

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 44/TL/2024**

**Coram:  
Shri Jishnu Barua, Chairperson  
Shri Arun Goyal, Member**

**Date of order: 18<sup>th</sup> April, 2024**

**In the matter of:**

Application under Section 14 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for Grant of Transmission License and other related matters) Regulations, 2009 for the grant of a separate transmission Licence to POWERGRID Bhuj Transmission Limited (earlier known as Bhuj-II Transmission Limited) for implementation of the communication system- "Requirement of additional FOTE of STM-16 capacity at Bhuj-II sub-station to cater to connectivity of RE Gencos" through "Regulated Tariff Mechanism" (RTM) mode.

**And**

**In the matter of**

**POWERGRID Bhuj Transmission System Limited,**  
B-9, Qutab Institutional Area,  
Katwaria Sarai, New Delhi 110 016

**Address for correspondence:**

ED (TBCB), Power Grid Corporation of India Limited,  
Saudamini, Plot No.2, Sector -29,  
Gurgaon 122001, Haryana

**...Petitioner**

**Vs**

**1. Madhya Pradesh Power Management Company Ltd.,**  
Shakti Bhawan, Rampur  
Jabalpur-482008

**2. Madhya Pradesh Audyogik Kendra,**  
Vikas Nigam (Indore) Ltd.  
3/54, Press Complex, Agra-Bombay Road,  
Indore-452008

3. **Maharashtra State Electricity Distribution Co. Ltd.,**  
Hongkong Bank Building, 3<sup>rd</sup> Floor  
M.G. Road, Fort, Mumbai-400001

4. **Gujarat Urja Vikas Nigam Ltd.,**  
Sardar Patel Vidyut Bhawan,  
Race Course Road, Vadodara-390007

5. **Electricity Department,**  
Govt. Of Goa,  
Vidyut Bhawan, Panaji,  
Near Mandvi Hotel, Goa-403001

6. **Electricity Department,**  
**Administration of Daman & Diu,**  
Daman-396210

7. **DNH Power Distribution Corporation Limited,**  
Vidyut Bhawan, 66kv Road, Near Secretariat,  
Amli, Silvassa-396230

8. **Chhattisgarh State Power Distribution Co. Ltd.,**  
P.O. Sunder Nagar, Dangania, Raipur,  
Chhattisgarh-492013

9. **Netra Wind Private Limited,**  
B- 504, Delhi Building, Orchard Avenue,  
Sector No. 3, Hiranandani Business Park,  
Powai, Mumbai-400076

10. **Adani Green Energy Limited,**  
Adani House, 4th Floor,  
South Wing, Shantigram, S.G Highway,  
Ahmedabad-382421

11. **PFC Consulting Limited,**  
9<sup>th</sup> Floor, A-Wing,  
Statesman House, Connaught Place,  
New Delhi-110001

12. **Central Transmission Utility of India Limited,**  
Saudamini, Plot No. 2, Sector-29,  
Gurgaon -122001

...Respondents

**The following were present:**

Shri Shubham Arya, Advocate, PBTL  
Shri Devanshv Sharma, Advocate, PBTL  
Shri Abhijit Daimari, PBTL  
Shri Prashant Kumar, PBTL  
Shri Yatin Sharma, CTUIL  
Shri Siddharth Sharma, CTUIL

**ORDER**

The Petitioner, POWERGRID Bhuj Transmission System Limited (in Short 'PBTL'), has filed the present Petition under Section 14 and of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'the Transmission Licence Regulations') for the grant of a separate transmission licence for the implementation of the communication scheme-"Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to connectivity of RE Gencos" on Regulated Tariff Mechanism mode (hereinafter referred to as the 'transmission scheme/project'). The scope of the project for which a transmission licence has been sought is as follows:

<b>S no</b>	<b>Scope of the Transmission Scheme</b>	<b>Implementation timeframe</b>
1	Supply and installation of 01 no. 5 MSP (1+1) FOTE (STM-16 capacity) at Bhuj-II station	12 months from date of allocation, i.e. by 6.7.2024
<b>Total Estimated Cost</b>		<b>Rs.0.30 crore</b>

