

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 495/MP/2020

Coram:

**Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P.K. Singh, Member**

Date of Order: 30th June, 2021

In the matter of:

Petition under Regulation 4(1) of Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulation, 2020, intimating the Hon'ble Central Electricity Regulatory Commission about continuation of Telecommunications and Digital Technology Businesses in accordance with the approvals granted by the Hon'ble Commission under Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulation, 2007 and other relevant orders.

And

In the matter of:

Power Grid Corporation of India Ltd.
Registered office: B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi and
Corporate office: "Saudamini", Plot No.: 2,
Sector-29, Gurgaon (Haryana)- 122 001.

...Petitioner

VS

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg,
Jaipur – 302005 (Rajasthan).,
Through its Chairman.
2. Ajmer Vidyut Vitran Nigam Ltd.,
132 KV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan)
3. Jaipur Vidyut Vitran Nigam Ltd.,
132 KV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,



Jaipur-302017 (Rajasthan)

4. Jodhpur Vidyut Vitran Nigam Ltd.,
132 KV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan)
5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171004 (Himachal Pradesh),
Through its Chairman.
6. Punjab State Electricity Board,
Thermal Shed Tia,
Near 22 Phatak,
Patiala-147001 (Punjab),
Through its Chief Engineer.
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula- 134109 (Haryana),
Through its S.E./C&R-1.
8. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu,
Through its Commissioner.
9. Uttar Pradesh Power Corporation Ltd.,
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow - 226001 (Uttar Pradesh),
Through its Chairman.
10. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi-110002,
Through its Chairman.
11. BSES Yamuna Power Ltd.,
B-Block, ShaktiKiran, Bldg. (Near Karkadooma Courte),
Karkadooma 2nd Floor,
New Delhi-110092,
Through its Chief Executive Officer.
12. BSES Rajdhani Power Ltd,
BSES Bhawan, Nehru Place,
New Delhi-110019,
Through its Chief Executive Officer.
13. Tata Power Delhi Distribution Limited (TPDDL),
NDPL house, Hudson Lines Kingsway Camp



Delhi – 110009
Through its Chief Engineer

14. Chandigarh Administration,
Sector -9, Chandigarh,
Through its Chief Engineer.
15. Uttarakhand Power Corporation Ltd.,
Urja Bhawan,
Kanwali Road, Dehradun (Uttarakhand),
Through its Managing Director.
16. North Central Railway,
Allahabad (Uttar Pradesh),
Through its Chief Electrical Distribution Engineer.
17. New Delhi Municipal Council,
Palika Kendra, SansadMarg,
New Delhi-110002,
Through its Chairman.
18. Bihar State Power (Holding) Company Ltd
(Formerly Bihar State Electricity Board -BSEB)
Vidyut Bhavan, Bailey Road, Patna – 800 001
Represented By Its Chairman
19. West Bengal State Electricity Distribution Company Limited
Bidyut Bhawan, Bidhan Nagar
Block DJ, Sector-II, Salt Lake City
Calcutta - 700 091
Represented By Its Chairman
20. Grid Corporation of Orissa Ltd.
Shahid Nagar, Bhubaneswar - 751 007
Represented By Its Chairman cum Managing Director
21. Jharkhand State Electricity Board
In Front of Main Secretariat
Doranda, Ranchi - 834002
Represented By Its Chairman
22. Damodar Valley Corporation
DVC Tower, Maniktala
Civic Centre, Viproad, Calcutta - 700 054
Represented By Its Chairman
23. Power Department
Govt. of Sikkim, Gangtok - 737 101
Represented By Its Commissioner & Secretary (POWER)
24. Madhya Pradesh Power Management Company Ltd.
Shakti Bhawan, Rampur



Jabalpur - 482 008
Represented By Its MD

25. Madhya Pradesh Power Transmission Company Ltd.
Shakti Bhawan, Rampur
Jabalpur - 482 008
Represented By Its MD

26. Madhya Pradesh Audyogik Kendra
Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road, Indore-452 008

27. Maharashtra State Electricity Distribution Co. Ltd.
Hong Kong Bank Building, 3RD Floor
M.G. Road, Fort, Mumbai - 400 001.
Represented By Its MD

