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**Petition No 783 of 2012**

**BEFORE  
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

**Date of Order : 30-5-2013**

**PRESENT:**

1. Hon'ble Shri Shree Ram, Member
2. Hon'ble Smt. Meenakshi Singh, Member

**IN THE MATTER OF:**

Adoption of transmission charges under Section 63 of the Electricity Act, 2003 with respect to intra-state transmission system, to be established by Western U.P. Power Transmission Company Limited.

**AND**

**IN THE MATTER OF**

**Petitioner**

Western U.P. Power Transmission Company Limited  
S-3, 2<sup>nd</sup> Floor, Aditya Mega Mall,  
Indirapuram, Ghaziabad.

**Respondents**

1. Managing Director, UPPTCL, Lucknow
2. Managing Director, PVVNL, Meerut
3. Managing Director, DVVNL, Agra
4. Managing Director, PuVVNL, Varanasi
5. Managing Director, MVVNL, Lucknow

The following were present:

1. Shri S. K. Garg, Director (Works & Project)
2. Shri D.C. Chaudhry, Superintendent Engineer, UPPTCL
3. Shri A. N. Gupta, Executive Engineer, UPPTCL
4. Shri T. R. Gupta, Chief Engineer, DVVNL
5. Shri R. P. Singh, Superintending Engineer, PVVNL
6. Shri Alok Kumar Gupta, WUPPTCL
7. Shri Swapinil Dagur, WUPPTCL
8. Shri Manoj Tripathi, WUPPTCL

### Order

(Date of Hearing 26.04.2013)

- 1) The Petitioner, M/s Western UP Power Transmission Company Limited ( hereinafter referred to as WUPPTCL) has filed this petition on 06-01-12 under section 63 of Electricity Act,2003 (the Act) and in accordance with Para 12.4 of 'Tariff Based Competitive Bidding Guidelines for Transmission Service', issued by Ministry of Power, Govt. of India (hereinafter referred to as "GOI"), for adoption of transmission charges with respect to the development of following intra-state transmission system titled "765KV S/C Mainpuri - Hapur & Mainpuri - Greater Noida lines with 765KV/400KV AIS at Hapur & Greater Noida and associated Schemes/Works" on 'Build, Own, Operate & Maintain and Transfer' (hereinafter referred to as "BOOT") basis.

Elements of Transmission System titled "765KV S/C Mainpuri - Hapur & Mainpuri - Greater Noida lines with 765KV/400KV AIS at Hapur & Greater Noida and associated Schemes/Works"

S.No.	Name of the Transmission Element / Project
<b>(I)</b>	<b><u>Transmission lines</u></b>
1	765kv S/C Mainpuri - Hapur with Quad Bersimis Conductor(250kms)
2	LILO of 400 kV S/C Moradabad - Muradnagar line at 765kv Hapur Substation with Twin Moose Conductor(20kms)
3	400kv D/C Hapur- Aaur (Ghaziabad) Line with Quad Moose Conductor (65Kms)
4	765kv S/C Greater Noida - Hapur Line with Quad Bersimis Conductor(50kms)



5	LILO of 765kV Meerut(PGCIL) – Agra(PGCIL) Line at 765kV Greater Noida Substation with Quad Bersimis Conductor (2xS/C) (40kms)
6	765kV S/C Mainpuri – Greater Noida Line with Quad Bersimis Conductor (270kms)
7	LILO of 400kV S/C Muradnagar – Muzaffarnagar Line at Aatur (Ghaziabad) Substation with Twin Moose Conductor(40kms)
8	400kV D/C Greater Noida – Sikandrabad Line with Quad Moose Conductor(40kms)
9	LILO of 400kV S/C Rishikesh – Kashipur Line at 400kV Substation Nehtaur with Twin Moose Conductor (10kms)
10	400kV D/C (Quad) Aatur (Ghaziabad) – Indirapuram Line with Quad Moose Conductor(25Kms)
11	400kV D/C Hapur (765kV) - Dasna Line with Quad Moose Conductor(23kms)
12	400kV D/C (Quad) Greater Noida (765KV) – Noida (Sector-148) with Quad Moose Conductor (30Kms)
<b>(II)</b>	<b><u>Substations</u></b>
1	2X1500MVA,765/400kV & 2X500MVA, 400/220kV AIS at Hapur
2	2X1500MVA,765/400kV & 2X315MVA , 400/220kV AIS at Greater Noida
3	2X500MVA, 400/220kV & 3X60MVA, 220/33kV GIS at Aatur (Ghaziabad)
4	2X500MVA , 400/220kV AIS at Sikandrabad
5	2X200MVA, 400/132kV AIS at Nehtaur (Bijnore)
6	2X315MVA, 400/220kV & 2X100MVA , 220/132kV GIS at Dasna
7	2X500MVA , 400/220kV & 3X60MVA , 220/33kV GIS at Indirapuram
<b>(III)</b>	<b><u>Bus Switching-Arrangement</u></b>
1	<b>Hapur:</b> One & half breaker with double main bus scheme for 765 & 400KV side and Double Main & Transfer Scheme for 220KV side.
2	<b>Greater Noida:</b> One & half breaker with double main bus scheme for 765 & 400KV side and Double Main & Transfer Scheme for 220KV side.
3	<b>Aatur:</b> Double Main bus scheme for 400KV, 220KV & 33KV side.
4	<b>Sikandrabad:</b> One & half breaker with double main bus scheme for400KV side and Double Main & Transfer Scheme for 220KV side.
5	<b>Nehtaur:</b> One & half breaker with double main bus scheme for400KV & single main & transfer scheme for 132KV side.



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6	<b>Dasana:</b> Double Main bus scheme for 400KV, 220KV & 132KV side.
7	<b>Indirapuram:</b> Double Main bus scheme for 400KV, 220KV & 33KV side.

- 2) The Petitioner has also enclosed the copies of following documents with the petition:-
- (a) Letter of Intent (LOI) dated 31-05-11, issued by UPPTCL to the Cobra Instalaciones Y Servicios S.A. & Megha Engineering and Infrastructure Ltd Consortium (hereinafter referred to as “Cobra-MEIL Consortium” or “Successful Bidder”) to establish the transmission system for “765KV S/C Mainpuri- Hapur & Mainpuri – Greater Noida lines with 765KV/400KV AIS at Hapur & Greater Noida and associated Schemes/Works” (hereinafter referred to as “Project” or “Transmission System” or “Package-2”), specified under tender specification no ESD-765/4(Package-2) and all its amendments thereof till the bid deadline.
- (b) The Transmission Service Agreement (TSA) signed on 27-12-11 by WUPPTCL and the Long Term Transmission Customers (hereinafter referred to as the “LTTCs”) of the Transmission System, namely – Paschimanchal Vidyut Vitran Nigam Ltd(PVVNL), Dakshinanchal Vidyut Vitran Nigam Ltd (DVVNL), Purvanchal Vidyut Vitran Nigam Ltd (PuVVNL) and Madhyanchal Vidyut Vitran Nigam Ltd (MVVNL).
- (c) Certification of Incorporation, Memorandum of Association & Article of Association of WUPPTCL.
- 3) The Petitioner has also submitted that:-
- a) The Energy Task Force (herein after referred to as “ETF”) constituted by the Government of Uttar Pradesh (herein after referred to as “GoUP”) has authorized U.P. Power Transmission Corporation Ltd (hereinafter referred to as “UPPTCL”) to act as the Bid Process Coordinator (hereinafter referred to as “BPC”) to carry out the tariff based competitive bidding process for the selection of the Transmission Service Provider (hereinafter referred to as “TSP”) to establish the Transmission System on BOOT basis under ‘Tariff based Competitive Bidding Guidelines for Transmission Service’ and ‘Guidelines for Encouraging Competition in Development of Transmission Projects’ (hereinafter referred to as the “Guidelines”), issued by GOI in section 63 of the Act.



