

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub: In the matter of application under Section 14, 15, 86(1)(d) of the Electricity Act, 2003 read with MPERC (Procedure of Application for License) Regulations, 2004 with respect to Grant of Transmission License to POWERGRID Bhind Guna Transmission Ltd.

Petition No. 39 of 2019

ORDER

Hearing through Video Conferencing
(Date of Order: 16th December' 2020)

POWERGRID Bhind Guna Transmission Ltd.

C/o ED (TBCB), Power Grid Corporation of India Ltd.
Saudamini, Plot No. 2, Sector-29, Gurgaon – 122 001

- **Petitioner**

Vs.

(i) **Chief General Manager (Commercial)**
M.P. Power Management Company Ltd.,
Block No. 2, Shakti Bhawan, Rampur, Jabalpur – 482008

(ii) **The Managing Director**
M. P. Power Transmission Company Ltd.,
Shakti Bhawan, Rampur, Jabalpur – 482008.

(iii) **Chief Executive Officer**
REC Transmission Projects Company Ltd.,
(A wholly owned subsidiary of REC Ltd.)
ECE House, 3rd Floor, Annexe-II, 28 A,
KG Marg, Bhopal – 110 001

}
- **Respondents**

Shri B. Vamsi, Sr. GM and Shri DPS Yadav, Project Incharge (PBGTL) appeared on behalf of the petitioner.

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

Shri Abhinav Anand, AE and Shri Siyaram Sharma, LO appeared on behalf of the Respondent No. 2.

Shri Kuldeep Rai, Additional CEO appeared for the Respondent No.3.

2. The subject petition was filed by Bhind Guna Transmission Ltd. on 24/09/2019 under Sections 14, 15 and 86(1)(d) of the Electricity Act, 2003 read with MPERC (Procedure of Application for License) Regulations 2004 seeking grant of Transmission License to Bhind Guna Transmission Ltd. Subsequently, the name of the Company has been changed to POWERGRID Bhind Guna Transmission Ltd. on 22/11/2019. (It is hereinafter mentioned as PBGTL in this order). This Company is a wholly owned subsidiary of Power Grid Corporation of India Limited.

3. **Petitioner's submission:**

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

- i. *Bhind Guna Transmission Limited*** submitted this application under Section 14, 15 & 86 (1) (d) of the Electricity Act, 2003 and Madhya Pradesh Electricity Regulatory Commission (Procedure of Application for Licence) Regulations 2004 (hereinafter referred to as "MPERC License Regulations") to establish Transmission System for Intra-State Transmission Work associated with construction of 400 kV Substation near Guna (Distt.-Guna) & Intra-State Transmission Work associated with construction of 220 kV S/s near Bhind, on build, own, operate and maintain basis (hereinafter referred to as "the Project") consisting of the following elements:

S.No.	Transmission Element	Scheduled COD in months from Effective Date
(A)	<i>Intra-State Transmission Work associated with construction of 400 kV Substation near Guna (Distt.-Guna)</i>	
<i>i.</i>	<i>400 kV DCDS (Quad Moose) line from Bina (MPPTCL) to Guna (New) with 2 X 80MVAR Switchable line reactor at Guna end</i>	<i>36 months</i>
<i>ii.</i>	<i>220 kV DCDS line from Guna (New) to Guna (MPPTCL) with Zebra Conductor</i>	<i>36 months</i>
<i>iii.</i>	<i>220 kV DCDS line from Guna (New) to Shivpuri (MPPTCL) with Zebra Conductor</i>	<i>36 months</i>
<i>iv.</i>	<i>Establishment of 2x500 MVA, 400/220 kV Substation near Guna involving following works-</i> <i>400kV</i> <i>* ICT 400/220 kV - 2x500 MVA</i> <i>* ICT bays - 2 Nos.</i> <i>* Line bays - 2 Nos.</i> <i>* Bus Reactor 125 MVAR - 1 No.</i> <i>* Bus Reactor bay - 1 No.</i> <i>* Space for ICT (Future) - 1 No.</i>	<i>36 months</i>