28. Maharashtra State Electricity Transmission Co. Ltd.
Prakashganga, 6th Floor, Plot No. C-19, E-Block,
Bandra Kurla Complex, Bandra (EAST) Mumbai-400 051.
Represented By Its MD

29. Gujarat UrjaVikas Nigam Ltd.
Sardar Patel Vidyut Bhawan,
Race Course Road, Vadodara - 390 007
Represented By Its Chairman

30. Electricity Department
Govt. of Goa, Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001
Represented By Its Chief Engineer (Electrical)

31. Electricity Department
Administration of Daman & Diu
Daman - 396 210
Represented By Its Secretary (FIN.)

32. DNH Power Distribution Corporation Limited.
VidyutBhawan, 66KV Road, Near Secretariat Amla,
Silvassa - 396 230
Represented By Its Secretary (FIN.)

33. Chhattisgarh State Power Transmission Co. Ltd.
Office Of The Executive Director (C&P)
State Load Despacth Building,
Dangania, Raipur – 492 013

34. Chhattisgarh State Power Distribution Co. Ltd.
P.O. Sunder Nagar, Dangania, Raipur
Chhattisgarh-492 013
Represented by Its Chairman



35. Karnataka Power Transmission Corporation Ltd.,
(KPTCL), Kaveri Bhavan, Bangalore – 560 009
Represented by its Chairman
36. Transmission Corporation of Andhra Pradesh Ltd., (APTRANSCO),
Vidyut Soudha,
Hyderabad– 500082
Represented by its Chairman
37. Kerala State Electricity Board (KSEB)
Vaidyuthi Bhavanam
Pattom, Thiruvananthapuram – 695 004
Represented by its Chairman
38. Tamil Nadu Generation and Distribution Corporation Ltd
(Formerly Tamil Nadu Electricity Board -TNEB)
NPKRR Maaligai, 800, Anna Salai, Chennai – 600 002
Represented by its Chairman And Others
39. Electricity Department
Government of Goa
Vidyuti Bhawan, Panaji
Goa 403001
Represented by Chief Engineer (Electrical)
40. Electricity Department
Govt of Pondicherry,
Pondicherry - 605001
Represented by its Chief Secretary
41. Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL)
P&T Colony,
Seethmmadhara, VISHAKHAPATNAM
Andhra Pradesh,
Represented by its Managing Director
42. Southern Power Distribution Company of Telangana limited (TSSPDCL)
Corporate Office, Mint Compound,
HYDERABAD – 500 063
Telangana
Represented by Its Managing Director
43. Central Power Distribution Company of Andhra Pradesh limited (APCPDCL)
Corporate Office, Mint Compound,
HYDERABAD – 500 063, Andhra Pradesh
Represented by Its Managing Director
44. Northern Power Distribution Company of Telangana Limited (TSNPDCL)
Opp. NIT Petrol Pump
Chaitanyapuri, Kazipet,
WARANGAL – 506 004
Telangana.



- Represented by Its Managing Director
45. Bangalore Electricity Supply Company Ltd., (BESCOM),
Corporate Office, K.R.Circle
BANGALORE – 560 001, Karnataka
Represented by Its Managing Director
46. Gulbarga Electricity Supply Company Ltd., (GESCOM)
Station Main Road, GULBURGA, Karnataka
Represented by Its Managing Director
47. Hubli Electricity Supply Company Ltd., (HESCOM)
Navanagar, PB Road, HUBLI, Karnataka
Represented by Its Managing Director
48. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle
MANGALORE – 575 001, Karnataka
Represented by Its Managing Director
49. Chamundeswari Electricity Supply Corporation Ltd., (CESC)
927, L J Avenue, Ground Floor, New Kantharaj Urs Road
Saraswatipuram, MYSORE – 570 009, KARNATAKA
Represented by Its Managing Director
50. Transmission Corporation of Telangana Limited,
Vidhyut Sudha, Khairatabad,
Hyderabad, 500082
Represented by Its Managing Director
51. Tamil Nadu Electricity Board (TNEB)
NPKRR Maaligai, 800, Anna Salai
Chennai – 600 002
Represented by its Chairman
52. Assam Electricity Grid Corporation Limited
(Formerly Assam State Electricity Board)
Bijulee Bhawan, Paltan Bazar,
Guwahati – 781001, Assam
Represented by its Chairman
53. Meghalaya Energy Corporation Limited
(Formerly Meghalaya State Electricity Board)
Short Round Road, “Lumjingshai”
Shillong – 793001, Meghalaya
Represented by its Chairman & M. D.
54. Government of Arunachal Pradesh
Itanagar, Arunachal Pradesh
Represented by its Secretary & Commissioner Power
55. Power and Electricity Department