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- b) The BPC prepared the Request for Qualification (hereinafter referred to as “RFQ”), Request for Proposal (hereinafter referred to as “RFP”) and Transmission Service Agreement (hereinafter referred to as “TSA”) documents based on the Standard Bid Documents of GOI with certain deviations and these deviations were approved by the Commission. The BPC also prepared Share Purchase Agreement (hereinafter referred to as “SPA”) and Connection Agreement (hereinafter referred to as “CA”) documents which were approved by the Commission.
- c) Western UP Power Transmission Company Ltd. (hereinafter referred to as the “WUPPTCL or “Petitioner”) was incorporated on 11<sup>th</sup> September, 2009 under the Companies Act, 1956 by the BPC/UPPTCL as its wholly owned subsidiary to act as Special Purpose Vehicle (SPV) to initiate the activities of the Project and to subsequently act as TSP after being acquired by the Successful Bidder.
- d) The BPC initiated the bidding process with the publication of Bid Invitation for Qualification, in response to which and after evaluation, BPC shortlisted two bidders namely Isolux Corsan Concesiones SA and Cobra Instalaciones y Servicios SA as qualified bidders as per the specified criteria.
- e) After short listing at RFQ stage, one of the qualified bidders, Cobra Instalaciones y Servicios SA applied on 10-08-10 for the change of composition from ‘Bidder’ to ‘Bidding Consortium’ in association with Megha Engineering & Infrastructure Ltd as per the provisions of RFQ & RFP. The BPC approved this change in composition vide letter dated 25-09-10.
- f) Both the qualified bidders submitted their bids comprising of both non-financial and financial parts on 20-11-10. BPC opened the non-financial bid on the same day in presence of the representatives of both the bidders. After completion of responsiveness check of the non-financial bids of both the bidders, the BPC opened the financial bids on 25-03-11 in which Cobra-MEIL Consortium has emerged out as the lowest quoted bidder with the quote levelized transmission charge of Rs 8905.37 million per annum.



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- g) The BPC held the negotiations with the lowest quoted bidder, Cobra-MEIL Consortium on 30-03-11 and the Consortium gave a discount of approx 1.74% **to arrive at a levelized transmission charge of Rs 8750 million per annum** vide their letter dated 30-03-11.
- 4) Subsequent to the process of two-stage tariff based competitive bidding conducted by BPC, Cobra Instalaciones Y Servicios S.A. & Megha Engineering and Infrastructure Ltd Consortium has been evaluated as Successful Bidder and in this regard a Letter of Intent (LOI) has been issued by the BPC on 31-05-11. Thereafter the Successful Bidder acquired WUPPTCL (the project specific SPV) and signed a Share Purchase Agreement on 22-09-11. The Transmission Service Agreement has also been signed on 27-12-11 between the Petitioner and the LTTCs of the Transmission System.
- 5) After issuance of LOI dated 31.05.2011 by UPPTCL, CMD UPPTCL intimated the Commission vide letter dated 21.07.2011 that the bidding documents (RFQ & RFP) were made as per the Standard Bid Documents of Ministry of Power, GOI, after incorporating the provisions contained in the Commission's orders and certified that the bid process & bid evaluation has been carried out in conformity with tariff based competitive bidding guidelines for transmission service of GOI and tariff quoted by all the bidders have been made public and put on the official website [www.upptcl.org](http://www.upptcl.org).
- 6) The Commission heard the above petition on 21-02-12 and 20-11-2012 and directed UPPTCL and WUPPTCL vide its order dated 19-03-12, 21-05-2013 and 18-03-2013 to submit certain documents to the Commission, including the Certification by the Bid Evaluation Committee (hereinafter referred to as "BEC") required under Para 12.4 of the Guidelines.
- 7) UPPTCL submitted the copies of the documents to the Commission vide its letters dated 10-04-12, 07-06-12 and 24-07-12.

The Commission further directed UPPTCL to submit the following documents vide order dated 18-03-2013 and their status is as below:-

- (I) An affidavit for publishing RFQ & RFP notices on the website of UPPTCL and the Govt. along with the copies of newspaper cuttings for publication of NIT with publication date, required under para-9.2 of guidelines.



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UPPTCL submitted that the notice regarding opening of RFQ was uploaded on UPPTCL's website, RFQ notices published in the newspapers are enclosed RFP notices were not required to be published in the newspapers as it was sent to the selected bidders by the BPC. RFP documents were also uploaded on UPPTCL's website.

- (II) An affidavit for opening the RFQ & RFP bids in public and in the presence of representatives of bidders along with the copy of the attendance sheet, having details & signatures of persons, present during the opening of the RFQ & RFP bids, required under para-9.9 of guidelines.

UPPTCL submitted that RFQ & RFP were opened publically in presence of authorized representatives of bidders and members of bid opening committee. Photo copy of the attendance sheet dated 12.11.2009 for RFQ bids, dated 20.11.2010 for RFP non-financial bids and dated 25.03.2011 for RFP Financial bids are enclosed.

- 8) WUPPTCL submitted the desired documents to the Commission vide its letters dated 06-04-12 and 29-05-12.
- 9) Conformity certificate dated July, 2011 has been submitted to the Commission issued by Shri Navneet Sehgal, CMD, UPPTCL stating that the Bid evaluation and bid processing has been done in conformity with tariff based competitive bidding guidelines for transmission service. Subsequent to the submission of a conformity certificate of Sri Navneet Sehgal, CMD UPPTCL in July'11, another conformity certificate dated 09-08-12 of Sri Sanjay Prasad, Secretary, GoUP, has been submitted to the Commission in this regard. Since these certificates were not in accordance with the guidelines of Government of India, the Commission directed UPPTCL, vide letter dated 05-09-12, that instead of above certificate from CMD, UPPTCL and Sri Sanjay Prasad, Secretary Energy, Government of U.P., the certification of Bid Evaluation Committee is required to process the case and therefore the same may be submitted at the earliest.
- 10) Sri Avdhesh Kumar Verma, Chairman, Rajya Vidyut Upbhokta Parishad and the member of State Advisory Committee raised certain issues vide his letter dated 19-11-12 & 07-02-2013. Similarly Sri Rama Shankar Awasthi raised certain issues vide intervener application dated 20-11-12. The issues have been discussed in detail in Commission's order dated 18-3-2013