	<ul style="list-style-type: none"> * Space for ICT bays (Future) - 1 No. * Space for Line bays (Future) - 4 Nos. <p>220KV</p> <ul style="list-style-type: none"> * ICT bays – 2 Nos. * Line bays - 4 Nos. * Space for ICT bays (Future) - 1 No. * Space for line bays (Future) - 4 Nos. 	
(B)	Intra-State Transmission Work associated with construction of 220 kV S/s near Bhind (Distt.-Bhind)	
i.	220 kV DCDS line from Morena (TBCB-CWR T L) to Bhind (New) with Zebra Conductor	36 months
ii.	Construction of 2 Nos. 220 kV feeder bays at Morena (TBCB-CWRTL) 400 kV S/s [02 Nos for 220 kV DCDS line from Morena (TBCB-CWR T L) to Bhind (New) with Zebra Conductor]	36 months
iii.	132 kV DCDS line from Bhind (New) to Bhind (MPPTCL) with Panther conductor	36 months
iv.	132 kV DCDS line from Bhind (New) to Porsa (MPPTCL) with Panther conductor	36 months
v.	132 kV DCDS line from Bhind (New) to Gormi (MPPTCL) with Panther conductor	36 months
vi.	Establishment of 2x160 MVA, 220/ 132 kV Substation near Bhind involving following works- 220 kV <ul style="list-style-type: none"> * ICT 220/132 kV - 2x160 MVA * ICT bays - 2 Nos. * Line bays - 4 Nos. * Space for ICT (future) - 2 Nos. * Space for ICT bays (Future) - 2 Nos. * Space for line bays (Future) - 4 Nos. 132 kV <ul style="list-style-type: none"> * ICT bays - 2 Nos. * Line bays - 6 Nos. * Space for ICT bays (future) - 2 Nos. * Space for line bays (future) - 6 Nos. 	36 months

- ii.** *The Government of Madhya Pradesh, vide its Gazette Notification no. F-3-11-2018-XIII dated 06.07.2018 has notified REC Transmission Projects Company Limited to be the Bid Process Coordinator (hereinafter referred to as BPC) for the purpose of selection of Bidder as Transmission Service Provider (TSP) to establish transmission system for Intra-State Transmission Work associated with construction of 400 kV Substation near Guna (Distt.-Guna) & Intra-State Transmission Work associated with construction of 220 kV S/s near Bhind (Distt.-Bhind) on build, own, operate and maintain basis (hereinafter referred to as “the Project”) through Tariff Based Competitive Bidding. A copy of the Gazette Notification is enclosed and marked as Annexure-1.*
- iii.** *That a company under the Companies Act 2013 by the name “**Bhind Guna Transmission Limited**” having its registered office at New Delhi has been incorporated on 05.10.2018 by REC Transmission Projects Company Limited as its wholly owned subsidiary to initiate the activities for 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 Incorporation is enclosed and marked as Annexure-2.*
- iv.** *BPC has initiated the selection of successful bidder to acquire the TSP 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 from time to time.*
- v.** *Power Grid Corporation of India Limited (POWERGRID) participated in the Request for Qualification (RFQ) process conducted by the BPC and subsequently, POWERGRID was declared as Qualified Bidder by the BPC to participate in the Request for Proposal (RfP) process. A copy of the Letter dated 25.03.2019 from BPC declaring POWERGRID as the Qualified bidder is enclosed and marked as Annexure-3.*
- vi.** *BPC has floated the RFP documents and a copy of the Amendments / Clarifications furnished by BPC are enclosed and marked as Annexure-4.*
- vii.** *The bidding was undertaken by the BPC and thereafter Power Grid Corporation of India Limited was declared as the successful bidder through a Letter of Intent (LoI) dated 02.09.2019 . A copy of the LoI alongwith the details of Annual Transmission Charges is enclosed and marked as Annexure-5.*

viii. As per the provisions 2.6 of Request for Proposal (RFP) and LoI issued, it is stated that within 10 days of issuance of LoI, the TSP is required to inter-alia acquire the SPV, apply to the Madhya Pradesh Electricity Regulatory Commission for Grant of Transmission License. Vide letter dated 09.09.2019, the BPC in terms of provision Clause 2.4 of RFP has extended the date upto 21.09.19 for completion of all activities by the successful bidder. A copy of the relevant extract of the RFP and the letter from BPC is enclosed and marked as Annexure-6. Details of account of MPERC for payment of filing fees of application before MPERC was sought vide letter dated 16.09.2019 and the details of same were made available on the MPERC website. Thereafter, payment for fees was made to enable the Application to be filed before MPERC. A copy of the letter to MPERC is enclosed and marked as Annexure-7.

ix. That in accordance with the LoI, Power Grid Corporation of India Limited on 10.09.2019 has furnished the Contract Performance Guarantees for an aggregate value of Rs. 65.48 Crore (Rupees Sixty Five Crore Forty Eight Lakh Only) in favour of M.P. Power Management Company Limited as directed by BPC. The details of CPG issued in favour of LTTCs are given below:

S. No.	BG Details	Issued to	Amount and Expiry Date
1.	OGT0005190035727 dated 09.09.2019 from IndusInd Bank	M.P. Power Management Company Limited	Rs.65,48,00,000 Claim upto: 11.12.2022 Valid upto: 10.01.2023

The copy of CPG furnished to LTTC is enclosed and marked as Annexure-8.

x. That the signed Transmission Service Agreement (TSA) dated 4th July 2019 entered between M.P. Power Management Company Limited [on behalf of MP Poorv Kshetra Vidyut Vitran Compant Limited, Jabalpur, MP Madhya Kshetra Vidyut Vitran Compant Limited, Bhopal and MP Paschim Kshetra Vidyut Vitran Compant Limited, Indore] and "Bhind Guna Transmission Limited" was provided by the BPC and the same is enclosed and marked as Annexure-9.

xi. That Power Grid Corporation of India Limited has acquired the **Bhind Guna Transmission Limited** on 11.09.2019, after execution of the Share Purchase Agreement and completing all procedural requirements specified in the RFP documents. A copy of the Share purchase agreement is enclosed and marked as Annexure - 10.

xii. That Section 14 of the Electricity Act, 2003 (the Act) provides that the Appropriate Commission may, on an application made under section 15 of the Electricity Act, 2003, grant License to any person to transmit electricity as a transmission licensee in any area as may be specified in the License. Further, Section 86 (d) of EA 2003 empowers State Commission to issue Licenses to persons seeking to act as a transmission licensee with respect to operating within the state. The word 'person' has been defined in section 2 (49) of the Act to include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person.

That in accordance with the MPERC License Regulations, the application is filed before the Hon'ble MPERC for Grant of Transmission License.

xiii. That Section 15(1) of the Act provides that every application under Section 14 shall be made in such manner and in such form as may be specified by the Appropriate Commission and shall be accompanied by such fees as may be prescribed.

That in accordance with the First Amendment to MPERC (Fees, fines and charges) (Revision-I) Regulations, 2010, notified on 10.06.2016 the applicant has paid the fees for filing the application for Grant of Transmission License with details as under:

In Favour of	UTR details.	Amount (in Rs.)
Secretary, Madhya Pradesh Electricity Regulatory Commission		5,00,000

xiv. That the applicant - **Bhind Guna Transmission Limited** incorporated under the Companies Act, 2013 is a 100% wholly owned subsidiary of Power Grid Corporation of India Limited who has been selected on the basis of the Tariff Based Competitive Bidding as per the Tariff Based Competitive Bidding Guidelines for Transmission Service issued by Govt. of India, Ministry of Power and thus eligible for issuance of transmission license.

xv. In accordance with 1.8 MPERC License Regulation the details of information / documents are as under :

a) the pro-forma containing the terms and conditions for transmission License is attached Annexure-11.a.

b) Maps of the proposed area of licence showing the route of the transmission

line, locations of sub-stations placed at Annexure-11.b.

- c) *A statement describing the lands or assets, which the applicant proposes to acquire for the purpose of the licence and means of such acquisition is as under:*

The requirement of Transmission scheme has been provided by BPC which is evolved by MP Power Transmission Corporation Limited with the Project description provided in the Bidding documents as under:

Transmission system for Intra-State Transmission Work associated with construction of 400 kV Substation near Guna (Distt.-Guna) & Intra-State Transmission Work associated with construction of 220 kV S/s near Bhind.

The scope for establishing the Project by the Applicant (Project Developer) has been provided by the BPC:

Requisite Land for New Substation at Guna and Bhind shall be acquired by the Applicant. The other assets as required to be established by the Applicant under Build, Own, Operate and Maintain basis in accordance with the bidding document provided by BPC.

Apart from this there is no other scope specified to be established by the Applicant. Acquisition of the above land and assets shall be undertaken by the Applicant from resources mobilized through debt and equity.

- d) *A copy of the business plan, with statement of the capital proposed to be expended in connection with the licensee, means of financing for such capital expenditure, the resultant efficiency improvements and such other particulars are as under:*

The Project has been floated by BPC under Tariff Based Competitive Bidding. Bidders are pre-qualified based on their set of Qualification requirements including Financial parameters. Qualified bidders who are selected as the Transmission Service Provider (TSP) based on the quoted Tariff for 35 years are required to develop the system sourcing funds from various quarters. The Applicant intends to source funds from both Debt and Equity for the Project.