Government of Mizoram
Aizawl, Mizoram
Represented by its Secretary Power

56. Manipur State Power Distribution Corporation Limited
(Formerly Electricity Department, Government of Manipur)
Keishampat, Imphal
Represented by its Chairman

57. Department of Power
Government of Nagaland
Kohima, Nagaland
Represented by its Commissioner and Secretary Power

58. Tripura State Electricity Corporation Limited
Vidyut Bhawan, North Banamalipur,
Agartala, Tripura (W) – 799001, Tripura
Represented by its Chairman

...Respondents

Parties Present:

Shri Manoj Dubey, Advocate, MPPMCL
Shri Doman Yadav, PGCIL
Shri V. C. Shekhar, PGCIL
Shri Sudesh Kumar Yadav, PGCIL
Shri Anindya Khare, MPPMCL

ORDER

The Petitioner, Power Grid Corporation of India Limited (PGCIL), has filed the instant Petition under Regulation 4 of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2020 (hereinafter also referred to as 'the 2020 Sharing of Revenue Regulations') for intimating the Commission about continuation of its telecommunication businesses and digital technology business in accordance with the earlier approvals granted by the Commission under erstwhile Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2007 (hereinafter referred to as 'the 2007 Sharing of Revenue Regulations') and other relevant orders.



2. The Petitioner has made the following prayers:

a) *Consider the instant petition as an intimation of the Petitioner under Regulation 4(1) of the CERC (Sharing of Revenue Derived from other businesses) Regulations, 2020 of continuation of Telecommunications and Digital Technology Businesses in accordance with the approvals granted by the Hon'ble Commission under Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulation, 2007 and other relevant orders; and,*

b) *Pass such other relief as the Hon'ble Commission deems fit and appropriate under the circumstances of the case."*

3. Power Grid Corporation of India Limited is a Central Public Sector Enterprise within the meaning of Section 2(45) of the Companies Act, 2013 and is a deemed transmission licensee under the provisions of Section 14 of the Electricity Act, 2003.

4. Section 41 of the Electricity Act, 2003 provides that a transmission licensee may engage in any business to optimize the utilization of the transmission assets by giving a prior intimation to the Commission. The Petitioner in compliance of the provisions of the section 41 of the Electricity Act 2003 read with the provisions of the 2007 Sharing of Revenue Regulations, has been engaged in utilization of its transmission assets for undertaking activities of telecommunication business.

Submissions of the Petitioner

5. The Petitioner has mainly submitted as under:

a) The Petitioner currently owns and operates an inter-State transmission System network of 1,62,489 ckm (circuit kilometre) of transmission lines and operates 248 sub-stations. Considering the total transmission network area under its control and management, the Petitioner felt imperative to undertake businesses such as telecommunication for effective utilization of its transmission assets and further cost optimization for



the beneficiaries. The Petitioner has been utilizing its transmission assets for activities of telecommunication business since 2001.