The Commission observed that the above issues raised by Sri Avadhesh Kumar Verma and Sri Rama Shankar Awasthi are mainly *concerned with the use of conductor in the project and submission of certification by Bid Evaluation Committee required under tariff based competitive bidding guidelines of GOI.*

**The issue of use of the conductor in the project under this petition has already been decided by the Commission vide its order dated 19.03.2012 in petition no. 782 / 2012 of WUPPTCL, in which the Commission refused to allow an option for use of Bersimis Equivalent & Moose Equivalent AAAC Conductor in addition to ACSR Bersimis and ACSR Moose conductor in the Project. In the light of Commission's order dated 19.03.2012, the issue of conductor, raised by Sri Verma and Sri Awasthi, remains no issue.**

The Commission in its order dated 18-03-2013 directed UPPTCL & WUPPTCL to file their point-wise replies on the issues, raised by Sri Verma and Sri Awasthi, with a copy to them also, within two weeks from the order. UPPTCL submitted that the replies have been sent to them. WUPPTCL submitted that this is not the public hearing, so they have not sent the replies to them.

- 11) The Commission had raised the following queries in its order dated 18.03.2013 which were discussed during the hearing on 26-04-2013.

a) Certification by Bid Evaluation Committee

The Commission vide its earlier orders dated 19-03-12, 21-05-12 and 18-03-20013 had directed UPPTCL for submission of Certificate by Bid Evaluation Committee quoting the provisions of section-63 of the Act and para-12.4 of the Guidelines. The tariff adoption U/s 63 of the Act refers to the bidding process in accordance with the guidelines issued by the Central Government and Para-12.4 of 'Tariff based Competitive-bidding Guidelines for Transmission Service' of GOI requires final TSA along with the Certification by the Bid Evaluation Committee to be forwarded to the Commission for adoption of tariffs. The Commission is of the view that the members of the Bid Evaluation Committee have to certify the transparency in the bid evaluation process (RFQ & RFP) so that it can proceed for adoption of Tariff.

The Govt. of U.P. constituted the Bid Evaluation Committee (BEC) to select the successful developer under PPP scheme as follows:

सचिव, उत्तर प्रदेश शासन, ऊर्जा (निजी निवेश) प्रकोष्ठ द्वारा जारी कार्यालय ज्ञाप संख्या  
493 दिनांक 07-09-09

“ग्यारहवीं पंचवर्षीय योजना में पारेषण स्कंध की परियोजनाओं का क्रियान्वयन पी0पी0पी0 विधि द्वारा कराने हेतु विकासकर्ता के चयन हेतु आमांत्रित निविदा प्रपत्रों (आर0एफ0क्यू0 व आर0एफ0पी0) के ऑकलन समिति का गठन निम्नवत किया जाता है:—

1. अवस्थापना एवं औद्योगिक विकास आयुक्त, उ0प्र0 शासन (अध्यक्ष)
2. प्रमुख सचिव, न्याय, उ0प्र0 शासन (सदस्य)
3. प्रमुख सचिव, वित्त, उ0प्र0 शासन अथवा उनके प्रतिनिधि (सदस्य)
4. प्रमुख सचिव, नियोजन, उ0प्र0 शासन (सदस्य )
5. सचिव, ऊर्जा, उ0प्र0 शासन (सदस्य )
6. अध्यक्ष, उ0प्र0 पावर ट्रॉसमिशन कारपोरेशन लि0 (सदस्य )
7. प्रबन्ध निदेशक, उ0प्र0 पावर ट्रॉसमिशन कारपोरेशन लि0 (सदस्य / संयोजक)
8. सदस्य, केन्द्रीय विद्युत प्राधिकरण अथवा उनके प्रतिनिधि (सदस्य )
9. निदेशक, वित्त उ0प्र0 पावर कारपोरेशन लि0 (सदस्य )
10. अधिशासी निदेशक (पारेषण), उ0प्र0 पावर ट्रॉसमिशन कारपोरेशन लि0 (सदस्य / सहसंयोजक)

UPPTCL as BPC submitted the certificate issued by Bid Evaluation Committee in the matter of petition no. 783 / 2012 filed by M/s Western UP Power Transmission Company Ltd. for adoption of Transmission charges for PPP package – 2 vide letter no. 243 / ESD – 765 kV/PPP / 4 / Cobra/ Vol – 4 dated 10.4.2013 which is reproduced below:

“ Certificate of Bid Evaluation Committee

Subject: Selection of bidder as Transmission Service Provider to establish the transmission system for 765 kV S/C Mainpuri-Hapur & Mainpuri-Greater Noida lines with 765 kV / 400 kV AIS at Hapur & Greater Noida and associated schemes / works through Tariff based Competitive bidding process under PPP Package – 2.

The Bid Evaluation Committee constituted by Secretary (Energy) U.P. Govt. vide O.M no. 493/24 – ऊ0कल0कल0न0 / 09-29 (प्रकोष्ठ) / 09 dated 07.09.2009 had completed the bid evaluation for the transmission project under PPP package- 2 in the last meeting held on dated 30.03.2011. In terms of Clause 12.4 of Tariff based Competitive- bidding Guidelines for Transmission Service, it is hereby certified that:

- a. M/s Cobra Instalaciones Y Servidios S.A. – Megha Engineering & Infrastructure Limited Consortium (Cobra-MEIL Consortium) has emerged as successful bidder with the lowest



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levelised tariff of Rs. 875 crores per annum for the above project as per BEC Minutes of Meeting dated 30.03.2011 enclosed at Annexure – 1.

- b. The rates quoted by successful bidder are in line with the prevalent market prices.
- 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 Electricity Act, 2003 and as amended from time to time.”

The objectors Shri Avadhesh Kumar Verma and Shri Rama Shankar Awasthi had raised the issue of non availability of certificate of Bid Evaluation Committee and as the certificate of Bid Evaluation Committee has been submitted by UPPTCL, **therefore their objection on this issue is set at rest.**

**On observing the above certificate of Bid Evaluation Committee the Commission finds that nine out of ten members of the Bid Evaluation Committee have signed the certificate and one member has retired, as the majority of members have signed the certificate the Commission accepts it. The scanned copy of the certificate issued by the Bid Evaluation Committee has been made the part of this order as Annexure B.**

b) Clause 19.2.3 of TSA

Clause 19.2.3 says that in case of any change in ownership of WUPPTCL, the new owner/consortium must fulfill the technical requirement and according to the directions of the Commission vide its order dated 15-09-10, the technical criteria was to be decided mutually by UPPTCL and the successful bidder during pre-award discussions.

The Commission pointed out that there is a gap of three years between COD+2 & COD+5 in clause 19.2.3 of TSA. The Commission referred to the review petition 691/2010 filed by UPPTCL vide which UPPTCL added the provision of the technical criteria to be fulfilled by the new owner / consortium in case of any change in the ownership of WUPPTCL under clause 19.2.3 of TSA,.

