

p) In support, the Petitioner has provided examples of RFPs previously issued where if a complete diameter with future main bay was required, the same had clearly been mentioned in the scope of work. The Petitioner submitted that the Project was awarded to Sterlite on the basis of competitive bidding, and requirements that were not specified in the bidding documents cannot be made part of the TSA now.

q) In view of the aforementioned provisions of the RFP and the TSA, and the Clarification 1 and Clarification 2 issued by the BPC, the two extra nos. of bays to be implemented at the Vadodara S/s do not fall within the scope of work of the Petitioner. The transmission license issued to the Petitioner also does not include such bays within its scope.

r) The implementation of these two extra bays will approximately require an additional expenditure of INR 74.00 Cr. In case the Petitioner is directed to implement the said bays, the Petitioner shall stand to recover the additional cost incurred by it through an increase in tariff, by claiming the said event as a change in law event.

s) Therefore, the Petitioner prays before the Commission to declare that the two extra nos. of bays at Vadodara S/s do not fall within the scope of the work of the Petitioner and the scope of work for the Petitioner is limited to what is stated in Schedule 2 of the TSA and Article 1.2 of the RFP. Further, in case the Petitioner is directed to implement the said bays, it shall be entitled to claim the additional expenditure through an increase in tariff as the said event will constitute a change in law event under Article 12 of the TSA.

t) The Petitioner has intimated the LTTCs of such potential additional expenditure that may be incurred by it vide its letter dated 11.06.2021.

#### **Submissions by Petitioner in I.A No. 61/2021**

8. Petitioner has filed amended I.A on 6.10.2021 wherein the Petitioner has reiterated its submissions made in the instant Petition and has sought in-principle approval with respect



to occurrence of the said force majeure and change in law events and a declaration with respect to the scope of work of the Petitioner. Petitioner submitted that it has filed the said Application because there is an urgency to provide financial certainty on future cash flows to the lenders, in order to save the Petitioner from becoming a stressed asset.

**Submissions by Respondent No. 8, PGCIL vide affidavit dated 30.11.2021**

9. PGCIL vide affidavit dated 30.11.2021 has submitted the following:
- a) The scope of work under the transmission scheme WRSS 21-B, inter-alia involves implementation of associated 765 kV bays each at Lakadia and Vadodara for termination of 765 kV D/c Lakadia- Vadodara line by the Petitioner. The 765kV bays work is being implemented by LVTPPL at Vadodara (GIS) substation of PGCIL.
  - b) During the implementation of the project, it was observed by PGCIL that the Petitioner was undertaking implementation of only 2 nos. bays against 3 nos. bays in each diameter of 765 kV Lakadia circuit 1 & 2 at Vadodara (GIS) S/stn of PGCIL in contrast to the standard practice.
  - c) PGCIL vide its email dated 22.1.2020, 28.10.2020 and Letters dated 12.11.2020 and 24.11.2020 clarified to the Petitioner that the SLD clearly mentions that there are 3 bays in each diameter of the line and requested the Petitioner to carry out the said works at Vadodara GIS.
  - d) Despite repeated requests, the Petitioner failed to perform its obligations and issue remained unresolved and PGCIL vide its Letter dated 12.11.2020 approached CEA to intervene in the said issue. CEA upon request convened a meeting dated 16.03.2021 to deliberate over the issues raised by PGCIL with respect to scope of work associated with termination of 765kV LV line at Vadodara Substation.



- e) After deliberations, with the Petitioner, PGCIL, BPC & CTUIL, CEA came to the conclusion that the Petitioner was to implement 3 Nos. against 2 No. of bays in each diameter of 765 kV Lakadia circuit 1 & 2 at Vadodara (GIS) S/stn. A perusal of the minutes of meeting dated 16.03.2021 shows that the meeting conducted by CEA was a consultative process in which the Petitioner itself, amongst other stakeholders, were present. The aforesaid cannot be said to be a unilateral decision, rather after deliberations, it was agreed by all stakeholders including the petitioner that the implementation of two number of full GIS diameter comprising of 2 no. of main bays and 1 no. of tie line bay in each dia is required to be constructed by the petitioner at Vadodara GIS S/stn.