b) The telecommunication activities in India are regulated by the Department of Telecommunication (DoT), which is also the nodal agency for grant of telecom licenses to carry out various activities associated with the telecom businesses. DoT also issues policy guidelines for development, implementation and utilization of telecom assets. In furtherance to various guidelines issued by DoT, the Petitioner had obtained an Infrastructure Provider Category-II (IP-II) license in 2001 which migrated to National Long Distance (NLD) in 2006. The Petitioner also obtained license as Internet Service Provider – Class A (ISP-A) in 2003. These two licensees have been migrated to Unified License with Service Authorization for NLD and ISP-A in May-2017. The Petitioner is also registered as an IP-I (Infrastructure Provider) with DoT for leasing passive telecom infrastructure to other Telecom Service Providers (TSP) and holds Unified License for Telecom business and is providing telecom services using transmission line infrastructure.

c) The Petitioner has been undertaking the telecommunication business through its unutilized or spare cores of Optical Fiber Ground Wire (OPGW) laid for the purpose of grid monitoring and control under various ULDC and other schemes. The Petitioner has also laid the OPGW fiber exclusively for telecommunication business by utilising the existing Right of Way on transmission lines and sharing the Fiber Core with ULDC as per their requirement. Further, the Petitioner is also in the process to provide limited lease rights on the vacant spaces over transmission towers for installation of Telecom antennas and BTS equipment to various Telecom Service Providers (TSPs) and other Infrastructure Service Providers (ISPs).

d) The Commission has notified the 2020 Sharing of Revenue Regulations wherein, transmission licensees which have already undertaken other businesses such as telecommunication business or otherwise shall give a fresh intimation of continuation to carry forward the telecom business in accordance with the provisions of the 2020 Sharing of Revenue Regulations.



6. In terms of the compliances enumerated under the provisions of Regulation 5 of the 2020 Sharing of Revenue Regulations, the Petitioner has furnished the following details:

a) Regulation 5(a) - Telecommunication Businesses

i) The Petitioner is actively engaged in the business of providing telecom services to TSPs and other customers by utilizing spare fiber cores in OPGW for carrying telecom signals. The proportionate cost of OPGW utilized for the telecommunication business is directly reduced from the capital cost of the transmission assets claimed from the long term customers/ beneficiaries in accordance with the directions of the Commission in its order dated 08.12.2011 in Petition No. 68/2010.

ii) The Petitioner has also been sharing the revenue realized from the telecom business in the form of Right of Way (RoW) charges corresponding to the shared OPGW on the basis of circuit kilometers utilised for Telecom Businesses. The shared revenue is being utilized by the Petitioner for reducing the monthly transmission charges of the LTTCs of the transmission assets in proportion to the transmission charges payable by them as per the relevant Regulations of the Commission.

iii) Moreover, the Petitioner has also laid and leased Underground Optical Fiber (UGOFC) mainly in order to create access network and has deployed the telecom equipment (DWDM, SDH, MPLS etc.), Auxiliary systems (DCPS, Battery, Air conditioners DG Sets etc) as per system requirement on various locations such as Telecom Repeaters, POP Locations, Customer locations etc.

b) Regulation 5(b) – “Business other than telecommunication Business”

The Petitioner is also engaged in the business of leasing out spaces over transmission towers for erecting telecommunication antennas and equipment to various TSPs and infrastructure service providers after obtaining the approval of the Commission vide order dated 28.05.2019 in



Petition no. 180/MP/2017. It will share the revenue from above business separately as directed by the Commission in terms of the above order.

c) The Petitioner in compliance with the requirements of DoT License and the Regulations framed by the Commission has been maintaining independent books of accounts and a separate Balance Sheet and Profit & Loss statements for its telecommunication business and the same have been submitted for the consideration of the Commission on annual basis.

Hearing dated 14.07.2020 and 15.4.2021

7. The matter was heard through video conferencing on 14.07.2020. After hearing the representative of the Petitioner, the Commission admitted the Petition and directed to submit the following information in details in terms of clause (1) and clause (2) of Regulation 4 of the 2020 Sharing of Revenue Regulations:

*“(a) Nature of other business,
(b) Transmission assets utilized or proposed to be utilized for other business,
(c) Cost of such transmission assets utilized or proposed to be utilized,
(d) Revenue derived or estimated to be derived from other business,
(e) Underlying assumptions & justification for estimated revenue (along with Reports submitted earlier) , and
(f) Impact, if any, of use of transmission assets for other business on inter-State transmission of electricity.”*

8. In compliance with the above directions of the Commission vide ROP of hearing dated 20.07.2020, the Petitioner submitted the information vide an affidavit dated 30.07.2020. The case was again called out for virtual hearing on 15.4.2021 and the order was reserved in the matter.