The Commission further pointed out that clause 19.2.1 of TSA says that “the aggregate equity share holding of the selected bidder in the issued and paid up equity share capital of



WUPPTCL shall not be less than (a) 51% upto a period of 2 years after COD of the Project; and (b) 26% for a period of 3 years thereafter". In view of above clause of TSA, if the aggregate equity share holding of the selected bidder in the issued and paid up equity share capital of WUPPTCL shall not be less than 26% up to a period of 5 years after COD of the project then the selected bidder shall be the part of WUPPTCL up to the five years after COD of the Project. Therefore any exit of the selected bidder from WUPPTCL will come up only after (COD+5) years and hence the technical criteria to be fulfilled by the new owner / consortium in case of any change in the ownership of WUPPTCL may arise only after (COD+5) years.

The Commission clarified that the issue came up to the knowledge of the Commission after the signing of TSA documents and then only the Commission observed some inconsistency in the clause. The Commission decided that it cannot leave any ambiguity in the documents. As this clause was finalized by the BPC, therefore the Commission directed UPPTCL to file its reply within two weeks from the order dated 18-03-2013.

UPPTCL through affidavit vide letter no. 268 dated 25.4.2013 submitted that:-

Clause 19.2.3 is defined as below:-

19.2.3 Subject to Article 19.2.1, all transfer(s) of shareholding of Western UP Power Transmission Company Limited by any of the entities referred to in Article 19.2.1 and 19.2.2 above, shall be after prior written permission from the Long Term Transmission Customers / nominee of Long Term Transmission Customers. In case of any change in ownership, the new owner / consortium must fulfill the minimum technical requirement as specified below:

- a) In case of change in ownership until COD+2 years, the new owner / consortium shall have at least the same technical requirements than the bidders were required to have at the RFQ stage to be qualified.
- b) After COD+5 years the new owner / consortium shall demonstrate capacity to operate Transmission lines & substation achieving the stipulated standards of performance either himself or thorough a contractor who have at least 10 years experience of maintaining 765 kV substation and 400 kV lines. In case of persistent failure to deliver the stipulated performance the LTTC will have a right to terminate the TSA after giving one month notice.

Since the clause 19.2.3 is subject to the provisions of clause 19.2.1, the period between COD+2 & COD+5 years will be covered by the provisions of 19.2.1 (b).



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WUPPTCL submitted that article 19.2.3 of TSA is full compliance with the Commission's order dated 15.9.2010 and additional condition have been incorporated for period upto COD+2 years which is more stringent than the standard bidding document.

**The Commission is satisfied with the reply of UPPTCL that the period between COD+2 years and COD+5 years shall be covered by the provisions of 19.2.1 (b) of TSA.**

c) Schedule-10 of TSA

As per TSA document, the entire bid (both financial and non-financial bids) of the Selected Bidder is required to be attached under Schedule-10 of TSA. As the copy of TSA had been enclosed with the petition, the Commission went through it and found that UPPTCL has unilaterally made certain documents as the additional documents to TSA vide letter dated 04-09-12 with its copy to WUPPTCL and all the four discoms and therefore directs UPPTCL to make all such documents, other related correspondences in this regard and clarifications if any as part of TSA Schedule-10 and get the amended part of TSA signed by the authorized representatives of all the concerned parties.

- I) Commission had opined that the revised transmission charges of 35 years corresponding to levelized tariff of Rs. 875 Crores per year submitted by Cobra – MEIL Consortium should also have been made the part of TSA schedule 10 under financial bid.
- II) An unsigned letter dated 22-10-10 of Registrar of Companies (RoC) has been made the part of TSA Schedule-10 under non-financial bid which was allowing change of name from 'Cobra Power Infrastructure Private Limited' to 'Gomti Power Infrastructure Pvt. Limited'.
- III) In view of change of name of Cobra Power Infrastructure Private Limited to Gomti Power Infrastructure Pvt. Limited by Registrar of Companies vide its electronic confirmation dated 22-10-10, the certificate dated 19-11-10 of Grover Ahuja & Associates attached with TSA Schedule-10 (non-financial), should have certified Cobra Instalaciones Y



Servicios S.A and MEIL as shareholders of Gomti Power Infrastructure Pvt. Limited instead of Cobra Power Infrastructure Private Limited.

- IV) The certificate of Deloitte, attached with TSA schedule-10, refers to the board resolution of ACS Servicios regarding investment in SEUPPTCL. The Commission asked UPPTCL how this document pertaining to SEUPPTCL has been attached with TSA of Package-2 WUPPTCL submitted that the correct certificate of Deloitte applicable for Package – 2 / WUPPTCL is being enclosed with the TSA as an amendment.

WUPPTCL submitted that the revised certificate by M/s Grover Ahuja & Associates dated 08.12.2010 is submitted to UPPTCL vide Consortium's letter dated 09.12.2010 certifying that their earlier certificate dated 19.11.2010 issued in respect M/s Cobra Power Infrastructure Pvt. Ltd. is to be taken and read as issued to M/s Gomti Power Infrastructure Pvt. Ltd. consequent to change of name of the company.

As per the directions of the Commission in regard to point no. I, II, III and IV above UPPTCL submitted that following documents as annexed herewith shall be treated as part of Schedule-10 (Vol.-2) of the Transmission Service Agreement for PPP Package -2 executed on 27.12.2011 between Four Discoms viz. Paschimanchal Vidyut Vitran Nigam Ltd, Dakshinanchal Vidyut Vitran Nigam Ltd, Purvanchal Vidyut Vitran Nigam Ltd, Madhyanchal Vidyut Vitran Nigam Ltd & M/s Western U.P Power Transmission Company Ltd.:-

- (i) UPPTCL's letter no. 1688 dated 02.12.2010 regarding post bid clarifications desired from M/s Cobra-MEIL Consortium (Annexure -1)
- (ii) Board resolution from parent company i.e. M/s ACS SERVICIOS, COMUNICACIONES Y ENERGIA S.L. regarding compliance with the applicable laws in the foreign country (Annexure -2).
- (iii) Board resolution from bidding company i.e. COBRA INSTALACIONES Y SERVICIOS S.A. regarding compliance with the applicable laws in the foreign country (Annexure - 3)
- (iv) Board resolution from parent company i.e. M/s ACS SERVICIOS, COMUNICACIONES Y ENERGIA S.L. REGARDING AUTHORISATION OF Chairman by Board of Directors to represent and take all actions with respect to the transmission packages (Annexure -4).