2. The Petitioner has made the following prayers:

*“(a) Grant separate Transmission License to the Applicant for implementation of additional scope of work under RTM mode detailed above.*

*(b) Allow the Applicant liberty to approach the Hon’ble Commission for determination of transmission charges after commissioning of the scope of works mentioned at Para 3 above, in accordance with Section 61, 62 of the Electricity Act, 2003 and as per 8(2) of the Transmission License Regulations, 2009.*

*(c) Condone any inadvertent omissions/shortcomings/errors and permit the Applicant to add/modify/alter this application and make further submissions as may be required at a future date.*

*(d) Pass such other order/orders, as may be deemed fit and proper in the facts & circumstances of the case.”*

3. The Petitioner Company, Bhuj-II Transmission Limited (BTL), was incorporated as a special purpose vehicle by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding (‘TBCB’) process for implementing the “Transmission System for providing connectivity to RE Projects at Bhuj-II (2000 MW) in Gujarat” on a Build, Own, Operate, and Maintain (BOOM) basis. Power Grid Corporation of India (PGCIL) Limited participated in the competitive bidding process conducted by PFCCL, and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by PFCCL to PGCIL on 31.7.2019. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in BTL by executing a Share Purchase Agreement with PFCCL on 16.10.2019. BTL entered into a Transmission Service Agreement (TSA) with the LTTCs on 23.4.2019. Subsequently, the name of the company was changed to POWERGRID Bhuj Transmission Limited (PBTL).

4. The Commission, vide its order dated 3.3.2020 in Petition No. 447/TL/2019, granted a transmission licence to PBTL for inter- State transmission of electricity to establish the “Transmission System for providing connectivity to RE Projects at Bhuj-II

(2000 MW) in Gujarat” (hereinafter referred to as “Transmission System” or “Project”) on a Build, Own, Operate and Maintain (BOOM) basis comprising the following elements:

Sl. No.	Project elements	Scheduled COD
1.	<p>Establishment of 2x1500 MVA (765/400 kV), 4x500 MVA (400/220 kV) Bhuj-II PS (GIS) with 765kV (1x330 MVA) and 420 kV (125 MVA) bus reactor</p> <p>(2x1500 MVA (765/400 kV), 4x500 MVA (400/220 kV), 1x500 MVA (765/400 kV), 1-ph ICT (spare unit)</p> <p>400 kV ICT bay-6 nos.  765 kV ICT bay-2 nos.  220 kV ICT bay-4 nos.  765 kV line bay-4 nos.  220 kV line bay-7 nos.  1x330 MVA-765kV  1x110 MVA-765kV, 1ph Reactor (spare unit)  1x125MVA-420kV  765kV reactor Bays-1 no.  400kV reactor Bays-1 no.</p> <p>Future provisions : Space for :  765/400kV ICTs along with bays : 2 nos.  400/220kV ICTs along with bays : 5 nos.  765kV line bays : 4 nos.  400kV line bays : 6 nos.  220kV line bays : 9 nos.  765kV bus reactor along with bays : 1 no.  400kV bus reactor along with bays : 1 no.</p>	31.12.2020
2.	<p>Reconfiguration of Bhuj PS – Lakadia PS 765 kV D/C line so as to establish Bhuj-II – Lakadia 765 kV D/C line as well as Bhuj – Bhuj-II 765kV D/C line</p>	
3.	<p>1x240 MVA switchable line reactor for each circuit at Bhuj-II PS end of Bhuj-II – Lakadia 765kV D/C line (2x240 MVA, 765 kV with 400 ohm NGR; 765 kV Reactor Bays-2 nos; 1x80 MVA, 765 kV, 1-ph switchable line Reactor (spare unit) at Bhuj-II end)</p>	

5. The Petitioner has successfully completed the work under the scope of the

transmission licence (granted by the Commission vide order dated 3.3.2020 in Petition No. 447/TL/2019) and achieved Commercial Operation Date (COD) progressively by 16.11.2022.