**Rejoinder to the submissions of Respondent No. 8, PGCIL**

10. Petitioner in its rejoinder to submissions of PGCIL has submitted the following vide affidavit dated 16.12.2021:

- a) Petitioner reiterated its earlier submissions regarding the scope of work of the Petitioner including implementation of only two number of 765 kV bays each at Lakadia S/s and Vadodara S/s for the LV Line and not required to undertake implementation of extra 2 bays at Vadodara S/s.
- b) Sterlite Grid 18 Limited (“Sterlite”) vide its letter dated 31.05.2019 to the BPC expressly sought clarification on whether the two extra bays indicated in the SLD will be a part of the scope of work. Sterlite highlighted the extra bays in the SLD as ‘Not in scope’ and provided a copy to the BPC for their clear reference. The BPC responded to the said query vide its Additional Clarifications dated 14.06.2019 (“Clarification 2”) and inter alia stated that the plan layout of the Vadodara S/s that was provided was for indicating tentative position for line bay.
- c) It is only recent that PGCIL has started agitating that the scope of work of the Petitioner includes two extra nos. of bays at the Vadodara S/s. As such, PGCIL is



only an interconnecting entity and has no locus to question, interpret or decide upon the scope of work of the Petitioner.

- d) During the CEA meeting, it was inter alia mentioned by the CTU that although the scope of work under the TSA expressly mentions of only two bays at the Vadodara S/s, the requirement of implementing two extra nos. of bays was an implicit one.
- e) Petitioner has implemented two number of line bays at the Vadodara S/s with one main bay and one tie bay in each diameter to comply with the functional requirement of one and half breaker switching scheme under the RFP. Therefore, the Petitioner is in compliance with the specific technical requirement under the RFP and the concern raised during the CEA meeting stands addressed.
- f) Further, the project under implementation by the Petitioner was awarded to it post tariff based competitive bidding. The cost of implementing the two extra bays is approximately Rs. 74 crores. It cannot be argued by CEA or any stakeholder concerned including the CTU that an item requiring such heavy expenditure was an 'implicit requirement' and did not need express mentioning. The intention of the BPC is not relevant here until expressly stated. PGCIL in Para 7 of its Reply has unfoundedly argued that the Petitioner's act of proceeding with construction of only 2 nos. of bays is against the standard practice. The said argument is without any merit whatsoever and is liable to be rejected at the outset. Rather, as a matter of standard practice, whenever a complete diameter with a future main bay is required, it is clearly mentioned under the scope of work in the concerned RFP.

#### **Submissions by Respondent No. 7, CTU**

11. In compliance to RoP for hearing dated 11.11.2021, CTU vide affidavit dated 14.1.2022 has submitted the following:



- a) The scope of works for the Petitioner under the transmission scheme WRSS-21B inter alia involved the implementation of two numbers 765 kV bays at Vadodara S/s including the requirement of implementation of 3 nos. of bays in each dia where the D/c line would be terminated.
- b) In the Clarification on RfP & TSA for WRSS-21 (Part-B) – Transmission System strengthening for relieving over loadings observed in Gujarat Intra-state system due to RE injection in Bhuj PS issued by BPC, it was clarified under Clarification No. 88. As such, the clarification as sought by the bidders was evidently with respect to the “extension works” in bay augmentation at Vadodara (GIS) wherein the scope of extension works was clarified by way of the Single Line Diagram (SLD) indicating the allocated bay at Vadodara GIS S/s. The Petitioner has wrongly contended that the SLD was only to indicate the bay position even though query pertained to the extension works as a whole and as such the Petitioner was required to proceed as per the SLD.
- c) After detailed deliberations and consideration of the views submitted by the Petitioner, PGCIL, BPC & CTUIL, in the meeting dated 16.3.2021, it was agreed that the implementation of two number of full GIS dia comprising of 2 no. of main bays and 1 no of tie line bay is required at Vadodara GIS S/stn as per the RfP provisions. Non-adherence by M/s LVTPL would tantamount to non-compliance of the bidding documents by M/s LVTPL.

### **Rejoinder to the submissions of Respondent No. 7, CTU**

12. Petitioner vide reply dated 20.1.2022 has reiterated its earlier submissions, however additional information in response to the reply of CTU is as follows:

- a) During the CEA meeting dated 16.3.2021, it was inter alia mentioned by the CTU that although the scope of work under the TSA expressly mentions of only two bays at the Vadodara S/s, the requirement of implementing two extra nos. of bays was an implicit one. The arguments raised by CTU, PGCIL, BPC and CEA during



the said meeting are denied and the Petitioner does not agree with the conclusion reached by the CEA.