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- (v) ROC certificate regarding change of name from Cobra Power Infrastructure Pvt., Ltd. to Gomti Power Infrastructure Pvt. Ltd (Annexure - 5)
  - (vi) A certificate from M/s Deloitte referring to the board resolution of ACS servicios for investment in WUPPTCL (Annexure -6). Due to an inadvertent mistake a certificate from M/s Deloitte referring to the board resolution of ACS servicios for investment in M/s SEUPPTCL was enclosed with the Schedule-10 (Vol.-2) of TSA which stands deleted from Schedule -10 (Vol-2)
  - (vii) Letter no. Cobra/UPPTCL/ESD765/2011/004 dated 31.05.2011 (Annexure - 7) submitted by M/s Cobra – MEIL Consortium in response to UPPTCL’s letter no. 1402 dated 28.05.2011 (Annexure - 8) towards revised transmission charges after giving 1.74% discount negotiated by Bid Evaluation Committee.

**The Commission observed that all the above documents signed by four Discoms viz. Paschimanchal Vidyut Vitran Nigam Ltd, Dakshinanchal Vidyut Vitran Nigam Ltd, Purvanchal Vidyut Vitran Nigam Ltd, Madhyanchal Vidyut Vitran Nigam Ltd & M/s Western U.P Power Transmission Company have been made part of Schedule-10 (Vol.- 2) of the Transmission Service Agreement for PPP Package -2 executed on 27.12.2011.**

d) Signing of Share Purchase Agreement (SPA)

In accordance with the contents of approved SPA documents, “SPA” is an agreement amongst UPPCL, WUPPTCL and the Successful Bidder for the purchase of 100% shareholding of WUPPTCL, for the Acquisition Price, by the Successful Bidder. Further, as per LOI dated 31-05-12 issued by UPPTCL, the Successful Bidder in the Project was Cobra-MEIL Consortium. Therefore, the Commission is of the view that SPA was required to be signed only by the three parties - UPPCL, WUPPTCL and Cobra-MEIL Consortium, whereas it has been observed that SPA was signed by the fourth party - Gomti Power Infrastructure Pvt. Limited. The Commission also observed that WUPPTCL in its letter dated 27-03-12 addressed to Registrar of Companies stated that WUPPTCL was taken over by MEIL and Gomti Power Infrastructure Pvt Limited (Cobra-MEIL Consortium).

In view of above, the Commission asked who acquired WUPPTCL and inquired about the role of Gomti Power Infrastructure Pvt Limited to sign SPA. The Commission considers it as a

deviation from the approved SPA document and directs UPPTCL & WUPPTCL to file their replies under an affidavit within two weeks from the date of the order dated 19-03-2013.

In compliance of para 17 d of Commission's order dated 18.3.2013 UPPTCL submitted that the lead member of the consortium, M/s Cobra Instalaciones Y Servicios holds 98.86% shares of the M/s Gomti Power Infrastructure Pvt. Ltd. and hence more than 50% voting rights. Therefore in light of the definition of 'affiliate' as per RFQ documents, M/s Gomti is an affiliate company of M/s Cobra Instalaciones Y Servicios & MEIL. Further, the lead member of the COBRA-MEIL consortium, i.e. M/s Cobra is investing 84% equity in M/s WUPPTCL through M/s Gomti and 15% through itself, therefore M/s Gomti Infrastructure Pvt. Ltd., as an affiliate company of COBRA-MEIL consortium is investing 85% equity in M/s WUPPTCL. Due to this reason, M/s Gomti also signed the SPA.

WUPPTCL submitted that as mentioned in the bid documents, the selected Bidder i.e. Cobra-MEIL Consortium had clearly indicated that the investment in the SPV by the Lead Bidder, Cobra shall be as through their affiliate M/s Gomti Power Infrastructure Pvt. Ltd. (Gomti); and the investment by the other consortium partner, MEIL shall be by direct investment as well as through Gomti. Hence the SPA was signed by UPPCL, the Petitioner, Cobra-MEIL Consortium and Gomti. An affidavit to this effect is attached hereto.

The Commission was not satisfied with the replies of UPPTCL and WUPPTCL and during the hearing on 26-04-2013 directed WUPPTCL to file the following

- 1) Affidavit from Managing Director, WUPPTCL giving the present shareholding details of WUPPTCL.
- 2) Affidavit from Director, Gomti Power Infrastructure Pvt. Ltd. (Gomti) giving the present shareholding details of Gomti.
- 3) Annual Returns of WUPPTCL, for the years 2009-10, 2010-11 and 2011-12 as filed with Registrar of Companies (Roc).

WUPPTCL submitted the same through affidavit on 06-05-2013.

**The Commission finds that Gomti Power Infrastructure Pvt. Ltd has invested 85% and MEIL has invested 15% in WUPPTCL and whereas M/s Cobra Instalaciones Y Servicios holds 98.86% and MEIL holds 1.14% in Gomti Power Infrastructure Pvt. Ltd therefore M/s Cobra Instalaciones Y Servicios is the lead member having more**



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than 51% shares in WUPTCL. Therefore the objection of objector Shri Ramashankar Awasthi is resolved.

The Commission also observed that the same person of MEIL has signed SPA on behalf of Cobra and MEIL both but the board resolution of Cobra Instalaciones Y Servicios SA for authorization to sign SPA to the person has not been submitted so far in spite of the directions of the Commission's orders dated 19-03-12 and 21-05-12.

In view of above, the Commission directed WUPPTCL to submit the board resolution of Cobra Instalaciones Y Servicios SA for authorization to sign SPA under an affidavit within two weeks from the date of its order dated 19-03-2013.

WUPPTCL submitted that Mr. B. Srinivasa Reddy, who signed the Share Purchase Agreement on behalf of Cobra-MEIL Consortium was duly authorized to sign Share Purchase Agreement by the Lead member, M/s Cobra Instalaciones Y Servicios S.A. vide its letter no. Cobra-MEIL Consortium/UPPTCL Pkg-2/002 dated 6<sup>th</sup>/14<sup>th</sup> June 2011.

e) Delay in bidding process

- (I) As per the Guidelines of GOI, the total time to complete the bidding process, starting from publication of RFQ to signing of agreements, is only 240 days; whereas UPPTCL took more than 860 days to complete the bidding process. *The Commission inquired the reasons of this delay.*
- (II) As per clause 2.4 of RFP documents, the SPA & TSA were required to be signed within 15 days of issue of LOI. Since LOI was issued on 31-05-11 and SPA & TSA were signed on 22-09-11 & 27-12-11 respectively, *the Commission inquired about the delay in signing of SPA (after a period of three months) and TSA (after a period of 6 months).*
- (III) UPPTCL allowed submission of RFQ bids up to 12-11-09 and RFP bids up to 20-11-10, which was not in accordance with the directions of the Commission. The Commission vide its orders dated 15-10-09 & 20-10-09 directed UPPTCL to issue modified RFQ to the bidders within seven days of the order and next seven days for filing the responses. Similarly the Commission, vide its orders dated 02-07-10 directed UPPTCL to issue modified RFP documents within seven days of the order and next 30 days for



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submission of RFP bids. Since the modified RFP & RFP Project Documents had already been issued to the bidders, the Commission directed UPPTCL vide its order dated 15-09-10 in the review petition 691/2010, filed by UPPTCL, to make the necessary modifications in the documents according to the decisions and directions of the Commission through an amendment within seven days of the order and issue the amendment to both the bidders within three days thereafter.