9. The Petitioner in compliance to the directions vide ROP of hearing dated 14.07.2020 has submitted the following additional information:

a) Nature of other business:

Telecommunication Business:

i) In addition to unutilized/ spare cores of Optical Fiber Ground Wire (OPGW) laid for the purposes of grid monitoring and control under various ULDC and other schemes, the Petitioner has also laid OPGW fiber exclusively for telecommunication business by utilising ROW on



Central Sector Transmission Line and is also sharing the Fiber Core with ULDC as per their requirement.

ii) The Petitioner has also laid/ leased Underground Optical Fiber & Overhead Fiber mainly to create access network and deployed the Telecom Equipment (DWDM, SDH, MPLS etc.), Auxiliary systems (DCPS, Battery, Air conditioners DG Sets etc) as per system requirement at various locations such as Telecom Repeaters, POP Locations, Customer locations etc.

For other than telecommunication business:

iii) The Petitioner is in the process to provide limited lease rights on the vacant spaces over transmission towers for installation of telecom antennas and BTS equipment to various Telecom Service Providers (TSPs) and Infrastructure Service Providers (ISPs) as per the approval of the Commission obtained vide order dated 28.05.2019 in Petition no. 180/MP/2017.

b) Transmission assets utilized or proposed to be utilized for other business:

The Petitioner has broadly explained the utilization of such assets in the main Petition.

c) Cost of such transmission assets utilized or proposed to be utilized:

For Telecommunication Business:

i) The Petitioner has laid about 5446 km of OPGW exclusively for uses of telecommunication business. The total supply and installation cost of OPGW is born by the Petitioner.

ii) The Petitioner has laid about 7460 km of OPGW for uses of telecommunication business and these fibers are also shared by ULDC. The capital cost sharing towards portion of OPGW Fiber utilized by ULDC/ other transmission line project is as per the order of the Commission in Petition No. 68/2010.

iii) The Petitioner is also sharing the fibers for telecommunication business from OPGW laid under ULDC and other schemes (OPGW laid by ULDC



and shared by Telecom business ~ 26,650 km). Further, the Petitioner is sharing the capital cost towards portion of OPGW Fiber utilized for telecommunication business as per the order of the Commission in petition no. 68/2010.

iv) In addition to the above-mentioned transmission assets, the Petitioner is also utilizing 39,556 km (5446 km + 7460 km + 26650 km) length of the Right-of-way used for laying of OPGW of the transmission assets. As per Regulation 4(1)(a) of the 2007 Revenue sharing Regulations, the Petitioner is also sharing the revenue towards Right-of-way utilised for laying of OPGW. RoW charges for quarter-I of FY 2020-21 is Rs.2.27 crore. The Petitioner shall be complying with the provisions of the 2020 Revenue Sharing Regulations for sharing of revenue from telecommunication business from 01.07.2020 onwards.

For Business other than telecommunication business:

v) The telecom antenna and other electrical or electronics equipment to be installed shall be on the transmission towers at an appropriate place to be decided under the supervision and control of the Petitioner. Also, power for telecom equipment will be provided through earth wire, which otherwise is drained in the ground through earthing of ground wire on each tower. There may not be any cost assigned in cases where telecom antenna will be installed on transmission towers.

d) Revenue derived or estimated to be derived from other business:

i) From Telecommunication Business: The detailed account and statement of the revenue earned from the telecommunication businesses for the year ended 31.03.2020 has been submitted.

ii) From Business other than telecommunication business: The Petitioner is in the process to provide limited lease rights on the vacant spaces over transmission towers for installation of Telecom antennas and BTS equipment to various Telecom Service Providers and Infrastructure Service Providers after obtaining approval of the Commission vide order dated 28.05.2019 in Petition no. 180/MP/2017. The estimated revenue to



be derived from this business has been submitted by Petitioner in Petition no.180/MP/2017, which was also mentioned in the order in the petition.

