

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 70 of 2011

In the matter of

**Application of Reliance Infrastructure Limited (RInfra) for grant of Transmission Licence
under the provisions of Section 14 read with Section 15 of Electricity Act, 2003**

Shri V.P. Raja, Chairman
Shri Vijay L. Sonavane, Member

Reliance Infrastructure Limited
H-Block, First Floor,
Dhirubhai Ambani Knowledge City,
Navi Mumbai - 400710

..... Applicant

ORDER

Dated: August 11, 2011

Background

A Licence called ‘**The Bombay Suburban Electric Licence, 1926**’ came to be granted on May 29, 1926 under the Indian Electricity Act, 1910 to certain individuals carrying on business in partnership under the name and style of Messrs. Killick, Nixon & Company and Calendar’s Cable & Construction Company Limited. The said Licence was thereafter assigned to Bombay Suburban Electricity Supply Company Limited on May 13, 1930 with subsequent amendments from time to time. The name of Bombay Suburban Electricity Supply Company Limited was changed to BSES Limited and subsequently to Reliance Energy Limited under the provisions of Section 21 of the Companies Act, 1956. Thereafter, the name ‘Reliance Energy Limited’ (REL) was changed to Reliance Infrastructure Limited

(RInfra) on April 28, 2008 under the provisions of Section 21 of the Companies Act, 1956. Accordingly, as BSES Ltd was engaged inter alia in the business of transmission of electricity on the 'appointed date' mentioned in the first proviso to Section 14 of Electricity Act, 2003 ("2003 Act") in terms of which the 1926 licence issued under the Indian Electricity Act, 1910 was saved till its expiry. Thus, Bombay Suburban Electricity Supply Limited renamed as BSES Limited, renamed as Reliance Energy Limited and subsequently renamed as Reliance Infrastructure Limited (RInfra) was a deemed licensee "*for such period as may be stipulated in the licence*". However, 15th August 2011 was the terminal date of the 1926 licence.

2. A joint petition came to be submitted by Reliance Infrastructure Limited and Reliance Power Transmission Limited numbered as Case No. 79 of 2010 seeking extension of the transmission licence for a period 25 years with effect from August 16, 2011 under the provisions of Section 15 (8) read with Section 18 of the 2003 Act or in alternative grant of transmission licence to RInfra for a period of 25 years with effect from August 16, 2011 under the provisions of Section 14 read with Section 16 of Electricity Act, 2003. This case was disposed of by the Commission's Order dated May 9, 2011 holding that an application was required to be made to seek grant of licence under Section 14 read with Section 15 and following the procedure for grant of licence under the MERC (Transmission Licence Conditions) Regulations, 2004.
3. In the aforesaid background, RInfra submitted the present application on May 13, 2011 under the provisions of Section 14 read with Section 15 of the 2003 Act for grant of Transmission Licence for the entire State of Maharashtra. The Application mentions that Part II: General Terms and Conditions appearing in the Form Of Licence appended to Schedule 2 to the MERC (Transmission Licence Conditions) Regulations, 2004 as amended in 2006 ("Transmission Licence Conditions Regulations") stipulates as follows:-

Area of transmission

- i. Alternative 1: The area of transmission shall be the State of Maharashtra.
 - ii. Alternative 2: The Licence authorizes the Transmission Licensee to establish and operate the following transmission lines.
4. The application has been made for grant of Transmission Licence for an Area of transmission being the area of transmission shall be the State of Maharashtra under Alternative 1 above. The application has been made for grant of Transmission Licence for development of the Transmission Lines and associated systems as enclosed in the Annexure – 1 of this order. RInfra has proposed a capital expenditure of Rs 1,474 Crores spread over a period of five (5) years for the proposed transmission system.

5. Based on preliminary scrutiny of the application in accordance with Regulation 5.1 of the MERC (Transmission Licence Conditions) Regulations, 2004 as amended in 2006 (“Transmission Licence Conditions Regulations”), the Commission directed RInfracor to submit clarifications regarding the following data gaps noted therein:
 - i. RInfracor was directed to provide the existing licence authorising it to undertake transmission of electricity.
 - ii. RInfracor was further directed to provide a summary sheet of the existing as well as proposed system information about each line and corresponding sub-stations in the manner with Transmission Line name, Length in kms, Originating and Receiving point, Number and Voltage level of each bay.
 - iii. In regard to the List of the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes located within the proposed area of transmission, RInfracor was asked to rectify the errors as required by the Commission.
6. RInfracor in reply to the above data gaps raised by the Commission vide email dated May 24, 2011, has provided the following details on May 26, 2011:
 - i. RInfracor provided a copy of the existing ‘The Bombay Suburban Electric Licence, 1926’.
 - ii. RInfracor provided a summary sheet of the existing as well as proposed system information about each line and corresponding sub-stations in the manner with Transmission Line name, Length in kms, Originating and Receiving point, Number and voltage level of each bay.
 - iii. The List of the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes located within the proposed area of transmission was provided by RInfracor in the requisite format as required by the Commission.
7. The Commission scheduled a Technical Validation Session (TVS) in the presence of authorised Consumer Representative on May 26, 2011. No Consumer Representative was present during the TVS. A detailed presentation was given by RInfracor team regarding:
 - i. Brief history of RInfracor in Transmission business.
 - ii. Practices followed by RInfracor in O&M of Transmission Lines.
 - iii. Innovative approaches in Transmission.