*In view of above, the Commission inquired why the submission of RFQ and RFP bids did not take place as per the orders of the Commission.*

WUPPTCL submitted that the financial bid was opened on 25.03.2011 and the Lol was issued on 31.05.11. The Selected Bidder completed the activities under its control i.e. acceptance of Lol and submission of Contract Performance Guarantee (CPG) within the period specified in RFP. The SPA was executed immediately after preparation & finalization of WUPPTCL's financial accounts till signing of SPA by UPPTCL. Further, the TSA was signed immediately after finalization of amendments to clause 19.2.3 in compliance to Commission's order dated 15.09.2010 by UPPTCL.

UPPTCL submitted that this was first power sector project, of such a large magnitude, taken up under Public Private Partnership (PPP mode) in the state of U.P. Even the consultant, appointed for this project, M/s CRISIL Risk & Infrastructure solutions Pvt. Ltd. was not thoroughly aware of procedures & regulations applicable to such type of projects. Very few PPP Projects in Transmission Power Sector have been taken up in the country & therefore guidelines are also at a nascent stage.

The Global tender notice for submission of RFQ & RFP was advertised in the National Newspapers on 10.08.2009. Accordingly RFQ & RFP was sent to UPERC for approval. The approval of Commission for RFQ was received on 20.10.2009.

As per directive of Commission, the RFQ opening date was fixed on 31.10.2009. But in order to enable more participants to submit the bids & on request of prospective bidders the date of submission of RFQ bids was extended from time to time & finally fixed for 12.11.2009. The RFQ bids were received & opened on 12.11.2009.



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Bid Evaluation Committee(BEC) in its meeting on 30.11.2009 instructed to submit comprehensive assessment report after getting some clarifications form the bidders by giving them 15 days time. Again in its meeting on 23.02.2010. BEC recommended to ETF for selection of M/s Cobra for issuance of RFP documents. Thereafter E.T.F. in its meeting on 24.02.2010 decided to issue RFP to M/s Cobra. Accordingly, RFP documents were issued to both the bidders. These documents were also submitted to UPERC.

Thereafter petitions for approval of RFP project documents were filed to UPERC. After hearings on 18.03.2010, 18.05.2010, 03.06.2010, 08.06.2010 & 25.08.2010 RFQ project documents were finally approved by UPERC on dated 16.09.2010. RFP documents were issued to selected bidders on 30.09.2010.

Thereafter opening of RFP bid was scheduled on 30.10.2010 but the same had to be extended on the request of the bidders as they wanted to clarify some matters regarding bid. The RFP bids were rescheduled for submission on 20.11.2010 and accordingly both the bidders submitted their financial and non-financial bids on 20.11.2010. RFP Non-Financial bid was opened on the same day i.e. on 20.11.2010.

Some post bid clarifications were desired by UPPTCL vide ltr no. 1688 dated 02.12.2010. , the reply to clarification was submitted by M/s Cobra-MEIL Consortium on 19.01.2010.

During this period Benchmark cost of package-2 was also worked out. Based on Benchmark cost, the minimum levelised tariff was approved by ETF in its meeting dated 28.02.2011 which was intimated to UPERC by UPPTCL vide Director (Finance) letter no. 862 dated 10.03.2011.

Thereafter RFP Financial bids were opened on 25.03.2011.

ETF as empowered committee finlised on selection of developers on 30.03.2011. There after U.P. Govt. issued orders vide letter no. 452/24/ ऊ०नि०नि०प्र० / 11-48 (प्रकोष्ठ) / 10 dated 26.05.2011 to award the package -1 to M/s Isolux & package – 2 to M/s Cobra – MEIL Consortium.

All the related minutes of meeting of ETF & U.P. Govt. letter have already been submitted to UPERC.

The delay in finalization of bids was due to the time taken in approval of documents & procedures required at different levels of decision making bodies.

**The Commission is satisfied the submissions of UPPTCL and WUPPTCL in regard to points d (I), (II) and (III)**

f) Some General Clarifications sought by the Commission vide its order dated 19-03-2013

- (I) The Commission sought clarifications from UPPTCL about the negotiation with the L1 bidder and placement of LOI on negotiated price, when there was no such provision in the RFP bid document. UPPTCL could not reply satisfactorily. The Commission directed UPPTCL to file its reply within two weeks from the date of this order.

UPPTCL submitted that Tariff based competitive bidding guidelines issued by Ministry of Power, GOI do not prohibit negotiation. BEC have done the negotiation as per directions of ETF meeting dated 28.02.2011. Since ETF was nominated as the Empowered Committee by Govt. of U.P., it was authorized to take decisions which are economical to the state.

WUPPTCL submitted that the Hon'ble Appellate Tribunal for Electricity in its judgment dated 06.05.2010 in the matter of MP Power Trading Company Ltd. Vs MPERC & Others vide Appeal no 44 of 2010 (Para 47) has held that:

*“Even assuming that there is no explicit approval obtained by the Appellant from the State Commission, it shall be remembered that there is no explicit embargo on the Appellant from having negotiations with the bidders for reduction of the prices so as to make them agree to the reduced price which is aligned with the market prices in the interest of the consumers at large. Therefore, the ground for rejection of the petition that there is no provision for negotiation as per the guidelines and the RFP documents and that there is no approval for negotiation obtained from the State Commission is totally wrong.”*

Thus the LTTCs and BPC, UPPTCL were well within their rights to negotiate the prices with the L1 bidder in the interest of the consumers at large.

**The Commission is satisfied with the reply of UPPTCL as the negotiated bid was less than the quoted bid and the negotiated bid is in the interest of public.**

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- (II) In view of clause 3.4.1.5 of RFP read with para-11(c) of the Commission's order dated 02-07-10 and para-7 of the Commission's order dated 15-09-10, the Commission sought clarifications from UPPTCL about non-adoption of Swiss Challenge Method (SCM) even when the originally quoted L-1 levelized tariff was above the benchmark cost of the Project. UPPTCL could not reply satisfactorily. The Commission directed UPPTCL to file its reply within two weeks from the date of this order.

UPPTCL submitted that ETF in its meeting dated 28.02.2011 had decided not to go for Swiss Challenge Method (SEM) if the quoted tariff is within + 10% of benchmark prices Package – 2: Benchmark tariff (informed to UPERC) – 840.40 Crs.

Quoted Levelised tariff – 890.537 CRs.

Obtained by bidding diff. + 5.96%

Bid of M/s Cobra was higher by only + 5.96% with respect to bench mark tariff (less than 10%) therefore SCM was not adopted.