e) Underlying assumptions and justifications for estimated revenue:

i) For Telecommunication Business: The Petitioner is already in the telecommunications business in accordance with the 2007 Sharing of Revenue Regulations and other relevant orders since 2001. The detailed account and statement of the actual revenue earned from the telecommunication businesses for the year ended 31.03.2020 has been submitted along with the Petition.

ii) For Business other than telecommunication business: The Petitioner has already submitted the assumptions and justifications for estimated revenue in reply against Petition No.180/MP/2017 and same was also mentioned in the order of the said petition.

f) Impact, if any, of use of transmission assets for other business on inter-State transmission of electricity:

i) From Telecommunication Business: The Petitioner has been utilizing the transmission assets for telecom application since 2001 and till date there is no impact observed on inter-State transmission of electricity. The Petitioner further ensures that assets utilized for telecommunication business shall not in any manner adversely affect its performance or obligation in the transmission business.

ii) From Business other than telecommunication business: No impact is envisaged from other business on the inter-State transmission of electricity. Further, the permission to mount the telecom antennas on towers and feeding of power supply from isolated earth wire shall be given after verification of the structural strength and other details such as technical aspects. Also, efforts shall be made to ensure that there is no impact on the inter-State transmission of electricity during the prospective usage of transmission tower for mounting of antennas. In order to protect the core activity, the Petitioner shall continue to have supervision and control on the activity of the selected persons and the



personnel of the Petitioner shall have full authority to supervise and give directions in regard to the installation, operation and maintenance of the antennas etc.

Reply filed by MPPMCL (Respondent No. 24)

10. MPPMCL, vide its reply dated 29.4.2021 has submitted as under:

a) The Petitioner has not furnished exact identification, costs, details of the existing transmission assets and non-transmission assets which are being put to use for telecommunication business. The Petitioner should furnish details of the transmission assets that are being put to use by it for telecommunication business in a shape which correlates to the block-wise tariffs determined/ adopted in respect of the respective transmission assets.

b) The Petitioner has not furnished any details as to how the proportionate revenue derived from use of exclusively telecommunication assets would be apportioned with the transmission assets.

c) The Petitioner needs to justify as to how RoW in its favour is being transferred to or shared with the third parties dealing in telecommunication business. Transferring or sharing of RoW may violate the terms and conditions of the same and may be a threat to the transmission business to grave prejudice to the beneficiaries.

Rejoinder of the Petitioner to the reply filed by Respondent

11. The Petitioner vide its Affidavit dated 13.5.2021 has submitted that in compliance of the provisions of Clause 2 of Regulation 4 of the 2020 Sharing of Revenue Regulations, the Petitioner has already furnished the details of existing telecom business, in reply to directions vide Record of Proceeding (ROP) for hearing on 14.07.2020.

12. The Petitioner has further submitted that it is already an existing player in the telecommunications business since 2001 and the instant petition is filed for intimation as regards continuation of existing business as required under the 2020



Sharing of Revenue Regulations. The Petitioner utilizes required transmission assets and shares 10% of the gross revenue from its telecommunication business.

13. In response to the averments made by MPPMCL about justification as to how ROW in the Petitioner's favour is being transferred or shared with the third party, the Petitioner has submitted that it has been utilizing RoW for telecommunication business as per regulation 4(1)(a) of the 2007 Sharing of Revenue Regulations, and the Petitioner has been sharing the revenue realised towards Right-of-way utilised for laying of OPGW. Further, the Petitioner has submitted that it has neither transferred nor shared any RoW to any third party and is only utilizing RoW for laying out optical fibre cable or optical fibre composite overhead ground wire over the transmission towers.

14. As regards details as to how the proportionate revenue derived from use by exclusive telecommunication assets would be apportioned with the transmission assets, the Petitioner submitted that the estimation of revenue earned from telecom business by utilizing a particular transmission asset is not feasible to be identified, as transmission assets may be utilized for many telecom links and combination of all the assets forms the telecom network to run the business. Therefore, proportionate revenue from total telecommunication business and from business other than telecommunication business, has been decided by the Commission as per the 2020 Sharing of Revenue Regulations.