- iv. Methods of maintaining transmission line such as Hot Line Maintenance and Cleaning.
8. During the TVS, the Commission also directed RInfra to submit the detailed rationale for application for grant of licence under Alternative 1 vis-a-vis Alternative 2 of MERC (Transmission Licence Conditions Regulations), 2004. According to the Transmission Licence Conditions Regulations, Alternative 1 specifies that the area of transmission licence shall be for the State of Maharashtra and Alternative 2 authorizes the transmission licensee to establish and operate the specific transmission lines.
 9. RInfra states the following in its rationale for submitting its application under Alternative 1 of MERC (Transmission Licence Conditions) Regulations, 2004:
 - i. The Transmission system of RInfra is an integral part of the Intra-State Transmission system (InSTS) and is connected to the Maharashtra Grid network. RInfra is at present involved in executing number of transmission schemes with various other schemes being in the pipeline, which would be executed in the coming years. The ongoing and planned schemes are an integral part of the Transmission System Plan of the State as prepared by State Transmission Utility (STU) and approved in-principle by the Hon'ble Commission.
 - ii. For the augmentation of the InSTS, the STU has several schemes planned as a part of its responsibility to plan, build-up, operate, co-ordinate and maintain the integrated InSTS network. Presently, though Maharashtra has multiple Transmission licensees in the State, majority of the schemes are executed by MSETCL across the State. The other licensees predominantly have a presence in and around Mumbai only. To bring about more efficiency in the system, presence of multiple players across the State would be in the best interests of the entire InSTS. This would enable the transmission licensees to leverage on their existing expertise for the State system on a broader landscape benefiting the State grid as a whole.
 - iii. RInfra's transmission system in and around Mumbai cannot be identified as a project or a line meant to undertake a special purpose for and only for such purpose for which the licence is granted. The schemes, executed and in the process of execution or planning, are in fact a collection of schemes meant for various purposes, including but not limited to, handling the increasing load of Mumbai and in the process are strengthening and increasing the availability and reliability of the Intra State Transmission System of Maharashtra, as a whole. RInfra has therefore applied under Alternative 1 both because RInfra's present and planned set of projects are a system in themselves and not an isolated line or project, for which an area based Licence is the only possibility under the present Regulations and also that Alternative 2 will not be applicable in such a case.

- iv. If a Line Specific Licence is given, the particulars of the line i.e. length, originating point and destination point, etc. will be identified in the Licence, along with the purpose the line is meant for. Such a Licence can therefore only be granted after the line is constructed as then only all such particulars will be fixed. Parameters as planned could get altered during execution stage due to topography, ROW issues, etc. faced during execution. Also, the transmission utilities have to work in close co-ordination with the Transmission System Users (TSUs) for meeting their requirements mandating alterations in the system. Therefore, each time such alterations occur, the line specific licence would have to be amended. Alternatively, if the Line Specific Licence(s) is (are) only granted for existing projects, RInfra will have to approach the Hon'ble Commission under section 18 or 15 of the Electricity Act each time any of the already approved schemes (which are in execution or planning stages) get completed, either as Amendment to the existing licence to include such scheme or for issue of a fresh licence for such scheme. This would be extremely cumbersome and time consuming.
 - v. As per the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2011, Transmission Licensee is required to submit the Aggregate Revenue Requirement (ARR). Where a Transmission licensee has only a single line specific licence, the ARR can be filed for that single line. However, in the case of Transmission business of RInfra, where there are several schemes currently being executed and those to be executed in the ensuing years, the issue of filing ARR for each of these schemes would be difficult. The reason being that, the common costs such as Employee, A&G, etc. would have to be allocated amongst each of the schemes and where a new scheme gets added in a particular year, the methodology of allocation could undergo a change. Thus, the allocation for a specific year may not be applicable for the ensuing year. This would complicate the process of Truing-up and Annual Performance Review.
10. The Commission admitted RInfra's application for Grant of Transmission Licence on May 27, 2011 vide letter no. MERC/Case No. 70 of 2011/00514 and directed RInfra to issue a public notice as per the provision of sub-section (2) of Section 15 of Electricity Act, 2003 read with Regulation 6 of the MERC (Transmission Licence Conditions) Regulations, 2004. The Commission also directed RInfra to serve a copy of its Application to the Chief Engineer, State Transmission Utility of Maharashtra (STU) as per the provisions of Section 15 (3) of Electricity Act, 2003.
 11. In conformity with the provisions of sub-section (2) of Section 15 of Electricity Act, 2003 read with Regulation 6 of MERC (Transmission Licence Conditions) Regulations, 2004 and the direction of the Commission, RInfra published a notice of its application in two English language ("The Times of India" and "The Hindustan Times") and two Marathi language ("Saamana" and "Loksatta") newspapers on May 31, 2011 and submitted the documentary