- e) *A copy of the Memorandum and Articles of Association and Incorporation documents of the Applicant are enclosed and marked as Annexure-11.c.*

- f) *The Applicant is a Company Incorporated by BPC and handed over to the*

Successful bidder. A copy of the Annual Accounts as furnished by BPC during acquisition is enclosed and marked as Annexure-11.d.

g) A copy of the receipt of the acknowledgement of payment of the fee for the subject application is enclosed and marked as Annexure-11.e.

h) Format (I), (III), (VI) and (VII) are filled and enclosed as and marked as Annexure-11f to 11 i.

i) A copy of the Power of Attorney to the signatory of the Application is enclosed and marked as Annexure-11 j.

xvi. *In accordance with the requirement under section 15 (3) of the Electricity Act and 1.21 of MPERC License Regulations, a copy of the Application is also being served simultaneously to the MP Power Transmission Company Limited - the STU, for their recommendation.*

xvii. *That a copy of the Application is also served on RECTPCL who is the Bid Process Coordinator (BPC) to enable submission of the requisite documents / information by BPC before the Commission regarding the Bidding process undertaken.*

xviii. *The Application along with annexures and enclosures has been hosted on the website www.powergridindia.com to facilitate access to the application by any person through the internet.*

xix. *That the Applicant has fulfilled all the requirements as per Section-14 and 15 of the Electricity Act 2003 and MPERC License Regulation for grant of Transmission license.*

xx. *That the Applicant shall publish the requisite Notices in the newspapers as per 1.15 MPERC License Regulations and after publication, the Applicant shall place a copy of the same before the Hon'ble Commission.*

xxi. *It is submitted that Section 14 & 86 (d) of the Electricity Act, 2003 empowers the Appropriate Commission to grant transmission License.*

xxii. PRAYER

It is respectfully prayed that the Hon'ble Commission may be pleased to:

- a) Grant Transmission License to the Applicant to establish the Project as provided in the Transmission Service Agreement; and*
- b) Condone any inadvertent errors / omissions / shortcomings and permit the Applicant to add / change / modify / alter these filings and make further submissions as may be required at a future date.*
- c) Pass such other order / orders, as may be deemed fit and proper in the facts & circumstances of the case.*

4. Procedural History of the case is as under:

- (i) During the course of motion hearing in the subject matter held on 26.11.2019, the petitioner was asked to confirm whether a copy of aforesaid licence application had been forwarded to STU as per sub-section 3 of Section 15 of the Electricity Act, 2003. The petitioner confirmed that a copy has already been provided to M. P. Power Transmission Company Ltd. The petition was admitted. The petitioner also stated that the copy of the subject petition had already been served on all the Respondents. The respondents were directed to file their reply to the subject petition by the 24th December' 2019. The case was fixed for hearing on 03/01/2020.
- (ii) Respondent No. 1 filed its written submission dated 25/11/2019 in which it was mainly emphasized that conjoint reading of the section 2(45) of the Companies Act, 2013 and section 1(31) of the Electricity Act, 2003 which define a Government Company and section 14 of the Electricity Act, 2003 suggest that the petitioner being a Government Company and also a subsidiary of the CTU, is a deemed transmission licensee. Therefore, the petitioner need not apply for a separate transmission license.
- (iii) Vide letter no. 1992 dated 07/12/2019 and affidavit, the petitioner submitted a copy of the certificate of incorporation pursuant to change of name issued by the Registrar of Companies, Delhi on 22/11/2019. Accordingly, name of the company "Bhind Guna Transmission Ltd." changed to "POWERGRID Bhind Guna Transmission Ltd". Therefore, petitioner's name changed to "POWERGRID Bhind Guna Transmission Ltd".