6. Subsequently, the Central Transmission Utility of India Limited (CTUIL) has issued an Office Memorandum dated 10.7.2023 to the Petitioner, based on the approval granted by the NCT in its 14th meeting held on 9.6.2023 and conveyed to CTUIL vide its letter dated 7.7.2023, wherein the Petitioner has been nominated to implement the communication scheme of the instant Petition.

7. The Petitioner has submitted that after the grant of a separate transmission licence, the Petitioner shall proceed to implement the transmission scheme under RTM mode. The estimated cost of the transmission scheme as per CTUIL's Office Memorandum (OM) dated 10.07.2023 is Rs.0.30 crore, and the cost of the project as per the DPR is Rs.0.42 crore. After completion of the transmission scheme, the Petitioner shall approach the Commission for determination of the transmission charges in accordance with Sections 61 and 62 of the Act and Tariff Regulations in vogue as per Regulation 8 (2) of the Transmission Licence Regulations.

**Hearing dated 6.3.2024**

8. During the course of the hearing, learned counsel for the Petitioner submitted that CTUIL vide its OM dated 10.7.2023 has nominated the Petitioner to implement the above communication scheme on an RTM basis.

9. In response to the specific query of the Commission regarding the type of asset

covered under the scheme and whether there is any other method to accommodate the instant communication asset instead of granting a separate transmission licence, the representative of the CTUIL submitted that the Commission vide order dated 27.12.2023 in Petition No. 94/MP/2021 has devised a methodology to allow expenditure of OPGW installation by replacing existing earth wire in terms of the Change in Law provision of the TSA. However, the same direction was regarding modification in the existing TBCB project, and the instant scope has been awarded under RTM mode approved by the NCT in its 14<sup>th</sup> meeting held on 9.6.2023. He further submitted that the Change in Law method is available in the case of the TBCB regime. However, this Project is under the RTM regime. Therefore, no other method is available to accommodate the instant scope of work. He further submitted that CTUIL`s recommendation will be submitted shortly.

10. Learned counsel of the Petitioner submitted that in case the methodology adopted in order dated 27.12.2023 in Petition No. 94/MP/2021 is applied in the instant case, the Petitioner will not qualify under Change in Law provisions of the TSA due to the estimated expenditure being below the threshold limit provided in the TSA.

11. After considering the submissions of the learned counsel for the Petitioner and the representative of CTUIL, the Commission admitted the Petition and directed to submit the following information vide the Record of Proceedings for the hearing dated 6.3.2024:

(a) Respondents to file their respective replies within a week with a copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter.

(b) CTUIL to submit the following information:

(i) Recommendation for the grant of a transmission licence to the Petitioner for

the elements covered in the present petition.

(ii) Whether the elements covered under instant petition qualify as a separate transmission element for the purpose of transmission licence?

(c) The Petitioner to submit a copy of Form II posted on its website along with date of posting (required as per regulation 7 of Transmission Licence Regulations, read with the order dated 22.1.2022 in Petition No. 1/SM/2022.

12. No reply has been received from the Respondents. CTUIL, vide its affidavit dated 5.4.2024, has submitted the recommendation granting a separate transmission licence to the Petitioner company. The Petitioner, vide its affidavit dated 3.4.2024 has submitted the Form II was posted on its website on 9.1.2024 in terms of the Transmission Licence Regulations and has placed on a record a copy of the same.

#### **Hearing dated 10.4.2024**

13. During the course of the hearing, the learned counsel of the Petitioner submitted that the reply sought, vide ROP, has been furnished and that CTUIL has recommended the grant of a transmission licence to the Petitioner company on RTM mode vide its letter dated 1.4.2024. He further submitted that the Petitioner has complied with all the requirements under the Transmission Licence Regulations. The representative of CTUIL submitted that CTUIL has already recommended granting a separate transmission licence to the Petitioner company.