proof of having published the notice to the Commission. A copy of RInfra's applications alongwith enclosures was made available on the RInfra's website. Further, a copy of RInfra's transmission licence application had been dispatched to State Transmission Utility.

12. In response to the public notice published by RInfra informing about its application for grant of licence, the Commission received one objection to the notice of the application for grant of transmission licence to RInfra.

(a) Objections

The following objections were highlighted in the letter so received:

- i. It is in monopolistic position if exclusive licence is granted. At least 4 other entities are also allowed to compete. Even nationalized banks are competitive against each other. The consumer gets benefit and exploitation can be avoided.
- ii. RInfra is known for exorbitant charges, rude behaviour of the staff members and much more avoidable harassment to users.
- iii. The company does not observe legal commitments. A substation at S V Road, Santa Cruz west near bank of India is still not vacated, though lease agreement is over at least 5 years back. Whenever workers of the company visit they create lot of problems for the society. The managing committee cannot take any action because of fear of disconnection of electricity or by any other means. The building cannot be redeveloped because of illegal structure of the company.
- iv. The company does not give any interest on Refund due to consumers refund claim only one centre is maintained by the company and very unreasonable method is required to be followed.

(b) RInfra's Response

RInfra in its response to the above objection replied in the following manner:

- i. In respect of your objections, we wish to submit that the nature of the queries raised does not pertain to the transmission business and thus we refrain from replying to the same.

13. Under the provisions of Section 15(3) of the Electricity Act, 2003, RInfra forwarded a copy of their application as above to the STU. The STU recommended for grant of transmission licence under the Alternative 2 instead of Alternative 1 of the MERC (Transmission Licence Conditions) Regulations, 2004. The recommendations on the application for grant of

transmission licence were sent by STU vide its letter no. MSETCL/CO/C.E-STU/Case No. 70 of 2011/9784 dated June 30, 2011 which are extracted as follows:

- i. As per the clarification regarding Clause 5.1 & Clause 7.1 of the National Tariff Policy issued by the Ministry of Power dated 09/10/2010, it is apparent that except for State Transmission Utility's (STU) transmission projects for which Bulk Power Transmission Agreements (BPTA's)/ Transmission Service Agreement's (TSA's) have been signed on or before 05/01/2011, tariff based competitive bidding will be applicable for remaining projects.
 - ii. In view of above the State Transmission Utility (STU) recommends that Reliance Infrastructure Limited may be granted transmission licensee as per the Alternative 2 of Part II: General Terms & Conditions of MERC (Transmission Licence Conditions) Regulations, 2004 for their existing transmission network including those transmission projects being executed and which are in State Transmission Utility (STU) plan and approved by the Hon'ble Commission and also which are in confirmation with the clarification issued by the Ministry of Power (MoP).
 - iii. It is also to state that the transmission licence granted to M/s. Jaigad Power Transco Limited (M/s. JPTL), M/s. Adani Power Maharashtra Limited (M/s. APML), M/s. Maharashtra Eastern Grid Power Transmission Company Limited (M/s. MEGPTCL) and M/s. Sinnar Power Transmission Company Limited (M/s. SPTCL) by the Hon'ble Commission are network specific.
14. As per the procedure prescribed for Grant of Licence in Section 15 (2) (ii) of Electricity Act, 2003, if an application for a licence is received for an area 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 Central Government for defence purposes, the Commission has to ascertain that there is no objection to the grant of the licence on the part of the Central Government.
15. Accordingly, the Commission issued a letter dated June 16, 2011 vide letter no. MERC/Case No. 70 of 2011/0718 to the Central Government (Ministry of Defence, Ministry of Shipping and Ministry of Civil Aviation) inviting objection(s), if any, with reference to the present application seeking grant of transmission licence. The Commission did not receive any objection in this respect within 30 days from the date of the issuance of the said letter.
16. RInfra submitted the application as per Schedule 1 of MERC (Transmission Licence Conditions) Regulations, 2004 the status of which is shown in the following table:-