Analysis and Decision

15. The present Petition has been filed under Regulation 4 of the 2010 Sharing of Revenue Regulations for intimating the Commission about continuation of telecommunication and digital technology businesses.

16. Regulation 4 of the 2020 Sharing of Revenue Regulations provides as under:



“ 4.Intimation of other business:

(1) A transmission licensee proposing to undertake other business shall give prior intimation to the Commission:

Provided that if other business is not telecommunication business, the transmission licensee shall seek prior approval of the Commission by filing a petition, as regards sharing of revenues derived from such other business;

Provided further that a transmission licensee having undertaken other business before commencement of these regulations shall give prior intimation or seek approval, as the case maybe, within two months of coming into force of these regulations

(2)While giving intimation or seeking approval in terms of clause (1) of this regulation, the transmission licensee shall furnish the following details:

- a)nature of other business;*
- b)transmission assets utilized or proposed to be utilized for other business;*
- c)cost of such transmission assets utilized or proposed to be utilized;*
- d)revenue derived or estimated to be derived from other business;*
- e)underlying assumptions and justifications for estimated revenue;*
- f)impact, if any, of use of transmission assets for other business on inter-State transmission of electricity ;and*
- g)any other details required by the Commission.*

(3)The details specified under clause (2) of this regulation shall thereafter be furnished by the transmission licensee to the Commission for every financial year.”

17. In this regard, the Petitioner has broadly submitted as under:

a. Nature of other business: The Petitioner is providing telecommunication services to various Telecom Service Providers, Government agencies, Public Sector Undertakings, Enterprises, ISPs, OTT players etc. since 2001 by utilizing idle/ spared fiber cores of OPGW, laid for the purposes of grid monitoring and control under various ULDC and other schemes to offer bandwidth for carrying out telecom related activities. About 5446 km of OPGW has been laid exclusively for uses of telecommunication business. The Petitioner has also laid about 7460 km of OPGW for uses of telecommunication business and these fibers are also being shared under various ULDC schemes. The capital cost sharing towards portion of OPGW Fiber utilized by ULDC/ other transmission line project is as per the order of the Commission in Petition No. 68/2010. The Petitioner is in the process of providing limited lease rights on the vacant spaces over transmission towers for installation of telecom antennas and BTS equipment to various Telecom Service Providers and Infrastructure Service Providers as per the approval of the Commission obtained vide order dated 28.05.2019 in Petition No. 180/MP/2017.



b. Transmission assets utilized or proposed to be utilized for other business: The Petitioner has been broadly utilizing the following assets:

- i. Spare optical fibre as available in OPGW and space in sub-station for installation of telecom equipment to carry-out telecommunication business.
- ii. Right of Way to deploy additional OPGW.
- iii. Space over transmission towers for installation of telecom antennas and BTS (Base Transceiver System) equipment to various TSPs and Infrastructure service providers.

c. Cost of such transmission assets utilized or proposed to be utilized:

The Petitioner has implemented 1,62,489 ckm of transmission network throughout the country. Most of the assets implemented by the Petitioner are either under the provisions of Section 62 or Section 63 of the Electricity Act, 2003. The transmission charges for each of these assets are either approved or adopted by the Commission under the provisions of the Electricity Act, 2003.

d. Revenue derived or estimated to be derived from other business:

The Petitioner has been submitting detailed accounts and statements of the revenue earned from the telecommunication businesses since 2001. The Petitioner has been distributing the revenues earned from telecommunication business in terms of various directions issued by the Commission from time to time. The detailed account and statement of the revenue earned from the telecommunication businesses for the year ended 31.03.2020 has been enclosed. The Petitioner is in the process of providing limited lease rights on the vacant spaces over transmission towers for installation of telecom antennas and BTS equipment to various Telecom Service Providers and Infrastructure Service Providers after obtaining approval of the Commission vide order dated 28.05.2019 in Petition no. 180/MP/2017. The estimated revenue to be derived from this business has been submitted by Petitioner in Petition no.180/MP/2017, which was also mentioned in the order in the petition.