#### **Analysis and Decision**

14. We have considered the submissions of the Petitioner and CTUIL. The Petitioner has filed the present Petition for the grant of a separate transmission licence for the



implementation of the communication scheme – “Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to the connectivity of RE Gencos” on the Regulated Tariff Mechanism mode.

15. The Ministry of Power, Government of India, vide its letter dated 28.10.2021, issued terms of reference to the NCT and, *inter alia*, directed that the NCT will approve the ISTS costing between Rs.100 crore and Rs. 500 crore or such limit as prescribed by the Ministry of Power from time to time, along with their mode of implementation under intimation to the Ministry of Power. The Ministry of Power further directed that ISTS costing less than or equal to Rs. 100 crore, or such limit as prescribed by the Ministry of Power from time to time, will be approved by the Central Transmission Utility of India Limited (CTUIL) along with the mode of implementation under intimation to the NCT and the Ministry of Power, Government of India. The relevant portion of the said order dated 28.10.2021 is extracted as under:

*“2. Terms of Reference (ToR) of the NCT are as under: i. \*\*\*\*\**

*VIII. The NCT shall recommend to Ministry of Power (MoP) for implementation of the ISTS for projects with cost more than Rs 500 crore, along with their mode of implementation i.e. Tariff Based Competitive Bidding (TBCB) / Regulated Tariff Mechanism (RTM), as per the existing Tariff Policy. However, the NCT shall approve the ISTS costing between Rs.100 crore to Rs.500 crore or such limit as prescribed by MoP from time to time, along with their mode of implementation under intimation to MoP. The ISTS costing less than or equal to Rs.100 crores, or such limit as prescribed by MoP from time to time, will be approved by the CTU along with their mode of implementation under intimation to the NCT and MoP. After approval of the ISTS by the NCT or the CTU (as the case may be), the TBCB project shall be allocated to Bid Process Coordinators through Gazette Notification, while the RTM project shall be allocated to CTU.”*

16. Subsequently, the Ministry of Power vide its Order No. 15/3/2017-Trans-Pt (1) dated 9.3.2022 issued the “Guidelines on Planning of Communication System for Inter-State Transmission System (ISTS)”, which defines the categories of Communication System Schemes for ISTS as Category (A) and Category (B) and provide their corresponding approval procedure. The categories A and B have been defined under the Guidelines as follows:

“> **Category(A):** *Communication system directly associated with new ISTS as well as incidental due to implementation of new ISTS elements (e.g. LILO of existing line on new/existing S/s where OPGW/terminal equipment are not available on the existing mainline/substations, etc.)*

> **Category(B):** *Upgradation/modification of existing ISTS Communication system pertaining to the following:*

- *Missing Links Redundancy/ System Strengthening*
- *Capacity upgradation (Terminal equipment)*
- *Completion of life of existing communication system elements*
- *Other standalone project e.g. Cyber Security, Unified Network Management System (UNMS)*
- *Adoption of New Communication Technologies”*

17. Under the above Guidelines, the requirement for a communication system linked with the new ISTS shall be included in the new ISTS package, and the combined proposal shall be approved as per the directions contained in MoP’s Office Order dated 28.10.2021 regarding the re-constitution of the “National Committee on Transmission” (NCT), the relevant portion of which has been mentioned in Para 13 above. In the case of Category (B), the Communication Schemes/Packages proposed by CTUIL for the upgradation/modification of the existing ISTS Communication System, standalone projects, and adoption of new technologies shall be put up to RPC for their views and RPC has to provide their views on the Schemes/Packages proposed by the CTUIL within 45 days of

receipt of the proposal from CTUIL. The Schemes/Packages, along with the views of RPC, shall be approved by the NCT. The subject communication scheme falls under Category (B) of the said guidelines as it is a capacity upgradation of existing ISTS communication system, and was approved in the 14<sup>th</sup> meeting of NCT held on 9.6.2023. The relevant portion of the minutes of the meeting held on 9.6.2023 is extracted as under:

<i>Name of Transmission Scheme</i>	<i>Implementation Mode</i>	<i>Implementation timeframe</i>	<i>Implementing Agency</i>	<i>Estimated Cost (Rs Crs)</i>
<i>Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to connectivity of RE Gencos</i>	<i>RTM</i>	<i>12 months</i>	<i>M/s PBTL</i>	<i>0.3</i>

*The above schemes are awarded to CTUIL for implementation under RTM mode. CTUIL is requested to take necessary actions for entering into a concession agreement with the respective agency for implementation of the above schemes.”*

18. Based on the above, CTUIL, vide its Office Memorandum dated 10.7.2023, communicated to the Petitioner regarding the implementation of the communication scheme- “Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to the connectivity of RE Gencos” on RTM mode along with the name of the implementing agency, i.e., the Petitioner. The relevant portions of the said Office Memorandum dated 10.7.2023 are extracted as under:

***“Sub: Implementation of ISTS Transmission/Communication Schemes approved by NCT in its 14th meeting held on 09-06-2023 under Regulated Tariff Mechanism (RTM).***

*NCT vide its letter dated 07-07-2023 has awarded the following ISTS Transmission/Communication Scheme for its implementation under RTM mode by implementing agencies as indicated in the table below:*

<b>Sl.</b>	<b>Transmission/Communication Schemes</b>	<b>Implementation Agency</b>
<b>III. Communication schemes approved by NCT:</b>		
2.	<i>Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to connectivity of RE Gencos</i>	M/s PBTCL

*The implementing agency shall enter into a concession agreement with CTUIL for implementation of the aforementioned Transmission/Communication schemes. However, pending finalization of Concession Agreement, it is requested initiate necessary actions for implementation of the aforementioned Transmission/Communication Schemes.”*

19. Section 14 of the Act provides that the Appropriate Commission may, on an application made under Section 15 of the Act, grant a licence to any person to transmit electricity as a transmission licensee in any area as may be specified in the licence. The word “person” has been defined in Section 2(49) of the Act to include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial judicial person. The Petitioner company has been incorporated under the Companies Act 2013 and is already a transmission licensee. The main objective of the Petitioner Company is as under:

*“To plan, promote and develop an integrated and efficient power transmission system network in all its aspects including planning, investigation, research, design and engineering, preparation of preliminary, feasibility and definite project reports, construction, operation and maintenance of transmission lines, sub-stations, load dispatch stations and communication facilities and appurtenant works, coordination of integrated operation of state, regional and national grid system, execution of turn- key jobs for other utilities/organizations and wheeling of power in accordance with the policies, guidelines and objectives laid down by the Central Government from time to time”*

20. Regulation 7 of the Transmission Licence Regulations, read with the order dated 22.1.2022 passed in Petition No.1/SM/2022 [whereby the Commission, in the exercise of

'Power to Relax' under Regulation 24 of the Transmission Licence Regulations, modified/amended Clauses (4), (7), (9) and (12) and dispensed with Clause (10) of Regulation 7], provides for the procedure for the grant of a transmission licence as under:

*“(1) The application for grant of licence shall be made to the Commission in Form-I appended to these regulations and shall be accompanied by such fees as may be prescribed by the Central Government from time to time.*

*(2) In case of the person selected for implementation of the project in accordance with the guidelines for competitive bidding, the application shall also contain such additional information, as may be required under these guidelines.*

*(3) The application shall be supported by affidavit of the person acquainted with the facts stated therein.*

*(4) Before making an application, the applicant shall submit the original application in electronic form along with annexures and enclosures on the e-filing portal of the Commission so that the same is served electronically on all the long-term customers of the project registered on the e-filing portal of the Commission. Also, a copy of the same be served through e-mail on the long-term customers of the project not registered on the e-filing portal of the Commission. Further, the applicant shall also post the complete application along with annexures and enclosures in English and in the vernacular language, on its website.*

*(5) The application shall be kept on the website till such time the licence is issued or the application is rejected by the Commission.*

*(6) Immediately on making the application, the applicant shall forward a copy of the application to the Central Transmission Utility.*