- (iv) In response to the submission made by Respondent no. 1, the petitioner vide letter no. 2038 dated 23/12/2019 and affidavit, filed rejoinder mentioning sections 1(36), 1(37) and 38 of the Electricity Act, 2003 with regard to the difference between intra-state and inter-state transmission systems. The petitioner also mentioned Regulation 1.5 of the MPERC (Procedure for application of License) Regulations, 2004 mandating application for grant of such License and Order dated 09/05/2013 of CERC New Delhi in petition no. 121/TL/2012 with IA no. 5/2013 which stated that the petitioner cannot be treated as deemed transmission licensee under section 14 of the Electricity Act, 2003. The petitioner further submitted that it has filed the subject petition in accordance with the provisions of the Bidding documents, MPERC regulations and the Electricity Act, 2003.
- (v) Vide letter no. 8870 dated 24/12/2019, Respondent No. 2 MPPTCL (STU) submitted that it has no objection to filing of the subject petition by the petitioner for grant of Transmission License under the Electricity Act, 2003.
- (vi) The matter was next heard on 03/01/2020. Vide Commission's order dated 07/01/2020, the petitioner was directed to make a detailed presentation on 20/01/2020 and to file a draft of the public notice to be published in terms of section 15(2) of the Electricity Act, 2003. Accordingly, presentation was made by the petitioner at the Commission's office on 20/01/2020.
- (vii) Vide letter no. 140 dated 23/01/2020, the public notice as approved by the Commission was sent to the petitioner for publication in English & Hindi versions in atleast two widely circulated English & Hindi newspapers. The petitioner was also directed to submit its response on the representations / objections / suggestions if any, received by it.
- (viii) Vide letter no. 10050 dated 25/01/2020, the Respondent No. 2 again confirmed that it has no objection to the subject petition filed by the petitioner for grant of Transmission License.
- (ix) Vide Affidavit dated 22/02/2020, the petitioner submitted that the approved public notices were published on 01/02/2020 in Hindi version in Danik Jagaran, Bhopal and Jhansi and in English version in The Hindu, Delhi inviting representations / objections / suggestions within 30 days of the publication of this notice in the newspaper.

- (x) The petitioner further stated at para 5 of the Affidavit that *“the area for which the application for transmission license was filed does not pass through including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defense purposes”*.
- (xi) Vide notice no. 337 dated 27/02/2020, the matter was fixed for hearing on 19/03/2020. However, due to outbreak of COVID-19 and nationwide Lockdown, the hearing in this matter could not be held.
- (xii) Vide letter no. 717 dated 17/08/2020, the petitioner requested for listing of the petition for hearing.
- (xiii) Hearing in the subject matter was held on 01/09/2020 through Video conferencing. The representative of the petitioner confirmed during hearing that they have not received any comments/objections on the public notice dated 01st February’2020 issued by the petitioner under section 15(2) of the Electricity Act, 2003. The petitioner also confirmed that it has forwarded a copy of the subject petition to the Central Transmission Utility and Army Headquarters New Delhi vide letters dated 07.01.2020 in accordance with the provisions under Section 15 of the Electricity Act’2003. The petitioner has filed the copies of aforesaid letters with the Commission. The Commission has also not received any comment /objection in the subject matter in reference to the public notice. In view of the above, the Commission vide daily order dated 04/09/2020 decided to publish a notice under Section 15(5) of the Electricity Act, 2003, which was required before granting a License under section 14, seeking comments/objections from various stakeholders and fixed the case for public hearing on 27.10.2020.
- (xiv) Vide letter no. 1102 dated 26/09/2020 the Commission published a public notice under sub-section (5)(a) of Section 15 of the Electricity Act, 2003 and Regulation 1.25 of MPERC (Procedure of Application for License) Regulations, 2004) seeking comments/objections from various stakeholders within 21 days from the date of publication of this notice. It was mentioned in the aforesaid public notice that the public hearing in this matter shall be held on the **27th October’ 2020** at 11.00 AM. The aforesaid public notice was published in Times of India, Bhopal edition (English version) and in Dainik Bhaskar, Gwalior edition and Patrika, Bhopal edition (Hindi version).

5. During **public hearing held through Video conferencing on 27.10.2020**, only the representatives of the petitioner and respondents appeared for hearing. The petitioner reiterated its prayer and confirmed that it has not received any comments / objections in the matter. The Commission has also not received any comments / objections in the matter. The Commission further observed that the petitioner fulfils the conditions laid down under Section 14, 15, 86(1)(d) of the Electricity Act, 2003 read with MPERC (Procedure of Application for License) Regulations, 2004 with respect to Grant of Transmission License to “POWERGRID Bhind Guna Transmission Ltd”.
6. In view of all aforesaid, the Commission hereby directs to grant Transmission License to the petitioner “POWERGRID Bhind Guna Transmission Ltd” to establish intra-state Transmission system associated with construction of 400 kV Substation near Guna & Intra-State Transmission Work associated with construction of 220 kV S/s near Bhind, on build, own, operate and maintain basis, consisting of elements mentioned in para 3(i) of this order, in accordance with the provisions of section 14 of the Electricity Act, 2003 on the terms and conditions specified therein. The Commission directs the Commission Secretary to seek willingness of the petitioner on draft Transmission Licence in terms of the provisions under Regulations 1.29 and 1.30 of MPERC (Procedure of Application of License), Regulations, 2004.

Ordered accordingly.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member

(S. P. S. Parihar)
Chairman