Sl. No.	Particulars	Submission
1.	General Information – Name, Primary Contact details	Submitted
2.	Information about the applicant – Registered office, date of incorporation etc.	Submitted
3.	Enclosures – Incorporation documents	Submitted
4.	Enclosures – Technical Information	Submitted
5.	Description of the actual and proposed location of the system of electric lines	Submitted
6.	Detailed map of the proposed area of transmission	Submitted
7.	List of defence areas	Submitted
8.	List of street(s) which are repairable	Submitted
9.	Financial Information	Submitted
10.	Indicative Investment Plan and Network Rollout Plan	Submitted
11.	Copy of receipt of processing fees	Submitted

17. After evaluating the application submitted by RInfra, in accordance of Section 15 (5) (a) of the Electricity Act, 2003 a public notice was published by the Commission on July 3, 2011 in two Marathi (Loksatta and The Maharashtra Times) and two English (DNA and The Times of India) newspapers stating the details of the proposed transmission licence application as submitted by RInfra and inviting the public to submit to the Commission any suggestions or objections with reference to the said application of RInfra, by July 25, 2011. The Commission vide the above mentioned public notice also invited specific suggestions or objections on the issue of grant of transmission licence under Alternative 1 (specifies that the area of transmission shall be the State of Maharashtra) or Alternative 2(specifies that the Licence shall be to establish and operate specific transmission lines, substations & associated equipments) of MERC (Transmission Licence Conditions) Regulations, 2004.
18. It was also intimated vide the above mentioned Public Notice that the Public Hearing in the matter would be held on Wednesday, July 27, 2011, at 11:00 hours at the Commission's office at World Trade Centre, Centre 1, 13th Floor, Cuffe Parade, Mumbai 400 005 for inviting suggestions or objections. The objections/comments/suggestions were to be received till the end of July 25, 2011.

19. After publishing the above mentioned Public Notice, the Commission invited suggestions or objections on Transmission Licence application of RInfra from the Central Government authorities vide letter No. MERC/Case No. 70 of 2011/00893 on July 04, 2011. Also, the Commission appended a copy of the same public notice to the Consumer Representatives vide letter No. MERC/Case No. 70 of 2011/0928 on July 06, 2011 and informing them about the public hearing to be held on July 27, 2011 at the office of the Commission (World Trade Centre, Centre 1, 13th Floor, Cuffe Parade, Mumbai 400 005). The Commission has not received any objection from the aforesaid Central Government Authorities.
20. The Commission received one objection from Shri Arvind.P.Shah in response to the above mentioned notice on July 21, 2011. The objection mentioned about the excess billing for the month of February, 2011 and has further stated that he had visited the customer care several times but had received no satisfactory answer. RInfra stated that the objection raised by the Objector is irrelevant to the present case of granting transmission licence.
21. The Public Hearing in this matter was held on July 27, 2011 at the office of the Commission. RInfra and STU were represented by their respective teams. No authorised consumer representative was present during the Public Hearing. The list of persons who have attended the public hearing is provided in Annexure – 2.
22. In the public hearing, RInfra representatives made a presentation on various steps taken by them to improve the quality and efficiency of the Transmission lines with RInfra. They also submitted their rationale on submitting the application under Alternative 1 of the MERC (Transmission Licence Conditions) Regulations, 2004.
23. During the public hearing STU stated that they had no further objections and have already given their recommendations as provided vide its Letter No. MSETCL/CO/C.E-STU/Case No. 70 of 2011/9784 dated June 30, 2011. Representatives of STU read out their comments and recommended transmission licence under Alternative 2. The public hearing was concluded with no Consumer Representatives or members of the public available for any objections/ suggestions.
24. The Commission scrutinised all the submissions made by the applicant, held a public hearing and carried out an evaluation of the eligibility of the applicant, as against the technical requirement, capital adequacy, and managerial capability to fulfil the requirements of Sections 14 and 15 of the Electricity Act, 2003 and MERC (Transmission Licence Conditions) Regulations, 2004. Therefore, the Commission having considered the material placed on record is of the view that the applicant satisfies the technical and financial requirements to qualify for the grant of Transmission Licence as per the Transmission Licence Conditions Regulations.

25. However, the Transmission Licence Conditions Regulations provides for two alternatives for grant of Transmission Licence which has been detailed in para 1 above. The Commission evaluated both the alternatives and arrived at a view provided below:-

- i. The existing transmission system of RInfra caters to Mumbai region and the application provides for proposal scheme limited to Mumbai area. Therefore, the present proposal includes schemes only for Mumbai area and not pan-Maharashtra.
- ii. The STU has recommended for Alternative 2 based on the Clause 5.1 & 7.1 of National Tariff Policy issued by Ministry of Power dated 09/12/2010.
- iii. The Commission further referred to the clarification issued by the Ministry of Power dated December 9, 2010 on Clause No. 5.1 & 7.1 of National Tariff Policy, wherein it is apparent that all transmission projects except transmission projects of STUs/CTU for upgradation/strengthening of existing lines & associated sub-stations and projects for which BPTA(s)/TSA(s) have been signed on or before January 5, 2011, should be through competitive bidding.
- iv. Clause 7.1(6) of the Tariff Policy notified by the Central Government in exercise of its power under Section 3 of the Electricity Act, 2003, provides as under:

“Investment by transmission developer other than CTU/STU would be invited through competitive bids. The Central Government will issue guidelines in three months for bidding process for developing transmission capacities. The tariff of the projects to be developed by CTU/STU after the period of five years or when the Regulatory Commission is satisfied that the situation is right to introduce such competition (as referred to in para 5.1) would also be determined on the basis of competitive bidding.”
- v. The Tariff Policy was notified by Ministry of Power vide Resolution No. 23/2/2005-R&R (Vol.III) dated 6th January, 2006 in Extraordinary Gazette of India, Part-I, Section-1. The Tariff Policy came into force on 6th January, 2006. Consequently, the substantive provisions of the Tariff Policy also came into effect from the said date. Clause 7.1(6) of the Tariff Policy contains substantive provisions stating clearly that “Investment by transmission developer other than CTU/STU would be invited through competitive bids” This provision came into force as on 6th January, 2006. However, the procedural part that “Central Government will issue guidelines in three months for bidding process for developing transmission capacities” came to be effected when the Ministry of Power, Government of India took the following actions:

(i) Notified the “Guidelines for Encouraging Competition in Development of Transmission Projects” on 13th April, 2006 vide Resolution No. 11/5/2005-PG(ii) published in the Gazette of India, Part I, Section 1;

(ii) Constituted the Empowered Committee on 14th June 2006 to give effect to and implement the provisions of “Guidelines for Encouraging Competition in Development of Transmission Projects”;

(iii) Notified the “Tariff based Competitive-bidding Guidelines for Transmission Service” on 17th April, 2006 vide Resolution No. 11/5/2005-PG(i) published in the Gazette of India, Part I, Section 1.

- vi. The “Tariff based Competitive-bidding Guidelines for Transmission Service” are said to be made under the provisions of section 63 of the Electricity Act, 2003 (“EA 2003”). The scope of the said Guidelines is for the procurement of transmission services for transmission of electricity. In Clause 2.2, it is stated that the said Guidelines shall apply for procurement of transmission services for transmission of electricity through tariff based competitive bidding, through the mechanisms described in the said Notification and to select transmission service provider for a new transmission line and to build, own, maintain and operate the specified transmission system elements.
- vii. It is stated in Clause 2.4 of the said Guidelines that procurement of transmission services would include all activities related to survey, detailed project report formulation, arranging finance, project management, obtaining transmission licence, obtaining right of way, necessary clearances, site identification, land compensation, design, engineering, equipment, material, construction, erection, testing and commissioning, maintenance and operation of transmission lines and/or substations and/or switching stations and/or HVDC links including terminal stations and HVDC transmission line.
- viii. It is stated in Clause 3.2 of the said Guidelines that for procurement of transmission services, required for inter-state transmission, the Central Government shall notify any Central Government Organization/ Central Public Sector Undertaking to be the Bid Process Co-ordinator (“BPC”). The BPC will be notified by the Ministry of Power and nomination of BPC will be for a period of three years at a time. It will be open for Ministry of Power to review the nomination of BPC at any time. For immediate implementation of these Guidelines the Empowered Committee constituted as per the provisions of the “Guidelines for encouraging competition in development of Transmission Projects” will be the BPC till any other organization is nominated as BPC by the Ministry of Power.
- ix. For intra-state transmission it is provided inter alia as follows -

“3.3. For procurement of transmission services required for intra-state transmission, the appropriate State Government may notify any Organization/ State Public Sector Undertaking especially engaged for this purpose by the appropriate state government or BPC notified by the Central Government to be the BPC for the state.”

- x. The Guidelines also require that the bid documentation would be approved by the Appropriate Commission; alternatively, the BPC could use the standard bidding documents notified by Ministry of Power. Approval of the Appropriate Commission would be necessary if any material deviation is proposed to be made from the Standard Bid Documents.
- xi. On the requirement of Transmission Licence the following is provided in the Guidelines:-

“5.1. The successful bidder shall seek transmission licence from the appropriate Regulatory Commission, if it is not a deemed licensee. After obtaining the licence from the appropriate Regulatory Commission, the successful bidder shall be designated as the Transmission Service Provider, herein after referred to as the TSP.”
- xii. The Guidelines also provide for other substantial provisions that relating to Transmission Charge Structure; Time Table for Bid Process, etc. In the clause on “Contract award and conclusion” it is stated as under:-

“12.1. Finally selected bidder shall make an application for grant of transmission licence to the appropriate Commission within one month of selection.”
- xiii. MSETCL, as the STU have the key responsibility of network planning and development based on the National Electricity Plan in co-ordination with all concerned agencies as provided in the 2003 Act. The STU is responsible for planning and development of the intra-state transmission system [Ref. paragraph 5.3.2 of the National Electricity Policy (“NEP”)]. The role and functions of STU under Section 39 of the Act and as a transmission licensee under Section 40 of the Act are different. Paragraph 5.3.10 of the NEP provides that -

“Special mechanisms would be created to encourage private investment in transmission sector so that sufficient investments are made for achieving the objective of demand to be fully met by 2012.”
- xiv. The “Guidelines for Encouraging Competition in Development of Transmission Projects” and the “Tariff based Competitive-bidding Guidelines for Transmission Service” further the aforesaid objectives. STU is required to undertake network

expansion and procurement of transmission services through transparent process of bidding.