*(7) The applicant shall, within 7 days after filing the application, post the application on the e-filing portal of the Commission and on its website in Form-II attached to these regulations in English language and in Vernacular language of the State or Union Territory where an element of the project or a long-term customer is situated, inviting comments from the general public.*

*(8) As far as possible, within 7 days of receipt of the application the Secretariat of the Commission shall convey defects, if any, if noticed on preliminary scrutiny of the application for rectification and the defects conveyed shall be rectified by the applicant in such time as may be indicated in the letter conveying the defects.*

*(9) In the notice published on the e-filing portal of the Commission and on the applicant's website under clause (7) it shall be indicated that the suggestions and*

*objections, if any, on the application, may be filed before the Secretary, Central Electricity Regulatory Commission, Third Floor, Chanderlok Building, Janpath, New Delhi-110001 (or the address where the office of the Commission is situated), with a copy to the applicant, by any person, including the long-term customers, within 30 days of publication of the notice.*

.....  
*(10) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application within a period of thirty days from the date of receipt of application by it:*

*Provided that copy of the recommendations, if any, made by the Central Transmission Utility shall always be forwarded to the applicant:*

*Provided further that these recommendations of the Central Transmission Utility shall not be binding on the Commission.*

*(11) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the notice posted on the e-filing portal of the Commission and on the applicant's website by him, within 45 days of service of copy of the application on the Central Transmission Utility or publication of notice posted on the e-filing portal of the Commission and on the applicant's website, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.*

*(12) The Commission after considering the suggestions and objections received in response to the public notice published by the applicant and the recommendations, if any, of the Central Transmission Utility may, propose to grant transmission licence or for reasons to be recorded in writing, reject the application.*

21. The Petitioner has filed the present Petition for the grant of a transmission licence in accordance with the Transmission Licence Regulations. The Petitioner has submitted proof of web posting of the complete application. On perusal of the application, it is also noted that the Petitioner has served a copy of the application on the LTTCs for the Project.

22. The Petitioner has made the application as per Form-I prescribed in the Transmission Licence Regulations. The Petitioner posted its application on its website in

Form-II on 9.1.2024 in English and Gujarati. It has been submitted by the Petitioner that no objection has been received in response to the public notices.

23. The Petitioner has served a copy of the application on the CTUIL as required under Section 15(3) of the Act and Regulation 7(6) of the Transmission Licence Regulations. CTUIL, vide its letter dated 1.4.2024, has recommended the grant of a transmission licence to the Petitioner. The relevant portion of the said letter dated 1.4.2024 is extracted as under:

*“This is with reference to Petition having Diary No.44/TL/2024 filed by M/s POWERGRID Bhuj Transmission Limited before Hon’ble Commission for grant of Transmission License to facilitate implementation of communication system – “Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to connectivity of RE Gencos”. In this regard, following is submitted:*

- *To connect the RE generators connecting at Bhuj PS directly to existing FOTE at Control Room maintaining MSP (1+1) and form making independent connectivity for upcoming generators at this station, additional STM-16 capacity SDH equipment is required. Accordingly, based on the discussion, a communication scheme has evolved.*
- *The subject communication scheme was agreed in the 3<sup>rd</sup> Communication Planning of WR held on 27/12/2022. Extract of the minutes of 3<sup>rd</sup> CPM-WR meeting is enclosed at **Annexure-I**. The detailed scope of the subject scheme is attached at **Annexure-II**.*
- *The said Communication scheme was agreed in the 46<sup>th</sup> WRPC meeting held on 03/02/2023. Extract of the 46<sup>th</sup> WRPC minutes are enclosed at **Annexure-III**. Subsequently, communication Scheme was agreed in the 14<sup>th</sup> meeting of National Committee of Transmission (NCT) held on 09/06/2023. Extract of minutes of meeting are attached at **Annexure-IV**.*

*Keeping above in view and based on details furnished by M/s POWERGRID Bhuj Transmission Limited, CTU, in line with Section 15(4) of the Electricity Act,2003, recommends grant of transmission license to M/s POWERGRID Bhuj Transmission Limited for executing the subject communication scheme.”*