- b) Petitioner has implemented two number of line bays at the Vadodara S/s with one main bay and one tie bay in each diameter to comply with the functional requirement of one and half breaker switching scheme under the RFP. Therefore, the Petitioner is in compliance with the specific technical requirement under the RFP and the concern raised during the CEA Meeting stands addressed.
- c) As per the provisions of RFP and TSA, clarifications 1 and 2 issued by the BPC, the two extra nos. of bays to be implemented at the Vadodara S/s do not fall within the scope of work of the Petitioner. The transmission license issued to the Petitioner also does not include such bays within its scope of work.

#### **Hearing dated 24.1.2022**

13. Petitioner, PGCIL and CTU made detailed submissions in the matter on the aspect of the 'scope of the work' under the TSA and RfP documents reiterating their submissions made in the petition.

14. After hearing the parties, the Commission observed that despite notice, none was present on behalf of the BPC, PFCCL. The Commission expressed its displeasure over casual approach of BPC.

15. Commission sought certain information from the Petitioner, PGCIL and PFCCL and reserved the order in the matter.

#### **Submissions by PGCIL**

16. In compliance of RoP for hearing dated 24.1.2022, PGCIL vide affidavit dated 11.2.2022 has submitted the following additional information:



- a) As per Annexure A attached with the Additional Clarifications of the RFP document there are 3 Nos. bays in each DIA of the line that were supposed to be implemented by the Petitioner.
- b) In the RfP document under Specific Technical Requirements for S/stn, at para 2 of Clause 2.3 (765 kV GIS S/stn equipment), it is clearly stated that *“the arrangement of gas sections or compartments shall be such as to facilitate future extension of any make without any drilling, cutting or welding on the existing equipment. To add equipment, it shall not be necessary to move or dislocate the existing switchgear bays.”*
- c) Under Specific Technical Requirements for the S/stn (in the RfP), it is mentioned that One and half breaker switching scheme has to be considered at 765 kV switchyard with each ckt of D/c line to be terminated in different diameter.
- d) From the SLD and General Layout of Vadodara GIS S/stn attached with the clarifications issued by the BPC, it is clear that the 2nd main bay in each dia would be utilized for future augmentation.
- e) Gas Insulated Substation (GIS) being a compact in their design, the land requirement is significantly reduced in GIS in comparison to Air Insulated Substation (AIS). The techno-commercial consideration requires to implement future requirements of assets at inception stage. Since GIS is a sophisticated and modular technology, implementation of complete diameter with future bays has been envisaged at the very beginning as part of planning to comply with one and half breaker scheme for connectivity with both the main buses.
- f) In the Clarification no. 88 on RfP & TSA issued by BPC, it is evident that the clarification sought by the bidders was with respect to the “extension works” in bay augmentation at Vadodara (GIS) wherein the scope of extension works was clarified by way of the Single Line Diagram (SLD) titled "Bay Allocation for Vadodara GIS-Lakadia PS 765 kV D/C Line at 765 kV Vadodara GIS Substation "



indicating the allocated bay at Vadodara GIS S/s. Thus, as per the RfP LVTL is required to implement 3 nos. bays in each diameter of 765 kV Lakadia circuit 1 &2 at Vadodara (GIS) S/stn.

### **Submissions by Respondent No. 5, PFCCL**

17. In compliance to RoP for hearing dated 24.1.2022, PFCCL vide affidavit dated 18.2.2022 has submitted the following additional information:

- (a) As per the definitions provided in RFP document, "RFP" shall mean this Request for Proposal document along with all schedules, annexures and RFP Project Documents attached hereto and shall include any modifications, amendments, alterations or clarifications thereto.
- (b) On 18.03.2019, RFP documents were issued to eight (08) RFQ qualified bidders including Sterlite Grid 18 Limited based on the project specific details provided by CTU vide their letter dated 15.02.2019.
- (c) A pre-bid conference was held on 15.04.2019 to address the queries of the Bidders. The bidders had also submitted their queries on the RFP documents to the BPC.
- (d) The queries raised by the Bidders pertaining to the technical inputs provided by CTU were forwarded to CTU and CEA for providing clarifications. On receipt of clarifications from CTU and confirmation/clarifications from CEA, the clarifications to the queries were issued to the bidders.
- (e) The clarifications after being confirmed from CEA were issued to the bidders vide letter dated 30.05.2019. The clarifications related to bay extension works at Vadodara S/s are reiterated such as Sr. no. 6, 7, 11, 15, 16, 88, 92, 100, 108, 109 and 110. Along with the clarifications a layout of the Vadodara S/s indicating the scope of the bay extension works at Vadodara S/S was shared with the bidders. According to the layout submitted, the complete bay extension works is within the scope of the TSP.