26. In view of the above, RInfra cannot be granted transmission licence for the entire state of Maharashtra as paragraph 5.1 read with 7.1 (6) of the Tariff Policy would require Tariff based Competitive-bidding for Transmission Service. These provisions have to be taken to mean that till the year 2011 (or when the Commission is satisfied that the situation is ripe to introduce such competition), RInfra may not be granted transmission licence for the entire state of Maharashtra as it is needed to be selected on the basis of competitive bidding for the identified projects from the STU's five year plan.
27. If RInfra is granted transmission licence for the entire state of Maharashtra and be permitted to build transmission systems without the need of going under competitive bidding, then the purpose of "Guidelines for Encouraging Competition in Development of Transmission Projects" and the "Tariff based Competitive-bidding Guidelines for Transmission Service" is lost. In order to comply with above guidelines, RInfra cannot be granted transmission licence under Alternative 1 of the MERC (Transmission Licence Conditions) Regulations, 2004.
28. In turn, the Commission is to be guided by the Tariff Policy at the time when the Commission is to adopt the tariff determined through transparent process of bidding in accordance with Section 63 of the 2003 Act. When the "Investment by transmission developer other than ...STU." is invited through competitive bids, in terms of Clause 7.1(6) of the Tariff Policy then the Commission would be required to adopt such tariff as determined based on the bidding process.
29. Section 2 (47) of the 2003 Act casts a duty on the Commission to specify by regulations in accordance with which "open access" i.e., the non-discriminatory provision will be made for the use of transmission lines. Such use of transmission lines, as aforesaid, will have to be paid for by the user in accordance with the tariff which is either determined under section 62 or required to be adopted under Section 63 of the Act. The Commission is required to be guided by the Tariff Policy so far as it is applicable to transmission licensees. The "Guidelines for Encouraging Competition in Development of Transmission Projects" notified on 13th April, 2006 and "Tariff based Competitive-bidding Guidelines for Transmission Service" notified on 17th April, 2006, clearly manifest the objectives of these Guidelines, as stated therein, are as follows:
 - i. Promote competitive procurement of transmission services.
 - ii. Encourage private investment in transmission lines.
 - iii. Facilitate transparency and fairness in procurement processes;

- iv. Facilitate reduction of information asymmetries for various bidders;
 - v. Protect consumer interests by facilitating competitive conditions in procurement of transmission services of electricity;
 - vi. Enhance standardization and reduce ambiguity and hence time for materialization of projects;
 - vii. Ensure compliance with standards, norms and codes for transmission lines while allowing flexibility in operation to the transmission service providers.
30. Therefore, considering the merit of introduction of the competitive bidding in the transmission sector in the state and the benefits of competition to be accrued by the Consumers, the Commission is of the view that Transmission Licence under Alternative 2 should be granted to RInfra.
31. Therefore, the Commission is satisfied that the applicant qualifies for grant of Transmission licence under Alternative 2 of MERC (Transmission Licence Conditions) Regulations, 2004.
32. As regards the objections of the objectors none have explained as to how the allegations made could be a ground to disqualify the applicant from the grant of licence. If the objector/s is aggrieved with RInfra then he / she should initiate appropriate proceedings as may be advised in law. As such, this objection is beyond the ambit of consideration for the grant of Transmission Licence.
33. Therefore, in exercise of the power vested in the Commission under Section 14 of the 2003 Act, the Commission grants a licence to RInfra, as a Transmission Licensee under Alternative 2, in accordance with Transmission Licence Conditions Regulations for a period of 25 years w.e.f August 16, 2011.
34. This transmission licence is granted to RInfra under Alternative 2 of MERC (Transmission Licence Conditions) Regulations, 2004 for evacuation of power from generating units at Dahanu and extended transmission system for interconnecting various load centres in suburbs in and around Mumbai. The transmission lines under the transmission licence are provided in Annexure I.
35. This Order is limited to the grant of transmission licence for the specified transmission lines and shall not be construed as approval of capital expenditure for the transmission lines. The approval for capital expenditure for the licensee shall be under the guidelines for in-principle clearance of proposed capital investment schemes.