24. Further, in response to the specific query of the Commission raised in ROP dated 6.3.2024, i.e. whether the elements covered under instant Petition qualify as a separate transmission element for the purpose of transmission licence, CTUIL, vide its affidavit dated 5.4.2024 has submitted the following:

**A. Nature and Planning of ISTS System**

*ISTS system is continuously evolving and many elements keep on adding to existing/already planned ISTS network. The communication system, being an integral part of ISTS network also keeps on changing to cater need of ISTS transmission system i.e. to facilitate secure and reliable data transmission to RLDCs for efficient GRID Operation.*

*During the planning of new ISTS scheme, few elements could not be envisaged because of change in system requirement in future. For example, because of LILO of existing line which does not have OPGW, OPGW on existing line shall be required when the data of LILOfed station is planned through LILO of existing line. Similarly additional FOTE (FIBER OPTIC TERMINAL EQUIPMENT) at different stations may be required, for adding more directions and also for upgradation of capacity due to addition of new substations, RE Generators, new service data type requirement etc. Upgradation shall also be required after end of useful life of particular transmission and communication asset.*

**B. CERC Order in Petition No. 94/MP/2021 (Central Transmission Utility v. Sekura NRSS XXXI(B) Transmission Ltd & Ors)**

*In this regard, the Commission vide its Order dated 27.12.2023 in Petition No. 94/MP/2021 (Central Transmission Utility v. Sekura NRSS XXXI(B) Transmission Ltd & Ors.) has, inter alia, observed the following: -*

*“36. We observe that installation of OPGW is a requirement which has emerged at a stage after the TBCB project has been declared commercial. Further, we observe that the tariff of the TBCB Project is governed in terms of TSA and are of the view that appropriate compensation needs to be provided for recovery of additional expenditure towards OPGW installation and its maintenance by the licensee.*

*37... We observe that the instant case of replacement of earth wire with OPGW is a work which was not part of the original scope of TSA. Since the OPGW has not been provided with a separate transmission licence, we are not inclined to consider the suggestion of CTU to consider the instant work of replacement under RTM. We observe that TSA provides for treatment of additional expenditure under “Change in Law... The transmission licensee is directed to follow a transparent*



*process of competitive bidding while implementing such work. **After implementation of the work, the transmission licensee is required to approach the Commission for approval of such expenditure along with audited data of the expenditure and details of competitive bidding carried out by it. The transmission licence shall not be required to be amended to include OPGW since the transmission licence issued to Respondent No.1 does not specifically provide the specification of earth wire, and OPGW shall be considered within the same transmission licence.***

[Emphasis

Supplied]

*The Commission under its Order had after considering that the implementation of the OPGW was not envisaged at the inception, opined that the transmission licensee shall approach the Commission for approval of expenditure incurred in implementation of the work and that there shall not be requirement of amendment of the transmission licence. However, in this context, as detailed under the RoP dated 06.03.2023, the Petitioner has submitted that if the methodology adopted in order dated 27.12.2023 in Petition No. 94/MP/2021, is applied in the instant case, the Petitioner will not qualify under the Change in Law provisions as specified in the TSA due to the estimated expenditure being below the threshold limit provided in the TSA.*

### **C. POWERGRID Bhuj Transmission Limited**

*In the present case, as well, the award of the work towards implementation of communication system – “Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to connectivity of RE Gencos”, was not envisaged at the inception.*

*However, in order to connect the RE generators connecting at Bhuj PS directly to existing FOTE at Control Room maintaining MSP (1+1) and for making independent connectivity for upcoming generators at Bhuj PS, additional STM-16 capacity SDH equipment is required. The same has been deliberated and agreed in the 3rd Meeting of CTUIL for Planning of Communication system for Inter-State Transmission system (ISTS) in Western Region held on 27.12.2022, 46th Meeting of the Western Regional Power Committee held on 03.02.2023 and 14th Meeting of National Committee on Transmission held on 09.06.2023. In view of the above, this Hon’ble Commission may kindly consider the grant of transmission licence to the Petitioner, as the Commission may deem fit.*