- (f) Petitioner vide letter dated 31.05.2019 submitted the additional queries regarding bay extension works at Vadodara S/s against the clarifications issued earlier indicating that 2 extra bays as indicated in the layout of the Vadodara S/s is not in the scope of the TSP by marking the same as "Not In Scope" in the drawing attached thereto. The additional queries raised by the bidders along with the aforementioned query were forwarded to CTU/CEA vide mail dated 11.06.2019 and 13.06.2019 for clarifications and confirmation from their end. The consolidated additional clarification and proposed amendments to RFP documents were submitted to CEA vide mail dated 13.06.2019. CEA vide mail dated 13.06.2019 confirmed the clarifications and advised to issue the same to the bidders. The additional clarifications after being confirmed from CEA were issued to the bidders vide letter dated 14.06.2019. The clarification to the aforementioned query raised by the Petitioner was already clarified vide clarifications dated 30.5.2019 and is reiterated.
- (g) The reply clarifies that the implementation of 765 kV bays at Vadodara S/S termination of 765 kV D/c Lakadia-Vadodara line was in the scope of the TSP.
- (h) The query pertaining to the additional 2 no. of bays for bay extension works was sought by the Petitioner only and no other bidder raised the query regarding the aforementioned issue. The BPC vide their clarification at S. No. 6, 7,110 issued to all the bidders on 30.05.2019 has made it clear that the scope of work indicated in the drawing was within the scope of TSP.
- (i) Even after the issuance of the additional clarifications, the bidders including Petitioner had substantial amount of time to raise further queries regarding any ambiguity on the scope of bay extension work. However, no queries were raised by any bidder including Petitioner which further establishes the fact that all the bidders including Petitioner had agreed to the scope of the bay extension works at the Vadodara S/s as clarified by the BPC.
- (j) The issues related to the implementation of bays at Vadodara S/s were addressed by CEA in the meeting dated 16.3.2021 and after a consultative process, the



Petitioner, amongst the other stakeholders agreed that the implementation of two number of full GIS dia comprising of 2 no. of main bays and 1 no of tie line bay is to be constructed by the Petitioner at Vadodara S/s as indicated in the scope of bay extension works in the drawing issued by the BPC.

- (k) As is evident from the RFP document, the clarifications issued to the queries and the MoM dated 18.06.2021 above and submissions herein, it is clear that the implementation of the bay extension works as mentioned in the RFP and layout of the Vadodara S/s were within the Scope of the TSP.
- (l) CEA had revised the scope of work and accordingly, an amendment (Amendment No. 2) to the RFP documents was issued to the bidders on 14.06.2019.

### **Submissions by Petitioner**

18. In compliance to RoP for hearing dated 24.1.2022, Petitioner vide affidavit dated 5.3.2022 has submitted the following additional information:

- (a) The specific technical requirements for substations prescribed under the clause 1.2 of RFP inter alia state that one and half breaker scheme arrangement is required to be followed for the 765 kV bays under implementation by the Petitioner. It is submitted that the bay design and switching scheme implemented by the Petitioner is in line with the said technical requirement.
- (b) PGCIL has placed reliance on the SLD of the Vadodara S/s attached as Annex-A to the Clarifications on the RFP and TSA issued by the BPC on 30.05.2019 (i.e., Clarification 1) to claim that the Petitioner was required to implement three number of bays at the Vadodara S/s. The said SLD was provided for reference of the bidders in response to Query Nos. 88 and 108 and only in context of tentative position and orientation of bays.
- (c) Sterlite vide its letter dated 31.05.2019 to the BPC (emailed on 02.06.2019) sought clarification on whether the two extra bays indicated in the SLD will be a