36. Accordingly, the Commission directs that the applicant be granted the Transmission Licence as above, and the licence be issued by the Secretary, MERC. The Commission directs its registry that a copy of the same be forwarded to the Government of Maharashtra, all electricity transmission licensees and distribution licensees in the State of Maharashtra, the concerned Local Authorities/ self Governments (Municipal bodies) of the area through which the transmission line passes, and a copy be uploaded on the website of the Commission.
37. The grant of licence shall be subject to the applicant complying with the provisions of the Electricity Act, 2003, the rules framed by the Appropriate Government, applicable regulations and all tariff parameters specified under the Tariff Regulations by the Commission, guidelines for in-principle clearance of proposed investment schemes, and all applicable statutes.
38. The Commission directs RInfra to submit its Business Plan & Multi Year Tariff Petition, separately, as per the provisions of MERC (Multi Year Tariff) Regulations, 2011. The approved Annual Revenue Requirement (ARR) shall form a part of the total Transmission System Costs (TTSC) of the intra-state Transmission system to be recovered from the Transmission System Users in accordance with the principles of Transmission Pricing Framework to be applicable from time to time and as per the prevalent rules and Regulations.

Accordingly, Case No. 70 of 2011 stands disposed of.

Sd/-

(Vijay L. Sonavane)
Member

Sd/-

(V. P. Raja)
Chairman

Annexure – 1

RInfra has submitted the list of the following Transmission Lines and associated systems:

Existing System – Transmission Lines

1. 220 kV Dahanu-Ghodbunder-1 transmission line (85 km) from Dahanu to Ghodbunder EHV sub-station
2. 220 kV Dahanu-Ghodbunder-2 transmission line (84.99 km) from Dahanu to Ghodbunder EHV sub-station
3. 220 kV Dahanu-Boisar transmission line (31 km) from Dahanu to MSETCL Boisar sub-station
4. 220 kV Boisar-Versova transmission line (91 km) from MSETCL Boisar to Versova EHV sub-station
5. 220 kV Dahanu-Versova transmission line (106 km) from Dahanu to Versova EHV sub-station
6. 220 kV Ghodbunder-Gorai-1 transmission line (9.72 km) from Ghodbunder EHV sub-station to Versova EHV sub-station
7. 220 kV Gorai-Versova-1 transmission line (12.58 km) from Gorai EHV sub-station to Versova EHV sub-station
8. 220 kV Ghodbunder-Versova-2 transmission line (21 km) from Ghodbunder EHV sub-station to Versova EHV sub-station
9. 220 kV Versova-Goregaon-1 transmission line (4.20 km) from Versova EHV sub-station to Goregaon EHV sub-station
10. 220 kV Goregaon-Aarey-1 transmission line (4.97 km) from Goregaon EHV sub-station to Aarey EHV sub-station
11. 220 kV Versova-Aarey-2 transmission line (9 km) from Versova EHV sub-station to Aarey EHV sub-station
12. 220 kV Aarey-Saki-1 transmission line (3.9 km) from Aarey EHV sub-station to Saki EHV sub-station
13. 220 kV Aarey-Saki-2 transmission line (3.9 km) from Aarey EHV sub-station to Saki EHV sub-station
14. 220 kV Aarey-Borivili-1 transmission line (12 km) from TPC (Borivili) EHV sub-station to Aarey EHV sub-station

15. 220 kV Aarey-Borivili-2 transmission line (12 km) from TPC (Borivili) EHV sub-station to Aarey EHV sub-station

Existing System – List of EHV Substation Bays

1. 17 No. of 220 kV bays at 220 kV Aarey EHV Station
2. 12 No. of 220 kV bays at 220 kV Ghodbunder EHV Station
3. 15 No. of 220 kV bays at 220 kV Versova EHV Station
4. 9 No. of 220 kV bays at 220 kV Goregaon EHV Station
5. 9 No. of 220 kV bays at 220 kV Saki EHV Station

Proposed System – Transmission Lines

1. 220 kV Versova-Goregaon-2 transmission line (4.2 km) from Versova EHV sub-station to Goregaon EHV sub-station
2. 220 kV Goregaon-Aarey-2 transmission line (5 km) from Goregaon EHV sub-station to Aarey EHV sub-station
3. 220 kV Ghodbunder-Gorai-2 transmission line (10 km) from Ghodbunder EHV sub-station to Gorai EHV sub-station
4. 220 kV Gorai-Versova-2 transmission line (12.6 km) from Gorai EHV sub-station to Versova EHV sub-station
5. 220 kV MSETCL Borivili-Gorai-1 transmission line (10.5 km) from MSETCL Borivili EHV sub-station to Gorai EHV sub-station
6. 220 kV MSETCL Borivili-Gorai-2 transmission line (10.5 km) from MSETCL Borivili EHV sub-station to Gorai EHV sub-station
7. 220 kV TPC Borivili-RInfra Borivili-1 transmission line (0.5 km) from TPC Borivili EHV sub-station to RInfra Borivili EHV sub-station
8. 220 kV RInfra Borivili-Aarey-1 transmission line (12 km) from RInfra Borivili EHV sub-station to Aarey EHV sub-station
9. 220 kV MSETCL Borivili-R Borivili-1 transmission line (3.5 km) from MSETCL Borivili EHV sub-station to RInfra Borivili EHV sub-station
10. 220 kV MSETCL Borivili-R Borivili-2 transmission line (3.5 km) from MSETCL Borivili EHV sub-station to RInfra Borivili EHV sub-station
11. 220 kV Chembur-Trombay-1 transmission line (8.5 km) from Chembur EHV sub-station to MSETCL Trombay EHV sub-station