25. Section 14 of the Act provides that the Appropriate Commission may, on an application made to it under Section 15, grant a licence to any person to transmit electricity

as a transmission licensee in any area as may be specified in the licence. Section 16 of the Act provides that the Appropriate Commission may specify any general or specific conditions which shall apply either to a licensee or a class of licensees, and such conditions shall be deemed to be conditions of such licence. The Commission has specified the Transmission Licence Regulations. Regulation 6 of the said Regulation lays down the eligibility criteria for the grant of a transmission licence as under:

*“6. Eligibility for Grant of licence:*

*(a) No person shall be eligible for grant of licence unless it is—(a) selected through the process under the guidelines for competitive bidding, or*

*(b) a State owned or controlled company identified as a project developer on or before 5.1.2011, or*

*(c) a generating company which has established the dedicated transmission line, and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system.”*

26. In the present case, the Petitioner does not fulfil any of the eligibility conditions for the grant of a transmission licence. However, based on the direction issued by the Ministry of Power vide its Order No. 15/3/2017-Trans-Pt (1) dated 9.3.2022, the instant communication scheme has been approved by NCT in its 14<sup>th</sup> meeting held on 9.6.2023. Therefore, the non-grant of a transmission licence to any agency nominated by NCT to implement a transmission scheme through a regulated tariff mechanism, in view of the provisions of Regulation 6, defeats the purpose of the Policy decision of the Government. We are of the view that considering the strategic importance of the transmission line, it is a fit case for a relaxation of the provisions of Regulation 6 by invoking the power vested under Regulation 24 of the Transmission Licence Regulations.

27. Regulation 24 of the Transmission Licence Regulations, dealing with the power to relax in appropriate cases, provides as under:

*“24. The Commission may, when it considers necessary or expedient to do so and for reasons to be recorded in writing, relax or depart from any of the provisions of these regulations”.*

28. It is an established principle of law that the power to relax has to be strictly construed and is to be exercised judiciously and with caution. Further, the power to relax is to be exercised only when undue hardship is caused by the application of the rules or regulations. In the present case, the Petitioner is a transmission licensee who is already implementing the project defined under its scope through the TBCB mechanism. The present Petition is consequent to the office order 9.3.2022 notified by the Ministry of Power, Government of India, wherein NCT is the approving authority for upgradation/modification of existing ISTS communication schemes. Pursuant to the said direction of the Ministry of Power, NCT vide its Office Memorandum dated 7.7.2023 has informed, *inter alia*, regarding approval of the communication scheme included in the instant Petition in its 14<sup>th</sup> meeting held on 9.6.2023 and subsequently, CTUIL vide its Office Memorandum dated 10.7.2023 has informed regarding a list of Projects to be implemented or through Regulated Tariff Mechanism, which also includes the communication scheme of the instant Petition.

29. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per RTM, the Commission, in the exercise of power under Regulation 24, hereby relaxes the provision of Regulation 6 of the

Transmission Licence Regulations and holds that the Petitioner is eligible for the grant of a transmission licence. We, hereby, direct that a public notice under clause (a) of sub-section (5) of Section 15 of the Act be published to invite suggestions or objections to grant a transmission licence aforesaid. The objections or suggestions, if any, shall be filed by any person before the Commission by **3.5.2024**.

30. CTUIL is directed to approach the Ministry of Power, Govt. of India, with regard to the requirement of approval of the Central Government to the Transmission Scheme under the Transmission System Planning Rules for Projects costing up to Rs. 500 crore vis-à-vis the Transmission Schemes/Projects approved by NCT/CTUIL as per the Ministry's Order dated 28.10.2021 and to file the outcome thereof, if any, on affidavit within two weeks thereafter.

31. The Petition shall be listed for the hearing on **8.5.2024**.

**Sd/-  
(Arun Goyal)  
Member**

**Sd/-  
(Jishnu Barua)  
Chairperson**