**The Commission is satisfied with the reply of UPPTCL.**

- (III) In respect of Assessment Report of March 2011 on financial proposal of RFP submitted by UPPTCL, the Commission observed that in 3<sup>rd</sup> para of clause 2.5 of the above report, the benchmark tariff for Package-2 has been wrongly mentioned as Rs 833.76 Cr against the correct figure of Rs 840.40Cr. Further, in the 5<sup>th</sup> para of the same report, 'Isolux' has been mentioned as 'L1 bidder' for Package-2 whereas the correct L1 bidder is 'Cobra-MEIL Consortium'. As such mistakes occurred in the consultant's report which has been considered by the BEC as the base document for evaluating the RFP bids, therefore the Commission considers it as 'careless attitude' shown by all concerned and directs UPPTCL to submit its clarification under an affidavit within two weeks from the date of this order.

UPPTCL submitted that the mistakes were noted by BEC and had been corrected by them in their Minutes of Meeting.

**The Commission is satisfied with the reply of UPPTCL**

- (IV) UPPTCL vide letter dated 24-07-12 submitted the Board resolution for undertaking of the parent company, ACS Servicios Comunicaciones y Energia S.L. in two sets and Board



Resolution of the Bidding Company, Cobra Instalaciones Y Servicios S.A. It does not consist of the required board resolution of Cobra Instalaciones Y Servicios SA for authorization to sign SPA as required in the directions of the Commission issued vide its orders dated 19-03-12 and 21-05-12.

Further the above Board resolution undertaking of ACS Servicios Comunicaciones y Energia S.L and Board Resolution of the Bidding Company, Cobra Instalaciones Y Servicios S.A., appear to be part of RFP non-financial bid, submitted by the Consortium. If it is so, they should have been made the part of TSA Schedule-10 under non-financial bid. The Commission directs UPPTCL to file its clarification under an affidavit within two weeks from the date of this order.

UPPTCL submitted that all the Board resolutions submitted vide letter dated 24.07.2012 have been made part of Schedule – 10 (Vol-2) vide AMMENDMENT No. 1. These Board resolution were submitted in response to post bid query.

**The Commission is satisfied with the reply of UPPTCL.**

- (V) The Commission after having gone through the certificate dated 18-07-12 about the Board of Directors of WUPPTCL, observed that even though Cobra is the lead member of the consortium with 84% equity in WUPPTCL (through Gomti), but it doesn't have any representation in the board of directors of WUPPTCL, whereas the majority share holders of the other consortium partner (MEIL) are in the board of directors of WUPPTCL. The Commission directs UPPTCL and WUPPTCL to file its replies under an affidavit within two weeks from the date of this order.

WUPPTCL submitted that the persons in Board of Directors of the Petitioner have been chosen / appointed by its Shareholders i.e. MEIL and Gomti (an affiliate of Cobra) as per the provisions of the Companies Act. There is no provision under any law or RFP / TSA for appointment of any specified person or representative of any group on Board of Directors. An affidavit to this effect is attached hereto.

UPPTCL submitted that M/s WUPPTCL have intimated vide their letter no. UPPTCL/2012/102 dated 10.04.2013 that "The person in Board of Directors of M/s WUPPTCL have been chosen / appointed by its Shareholders i.e. MEIL and Gomti (an

affiliate of Cobra) as per the provisions of the Companies Act. There is no provision under any law of RFP / TSA for appointment of any specified person or representative of any group on the Board of Directors”.

**The Commission is satisfied with the reply of UPPTCL and WUPPTCL.**

- (VI) The Commission observed that the Board Resolution dated 24-12-11 of WUPPTCL for authorization to sign TSA, referred to the incorrect date of SPA. UPPTCL vide letter dated 24-07-12 submitted the Board Resolution of the same date (i.e. 24-12-11) of WUPPTCL, referring now to the correct date of SPA.

The Commission directs UPPTCL and WUPPTCL to clarify how the same board resolution dated 24-12-11 of WUPPTCL, can refer to both correct and incorrect date of SPA.

The UPPTCL submitted that M/s WUPPTCL have intimated vide their letter no. UPPTCL/2012/102 dated 10.04.2013 (Annexure - B) that :The Board Resolution of WUPPTCL dated 24.12.2011 as recorded in the “Minutes Book” mentions correct dated of SPA. However, while issuing the earlier certified copy of the said Board resolution, incorrect date of SPA was inadvertently mentioned in the certified copy. Subsequently, a new certified copy of the said Board resolutions as recorded in “Minutes Book” were issued.

The WUPPTCL submitted that the Board Resolution of 24.12.2011 as recorded in the “Minutes Book” mentions correct date of SPA, However, while issuing the earlier certified true copy of the said Board resolution, incorrect date of SPA was inadvertently mentioned in the certified copy. Subsequently, a new certified true copy of the said Board resolution was issued with correct date of SPA reflecting the actual Board Resolution as recorded in “Minutes Book”. An affidavit to this effect by the Managing Director of the Petitioner is attached hereto.

**The Commission is satisfied with the reply of UPPTCL and WUPPTCL.**

- (VII) The Commission asked UPPTCL to clarify why the business purpose, mentioned in Article of Association of WUPPTCL (submitted with the petition) refers to construction of Thermal Power Projects as well as Super Thermal Power Projects. UPPTCL admitted



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that it was due to some inadvertent typographical error but Memorandum of Association of WUPPTCL, submitted vide letter dated 24-07-12, mentions the main objects as EHV lines and substations

WUPPTCL submitted that the current 'Articles of Association' as per the records of the Registrar of Companies (ROC) states the Business purpose as "The company shall be engaged in the business of acquiring, establishing, constructing and operating extra high voltage lines and associated sub-stations". A copy of the certified true copy from RoC of the current 'Articles of Association' is attached hereto and marked as Annexure G.

**The Commission is satisfied with the reply of WUPPTCL.**

g) Provisions under Article 3.3 of TSA

The Commission inquired about the status of implementation of Article- 3.3 of TSA and directed both the parties UPPTCL & WUPPTCL to submit their replies under an affidavit within two weeks from the date of the order.

WUPPTCL submitted that the article 3.3 of TSA refers to "consequences of non fulfillment of conditions subsequent" as specified in article 3.1.3. The status of conditions specified in article 3.1.3 is as follows:

- 1) The Transmission License was obtained on 20.06.2012, after filing the petition on 06.01.2012 within 10 days of execution of TSA.
- 2) The petition for adoption of Transmission Charges u/s 63 was filed on 06.01.2012, and the matter is pending for consideration of the Hon'ble Commission since then.
- 3) The project execution plan was submitted to the LTTCs, UPPTCL as the nominee of LTTCs and CEA vide letter dated 10.04.2012.
- 4) Financial Closure is yet to be achieved due to delay in receipt of following essential statutory approvals which are pre-requisites for financial closure:
  - a) Adoption of Transmission Charges u/s 63 of I.E Act, which is still under consideration of the Hon'ble Commission for reasons not attributable to the Petitioner.
  - b) Approval u/s 68 of I.E. Act, which was received on 28.05.2012 after a delay of over 18 months (it was to be given by 05.11.2010 as per clause 1.5 b of RFP).