12. 220 kV Chembur-Trombay-2 transmission line (8.5 km) from Chembur EHV sub-station to MSETCL Trombay EHV sub-station
13. 220 kV MSETCL Boisar-Ghodbunder-1 transmission line (4 km) from MSETCL Boisar EHV sub-station to Ghodbunder EHV sub-station
14. 220 kV Ghodbunder-MSETCL Borivili-1 transmission line (4 km) from Ghodbunder EHV sub-station to MSETCL Borivili EHV sub-station
15. 220 kV Ghodbunder-Dahisar-1 transmission line (6.5 km) from Ghodbunder EHV sub-station to Dahisar EHV sub-station
16. 220 kV Ghodbunder-Dahisar-2 transmission line (6.5 km) from Ghodbunder EHV sub-station to Dahisar EHV sub-station
17. 220 kV Aarey-Nagari-Niwara-1 transmission line (7.5 km) from Aarey EHV sub-station to Nagari Niwara EHV sub-station
18. 220 kV Aarey-Nagari-Niwara-2 transmission line (7.5 km) from Aarey EHV sub-station to Nagari Niwara EHV sub-station
19. 220 kV Nagari Niwara-MSETCL Borivali-1 transmission line (7.5 km) from Nagari Niwara EHV sub-station to MSETCL Borivali EHV sub-station
20. 220 kV Nagari Niwara-MSETCL Borivali-2 transmission line (7.5 km) from Nagari Niwara EHV sub-station to MSETCL Borivili EHV sub-station
21. 220 kV Aarey-Airport-1 transmission line (5 km) from Aarey EHV sub-station to Airport EHV sub-station
22. 220 kV Aarey-Airport-2 transmission line (5 km) from Aarey EHV sub-station to Airport EHV sub-station
23. 220 kV Airport-Golibar-1 transmission line (6 km) from Airport EHV sub-station to Golibar EHV sub-station
24. 220 kV Airport-Golibar-2 transmission line (6 km) from Airport EHV sub-station to Golibar EHV sub-station

Proposed System – List of EHV Substation Bays

1. 2 No. of 220 kV bays at 220 kV Aarey EHV sub-station
2. 9 No. of 220 kV bays at 220 kV Gorai EHV sub-station
3. 11 No. of 220 kV bays at 220 kV RInfra Borivili EHV sub-station
4. 9 No. of 220 kV bays at 220 kV Chembur EHV sub-station

5. 6 No. of 220 kV bays at RInfra Ghodbunder EHV sub-station
6. 11 No. of 220 kV bays at 220 kV Dahisar EHV sub-station
7. 9 No. of 220 kV bays at 220 kV Nagari Niwara EHV sub-station
8. 10 No. of 220 kV bays at 220 kV Airport EHV sub-station
9. 8 No. of 220 kV bays at 220 kV Golibar EHV sub-station
10. In addition to the aforesaid sub-stations, there would be sub-stations of MSETCL at Borivili and MSETCL Trombay where Bays owned by RInfra are proposed. There would be 12 Nos. of such Bays.

Annexure – 2

List of persons, who attended public hearing, held on 27.07.2011 at 11.00 hrs.

Sl.No	Name of the person and Designation & Organization
1.	Shri M. S. Rao, Director, RInfra
2.	Shri Pravin G. Phokmare, RInfra T
3.	Shri Sharad Nath, RInfra T
4.	Shri Ganesh Balasubramanian, RInfra T
5.	Smt. Manali Sathe, RInfra T
6.	Shri R.N.Maske, MSETCL STU
7.	Shri A.V.Deo, MSETCL STU
8.	Shri U. S. Bhagat, MSETCL STU
9.	Shri Vivek Mishra, RInfra
10.	Shri M. Malik, RInfra
11.	Shri Rohan Kale, RInfra
12.	Shri Satyajit Saklabaidya, PwC
13.	Shri Abhijit Dhamdhare, IPPAI
14.	Shri R.R. Mehta, RInfra
15.	Shri P.S.Pandya, RInfra
16.	Shri Kapil Sharma, RInfra
17.	Shri Vikas Sonar, RInfra