

RAJASTHAN ELECTRICITY REGULATORY COMMISSION

Petition No. RERC/243/11
RERC/249/11

In the matter of petitions for grant of licence for transmission of electricity by Aravali Transmission Service Company and Maru Transmission Service Company.

Coram:

Sh. D.C. Samant, Chairman
Sh. S.K. Mittal, Member
Shri S. Dhawan, Member

Petitioners : 1.M/s Aravali Transmission Service Company Ltd. (243/11)
2. M/s Maru Transmission Service Company Ltd. (249/11)

Date of hearings: 30.05.11 & 09.06.2011

Present:

1. Sh. S.N.Sunkari, General Manager, Aravali TSCL & Maru TSCL
2. Sh. Gautam Sen, General Manager, Aravali TSCL & Maru TSCL
3. Sh. Amerdeep Atwal, Advocate, Aravali TSCL & Maru TSCL
4. Sh. M.K. Kasliwal, Advisor, GMR Energy
5. Sh. D.S. Sharma, S.E. (NPP&R), RVPN
6. Sh. R.P. Gupta, XEn (PMU), RVPN
7. Sh. G.L. Sharma, Individual
8. Sh. Harful Ram Choudhary, Individual

Date of order : 24.10.2011

ORDER

1. M/s Aravali Transmission Service Company Ltd. (ATSCCL) and M/s Maru Transmission Service Company Ltd. (MTSCCL) filed petitions for grant of licence for transmission of electricity on 25.1.2011 and 18.2.2011 for 400 kV S/C Hinduan-Alwar line with 400 kV/220 kV GSS at Alwar & associated works and 400 kV S/C Bikaner-Deedwana-Ajmer line with 400/220 kV GSS at Deedwana & associated works respectively.

2. Public notices with salient features of the petitions, inviting objections/comments/suggestions from persons desirous of submitting the same, were got published by the petitioners in the following newspapers on the dates shown against each and the petitions were also placed on the websites of the Commission and petitioners:

S.No.	Name of News Paper	ATSCCL	MTSCL
(i)	Rajasthan Patrika	25.2.2011	23.3.2011
(ii)	Danik Nav Jyoti	22.2.2011	23.3.2011
(iii)	Times of India	22.2.2011	23.3.2011

3. Objections/comments were received from Shri Shanti Prasad and Shri G. L. Sharma on both the petitions and from Shri Harful Ram Choudhary on M/s Maru Transmission Service Company Ltd. only.
4. The matter was heard on 30.5.2011 & 09.06.2011.
5. Shri Shanti Prasad, in his written arguments, submitted that as per Section 15(2) and 15(3) of the Act and regulation 7(1), 7(2) and 12 of Licensing Regulation, 2004, applicant is to issue public notice within 7 days of making application and forward a copy to STU but in this case it seems that this procedure was not followed.
6. Sh. G.L. Sharma, stakeholder, in his written arguments and in oral submissions raised some preliminary objections along with other objections and submitted that the Govt. of Rajasthan vide letter dated 15.10.2008 constituted a State Level Empowered Committee (SLEC) for development of transmission projects in State. As per clause 3.2 of guidelines issued by Ministry of Power, Government of India, Empowered Committee will be the BPC till any other organisation is nominated as BPC by the Ministry/GoR. Shri Sharma submitted that in this case BPC is constituted by Empowered Committee instead of GoR. He further submitted that the Empowered Committee vide its letter dated 16.1.09 designated RVPN as a nodal agency on behalf of committee to act as BPC till a separate BPC is constituted by the GoR.
7. Shri Sharma further submitted that as per clause 9.8 of the guidelines the Empowered Committee shall constitute a committee for evaluation of the bids but in present case, RVPN vide its order dated 29.12.2009 constituted

Bid Evaluation Committee for evaluation of bids, which is beyond jurisdiction of RVPN.

8. Shri Sharma submitted that as per clause 5.1 of guidelines, the successful bidder shall be designated as the Transmission Service Provider (TSP) and shall seek transmission licence from the Commission. In present case GMR Energy was the successful bidder and this petition should have been filed by the GMR Energy and not by the Aravali TSCL & Maru TSCL. He prayed that looking to the gross irregularities in the bidding process, the grant of licence should be taken up along with adoption of tariff. He further submitted that the Commission should direct RVPN to relax the time schedule if there is any delay in project completion schedule due to delay in grant of Licence but the matter of grant of licence should be taken up along with adoption of tariff.
9. Sh. Harful Choudhary, stakeholder, objected on acquisition of Gochar land.
10. Sh. S.N. Sunkari, General Manager, GMR energy, on behalf of both the petitioners replied to the preliminary objections raised by Sh. G.L. Sharma. He submitted that as per clause 2.6 of RFP document and para 3.1.3 of Transmission Service Agreement (TSA), they applied for grant of transmission licence to the Commission in the capacity of Transmission Service Provider (TSP) as defined in RFP document. He submitted that as per clause 12.2 of tariff based competitive bidding guideline, TSP has to apply for Licence within one month of issuance of LOI or signing the Share Purchase Agreement (SPA) whichever is later. M/s Aravali Transmission Service Company Ltd. and M/s Maru Transmission Service Company Ltd. signed SPA on 19.1.2011 & 15.2.2011 respectively. The petitions for grant of licence were filed on 25.1.2011 & 18.2.2011 respectively. Thus, both petitions were filed well within time. He submitted that they signed TSA with distribution companies (Discoms) as it was decided in Board resolution of Discoms. He further submitted that as a bidder they do not have any control on the methodology and process adopted by the RVPN or State Govt. He prayed that matter of adoption of tariff and grant of licence are different and do not influence each other. He reiterated that they are willing to bear all the risk associated in taking the licence before adoption of tariff. He prayed for grant of licence expeditiously as petitioners are hard pressed against time in completing the project.

11. Sh. D.S. Sharma, on behalf of RVPN submitted that the bid process followed by RVPN was strictly as per bid documents. He also submitted that the schemes for which tariff based bidding has been carried out were for system strengthening and were duly approved by State Level Empowered Committee (SLEC).
12. Commission directed RVPN to explain the issues raised here by Sh. G.L. Sharma in the affidavit which was sought in petitions filed for adoption of tariff and also direct to link the aforesaid affidavit with these petitions. RVPN submitted the requisite information through affidavit on 17.6.2011.

Commission's view

13. Commission noted that petitioners have also separately filed petitions (255/11 & 256/11) for adoption of tariff under section 63 of the Electricity Act. The Commission, therefore, thought it proper that applications for grant of licence be decided after the petitions for adoption of tariff get decided.
14. The Commission, while disposing off the said petitions of adoption of tariff, in its majority decision, has held that the process followed for selection of successful bidder has not been in accordance with the guidelines of the Central Government and therefore the proposed tariff cannot be adopted under Section 63 of the Electricity Act, 2003.
15. It is observed that the petitioners were identified through the said process and filed petitions for grant of transmission licence on the basis of being successful bidder to undertake the project mentioned at para 1 of this order. Since the Commission, in its order dated 30.9.11 has come to the conclusion that the process has not been in accordance with the guidelines of the Central Government and the tariff accordingly has not been adopted u/s 63 of the Act, it would, therefore, not be appropriate to grant licence to the petitioners selected through the said flawed process.
16. In light of above, the Commission rejects the applications filed by the petitioners for grant of licence. Petitions stand disposed off accordingly.

(S. Dhawan)
Member

(S.K.Mittal)
Member

(D.C.Samant)
Chairman