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- c) Approval u/s 164 of I.E. Act, has not been received till date due to delay in issue of notification specifying procedure to obtain the said approval by GoUP (issued on 31.08.2012) and delay in approval by GoUP after compliance with the notified procedure by the Petitioner (Final application submitted to GoUP on 31.01.2013).
- 5) The irrevocable letter to the Lenders duly accepting and acknowledging their rights under article 15.3 of the TSA shall be issued immediately after the financial closure and prior approval of the Hon'ble Commission in accordance with article 15.3 of the TSA.
- 6) The EPC contract was awarded on 9<sup>th</sup> April 2012 and the irrevocable notice to proceed to the EPC Contractor was issued on 7<sup>th</sup> May, 2012.

An affidavit to this effect is attached hereto and marked as Annexure H.

**Commission finds that the responsibility of delay in adoption of transmission charges submitted by WUPPTCL lies with both the parties. The Commission directs the parties to mutually decide upon this issue.**

In view of the above the Commission adopts the annual transmission charges provided in schedule 10 of TSA on the levelized transmission charge of Rs 875 crores per annum for a period of 35 years to be provided by WUPPTCL, Transmission Service Provider, in regard to establishment of the intra state Transmission System titled "765KV S/C Mainpuri - Hapur & Mainpuri - Greater Noida lines with 765KV/400KV AIS at Hapur & Greater Noida and associated Schemes/Works" Package – 2 on 'Build, Own, Operate & Maintain and Transfer' basis. Annual transmission charges provided in schedule 10 of TSA is made Annexure A to this order, which will be the integral part of the order.

Accordingly, the petition is disposed off.

(Meenakshi Singh)  
Member

(Shree Ram)  
Member

Place: Lucknow

Dated: 30-05-2013



### Annexure A

Year (Term of License)	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non- Escalable Transmission Charges (in Rupees Millions)	Quoted Escalable Transmission Charges (in Rupees Millions)
(1)	(2)	(3)	(4)	(5)
1.	Scheduled COD	31 March-2014	10139.00	0.00
2.	1 April, 2014	31 March- 2015	10142.00	0.00
3.	1 April, 2015	31 March- 2016	10142.00	0.00
4.	1 April, 2016	31 March- 2017	9356.00	0.00
5.	1 April, 2017	31 March- 2018	8968.00	0.00
6.	1 April, 2018	31 March- 2019	8756.00	0.00
7.	1 April, 2019	31 March- 2020	8620.00	0.00
8.	1 April, 2020	31 March- 2021	8484.00	0.00
9.	1 April, 2021	31 March- 2022	8351.00	0.00
10.	1 April, 2022	31 March- 2023	8224.00	0.00
11.	1 April, 2023	31 March- 2024	8330.00	0.00
12.	1 April, 2024	31 March- 2025	7675.00	0.00
13.	1 April, 2025	31 March- 2026	7561.00	0.00
14.	1 April, 2026	31 March- 2027	7454.00	0.00
15.	1 April, 2027	31 March- 2028	7222.00	0.00
16.	1 April, 2028	31 March- 2029	7636.00	0.00
17.	1 April, 2029	31 March- 2030	7455.00	0.00
18.	1 April, 2030	31 March- 2031	7583.00	0.00
19.	1 April, 2031	31 March- 2032	7716.00	0.00
20.	1 April, 2032	31 March- 2033	7857.00	0.00
21.	1 April, 2033	31 March- 2034	8404.00	0.00
22.	1 April, 2034	31 March- 3035	8294.00	0.00
23.	1 April, 2035	31 March- 2036	8460.00	0.00
24.	1 April, 2036	31 March- 2037	8637.00	0.00
25.	1 April, 2037	31 March- 2038	8467.00	0.00
26.	1 April, 2038	31 March- 2039	8702.00	0.00
27.	1 April, 2039	31 March- 2040	8158.00	0.00
28.	1 April, 2040	31 March- 2041	8021.00	0.00
29.	1 April, 2041	31 March- 2042	7896.00	0.00
30.	1 April, 2042	31 March- 2043	7784.00	0.00
31.	1 April, 2043	31 March- 2044	8122.00	0.00
32.	1 April, 2044	31 March- 2045	7604.00	0.00
33.	1 April, 2045	31 March- 2046	7538.00	0.00
34.	1 April, 2046	31 March- 2047	7357.00	0.00
35.	1 April, 2047	31 March- 2048	8716.00	0.00
36.	1 April, 2048	(35 <sup>th</sup> Anniversary of the Scheduled COD)	8716.00	0.00




Annexure - B


Certificate of Bid Evaluation Committee

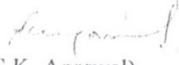
**Subject: Selection of bidder as Transmission Service Provider to establish the transmission system for 765kV S/C Mainpuri-Hapur & Mainpuri-Greater Noida lines with 765kV/ 400kV AIS at Hapur & Greater Noida and associated schemes /works through Tariff based Competitive bidding process under PPP Package-2.**


The Bid Evaluation Committee constituted by Secretary (Energy) U.P. Govt. vide O.M no. 493/24-ऊनिनिनिनि/09-29 (प्रकोष्ठ)/09 dated 07.09.2009 had completed the bid evaluation for the transmission project under PPP Package-2 in the last meeting held on dated 30.03.2011. In terms of Clause 12.4 of Tariff based Competitive- bidding Guidelines for Transmission Service, it is hereby certified that :

- M/s Cobra Instalaciones Y Servicios S.A.-Megha Engineering & Infrastructure Limited Consortium (Cobra-MEIL Consortium) has emerged as successful bidder with the lowest levelised tariff of Rs. 875 crores per annum for the above project as per BEC Minutes of Meeting dated 30.03.2011 enclosed at Annexure -1.
- The rates quoted by successful bidder are in line with the prevalent market prices.
- 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 Electricity Act, 2003 and as amended from time to time.


  
(R.S. Panday)  
Director (P&A)/  
The then Director (Project ), UPPTCL  
(Member/Co-convenor)

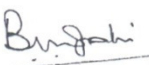
  
(K.K. Arya)  
The then Director (SETD)  
Chief E, CEA, New Delhi  
(Member)

  
(S.K. Agarwal)  
Director (Finance)  
UPPTCL  
(Member)


  
(Navneet Sehgal)  
Principal Secretary (Dharmarth karya)/  
The then Secretary (Energy) & CMD, UPPTCL  
(Member/Convenor)

(Sri Krishna Srivastava)  
Special Secretary (Planning) (Retired)  
Representative Principal Secretary  
(Member)

  
(Brajesh Kumar)  
Representative Principal Secretary  
(Law), U.P. Govt.  
(Member)

  
(Dr. B.M. Joshi) 8/4/13  
Secretary (Finance)  
Representative Principal Secretary  
(Finance), UP Govt.  
(Member)

(V.N. Garg)  
Principal Secretary (Forest)  
The then Principal Secretary (Industrial Development)

  
(Anoop Mishra) 8.04.2013  
Chairman, UPSRTC/The then Infrastructure and Industrial Development Commissioner  
Chairman Bid Evaluation Committee