e. Underlying assumptions and justifications for estimated revenue:

- i) For Telecommunication Business: The Petitioner is already in the telecommunications business in accordance with the 2007 Sharing of Revenue Regulations and other relevant orders since 2001. The detailed account and statement of the actual revenue earned from the

telecommunication businesses for the year ended 31.03.2020 has been submitted along with the Petition.

ii) For Business other than telecommunication business: The Petitioner has already submitted the assumptions and justifications for estimated revenue in reply against Petition no.180/MP/2017 and same was also mentioned in the order of the said petition.

f. Impact, if any, of use of transmission assets for other business on inter-State transmission of electricity

i) From Telecommunication Business: The Petitioner has been utilizing the transmission assets for telecom application since 2001 and till date there is no impact observed on inter-State transmission of electricity. The Petitioner ensures that assets utilizing for telecommunication business does not in any manner adversely affect its performance or obligation in the transmission business.

ii) From Business other than telecommunication business: No impact is envisaged from other business on the inter-State transmission of electricity. Further, the permission to mount the telecom antennas on towers and feeding of power supply from isolated earth wire shall be given after verification of the structural strength and other details such as technical aspects. Also, efforts shall be made to ensure that there is no impact on the inter-State transmission of electricity during the prospective usage of transmission tower for mounting of antennas. In order to protect the core activity, the Petitioner shall continue to have supervision and control on the activity of the selected persons and the personnel of Petitioner shall have full authority to supervise and give directions in regard to the installation, operation and maintenance of the antennas etc.

18. Respondent MPPMCL vide its reply has submitted that the Petitioner has not furnished the transmission assets that are being or envisaged to be put to use by the Petitioner for telecommunication business which may correlate to the block-wise tariffs determined/ adopted of the respective transmission assets. The Respondent



further submitted that the Petitioner has not furnished details as to how the proportionate revenue derived from use of exclusively telecommunication assets would be apportioned with the transmission assets.

19. We have considered the submissions of the Respondent and the Petitioner. We observe that despite clear requirements of Regulation 4(2) of the 2020 Sharing of Revenue Regulations, the details sought by Respondent MPPMCL and as well as by the Commission through ROP, the Petitioner has not provided full details. In response to the details of cost of transmission assets utilised or proposed to be utilised, the Petitioner, instead of providing the cost details, has referred to Section 62 and 63 of the Electricity Act, 2003. Similarly, with regards to revenue derived, instead of providing the revenue details, the Petitioner has stated that it has been filing these details in the Commission annually. However, there are no such records that have been filed by the Petitioner on annual basis. Even if it would have been submitting, it is the responsibility of the Petitioner to file all the related documents along with the Petition to enable Respondents to respond. The response of Petitioner that it has submitted some estimated revenue details in Petition No. 180/MP/2017 does not absolve the Petitioner of its responsibility from filing the documents in the present Petition. We note, for instance, that the Petitioner has attached the balance sheet for year ending 31.3.2020, without specifically indicating the quantum of revenue derived, leaving it to the Commission and the Respondents to find out details from the said balance sheet. The balance sheet may be attached only as a supporting document, but the details as required under the regulations should have been clearly stated in the affidavit. The Petitioner has also generally referred to the order in Petition No. 68/2010 without specifically indicating the capital cost.



20. Keeping in view the almost lack or only partial replies of the Petitioner and incomplete details provided by it, no cognisance is taken of this intimation, which is an intimation with complete lack of information on many aspects or contains only partial information and does not comply with the Regulation 4(2) of the 2020 Sharing of Revenue Regulations. The Petitioner is, therefore, directed to file a fresh petition with complete details.

21. The Petition No. 495/MP/2020 is disposed of in terms of the above findings and discussion.

Sd/
(Pravas Kumar Singh)
Member

Sd/
(Arun Goyal)
Member

Sd/
(I. S. Jha)
Member

Sd/
(P. K. Pujari)
Chairperson

