated here for sake of brevity. The summary of Commission's observations on the major issues and findings are as under:
 - i. The Commission observed that the Bid Process Coordinator (RECPDCL / R3) vide Affidavit dated 12/04/2023 has submitted that the Bid Evaluation Committee (BEC) comprised of following:
 - a. Shri Sunil Tiwari, Managing Director, MPPTCL, (Chairman, BEC)
 - b. Shri Ajay Kumar Shrivastava, Chief Engineer (Procurement), MPPTCL
 - c. Shri Chetan Jaiswal, Chief Finance Officer, MPPTCL
 - d. Shri Firoj Kumar Meshram, Chief General Manager, MPPMCL
 - e. Ms. Manjari Chaturvedi, Director (PSPA-1), CEA
 - f. Shri J K Nayak, Director (MPPT Package – I Limited - SPV).
 - ii. The Certificate dated 22/11/2022 issued by the Bid Evaluation Committee mentions as under:

“It is certified that:

 - (i) *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.*
 - (ii) *M/s Megha Engineering & Infrastructures Ltd. emerged as the successful bidder after the conclusion of the e-Reverse Auction with the lowest Transmission Charges of Rs. 1474.69 Million.*
 - (iii) *As the tariff has been discovered after e-bidding followed by e-reverse auction, tariff discovered is reasonable.*
 - iii. The Commission further observed that the Petitioner has filed copy of Letter of Intent at Annexure No. 12 of the petition. This Letter of Intent issued vide letter no. RECPDCL/TBCB/MP/MP Package - I/2022-23/2345 dated 29/11/2022 by REC Power Development and Consultancy Limited (Bid Process Coordinator) has enclosed the quoted annual transmission charges as Rs 1474.69 Million.

14. The Bid Evaluation Committee in its certificate dated 22/11/2022 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 the Petitioner has emerged as the successful bidder after conclusion of e-Reverse Auction with the lowest levelised Transmission Charges of Rs. 1474.69 Million. The Bid Evaluation Committee has considered the aforesaid levelized transmission charges as reasonable.
15. The Commission vide order dated 27/09/2023 in petition No. 2 of 2023 has approved Transmission License to the Petitioner “M. P. Power Transmission Package-I Limited” to transmit electricity by establishing the Transmission System consisting of elements mentioned in 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 dated 09/10/2023 has been 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 (as amended).
16. Based on all aforementioned facts and documents placed on record by the Petitioner and the Respondents, the Commission has noted that selection of successful bidder for the project in subject matter has been carried out by the Bid Process Coordinator through a transparent process of competitive bidding in accordance with the Guidelines dated 10/08/2021 issued by the Ministry of Power, Government of India under section 63 of the Electricity Act, 2003. Therefore, the Commission hereby adopts the levelised Transmission Charges of **Rs. 1474.69 Million** in terms of section 63 of the Electricity Act, 2003 for the Transmission System to be constructed / implemented by M. P. Power Transmission Package-I Limited on Built, Own, Operate and Transfer (BOOT) basis as per Guidelines, in respect of Transmission Service Agreement dated 21/01/2023. The petition is allowed in terms of the above.
Ordered accordingly.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S. P. S. Parihar)
Chairman