

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 604/MP/2020**

**Coram:**

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

**Date of Order: 21<sup>st</sup> October, 2021**

**In the matter of**

Application for Amendment under Section 18 of the Electricity Act 2003 of Transmission Licence No. 30/Transmission/2014/CERC dated 4.9.2014 of NRSS XXXI (A) Transmission Limited granted under Section 14 of the Electricity Act, 2003 and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009.

**And**

**In the matter of**

NRSS XXXI (A) Transmission Limited,  
(Now known as Powergrid Kala Amb Transmission Limited),  
B-9, Qutab Institutional Area,  
Katwaria Sarai,  
New Delhi – 110 016.

..... **Applicant**

**Vs**

1. U.P. Power Corporation Limited,  
Import Export Payment Circle, 14th Floor,  
Shakti Bhawan Extn. Building, 14 - Ashok Marg,  
Lucknow

2. AD Hydro Power Limited,  
Bhilwara Towers, A-12, Sector-I,  
Noida - 201 301

3. Haryana Power Purchase Centre,  
Shakti Bhawan, Energy Exchange Room No. 446,  
Top Floor, Sector - 6,  
Panchkula - 134 109

4. Punjab State Power Corporation Limited,  
Shed No. T-1 A, Thermal Design, Near 22 No. Phatak,  
Patiala

5. Himachal Sorang Power Pvt. Limited,  
901 B, 9th Floor, Time Tower, M. G. Road,  
Gurgaon – 122 009
6. Adani Power Limited, Mundra,  
3rd Floor, Achalraj, Opp. Mayors Bungalow, Law Garden,  
Ahmedabad – 380 006
7. Jaipur Vidyut Vitran Nigam Limited,  
Vidyut Bhawan, Janpath,  
Jaipur - 302 005
8. Ajmer Vidyut Vitran Nigam Limited,  
Vidyut Bhawan, Panchsheel Nagar, Makarwali Road,  
Ajmer- 305 004
9. Jodhpur Vidyut Vitran Nigam Limited,  
New Power House, Industrial Area,  
Jodhpur - 342 003
10. Lanco Anpara Power Limited,  
Plot no. 397, Udyog Vihar, Phase 3,  
Gurgaon – 122 016
11. Power Development Department,  
Government of Jammu & Kashmir,  
SLDC Building, 1st Floor, Gladani Power House, Narwal,  
Jammu
12. Chief Electrical Distribution Engineer,  
North Central Railway, Subedar Ganj,  
Allahabad
13. Jaiprakash Power Ventures Limited,  
A Block, Sector -128,  
Noida - 201 304
14. BSES Yamuna Power Limited,  
2nd Floor, B Block, Shakti Kiran Building, Karkardoorna,  
New Delhi – 110 092
15. BSES Rajdhani Power Limited,  
BSES Bhawan, 2nd Floor, B Block, Nehru Place,  
New Delhi - 110 019
16. TATA Power Delhi Distribution Limited,  
NDPL House, Hudson Lines, Kingsway Camp,  
Delhi - 110 009
17. New Delhi Municipal Corporation,  
NDMC, Palika Kendra, Sansad Marg,  
New Delhi - 110 001

18. Superintending Engineer,  
Electricity Wing of Engineering Department,  
Union Territory of Chandigarh, Electricity OP Circle,  
UT-Chandigarh

19. Power Grid Corporation of India Limited  
"Saudamini", Plot No. 2, Sector 29, Near IFFCO Chowk,  
Gurgaon - 122 001

20. PTC India Limited,  
2nd Floor, NBCC Tower,  
15, Bhikaji Cama Place,  
New Delhi

21. Uttarakhand Power Corporation Limited,  
Urja Bhawan,  
Dehradun.

22. Lanco Budhil Hydro Power Private Limited,  
Plot No. 397, Udyog Vihar, Phase 3,  
Gurgaon-122 016.

23. Himachal Pradesh State Electricity Board Limited,  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla - 171 004.

24. REC Transmission Projects Company Limited,  
Core-4, SCOPE Complex, 7, Lodi Road,  
New Delhi - 110 003.

25. Chief Engineer, Power System Planning & Appraisal-I,  
Division Central Electricity Authority, Sewa Bhawan,  
R. K. Puram, Sector-I,  
New Delhi - 110 066.

.....Respondents

**The following were present:**

Ms. Suparna Srivastava, Advocate, CTU  
Shri Tushar Mathur, Advocate, CTU  
Ms. Soumya Singh, Advocate, CTU  
Shri Burra Vamsi Rama Mohan, Petitioner  
Shri V. C. Sekhar, Petitioner  
Shri Prashant Kumar, Petitioner  
Shri Arjun Malhotra, Petitioner  
Shri Yatin Sharma, CTU  
Shri Swapnil Verma, CTU  
Shri Siddharth Sharma, CTU  
Shri Ranjeet Singh Rajput, CTU

## ORDER

The Applicant, Powergrid Kala Amb Transmission Limited (formerly, NRSS XXXI (A) Transmission Limited), has filed the present Petition under Section 18 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') read with 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 'Transmission Licence Regulations') for amendment to the transmission licence granted by the Commission to establish 'the Transmission System for Northern Region Strengthening Scheme' on Build, Own, Operate and Maintain ('BOOM') basis (hereinafter referred to as 'the Project') consisting of the following elements:

Sr. No.	Scheme/ Transmission Works	Conductors per Phase	Completion Target
<b>Transmission System for Northern Region System Strengthening Scheme, NRSS-XXXI (Part-A)</b>			
1	Establishment of a 7 x 105 MVA (1-Phase), 400/220 kV GIS substation at Kala Amb 400 kV <ul style="list-style-type: none"><li>- Line Bays: 4 Numbers</li><li>- 400/220 kV ICT: 7 x 105 (1-ph)</li><li>- ICT bays: 2 numbers</li><li>- Bus Reactor (80 MVAR): 2 numbers</li><li>- Bus Reactor Bay: 2 numbers</li><li>- Space for line/ICT bays: 4 numbers</li><li>- Space for ICT: 1 numbers</li></ul> 220 kV <ul style="list-style-type: none"><li>- Line Bays: 6 numbers</li><li>- ICT bays: 2 numbers</li><li>- Space for line/ICT bays: 4 numbers</li></ul>		38 months (Commissioned on 12.7.2017)
2	LILO of both circuits of Karcham Wangtoo-Abdullapur 400 kV D/C (Quad Moose) line at Kala Amb (on multi Ckt towers)	Quad Moose or equivalent AAAC	
3	40% Series Compensation on 400 kV Karcham Wangtoo- Kala Amb quad D/C line at Kala Amb ends		

2. The Applicant has made the following prayers:

*“a) Amend the Transmission License No. 30/Transmission/2014/CERC dated 4.9.2014 by incorporating additional scope for establishment of scheme “125 MVAR Bus Reactor at Kala Amb Substation” on BOOM basis.*

*b) Allow the Applicant liberty to approach the Commission for determination of transmission charges for the aforementioned additional scope in Transmission license in accordance with Section 61, 62 of the Electricity Act, 2003 and as per 8 (2) of the Transmission License Regulations. ...*

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

### **Backdrop of the case**

3. The Applicant company was incorporated as a special purpose vehicle (SPV) by Bid Process Coordinator (in short, 'BPC'), namely, REC Transmission Projects Company Limited (in short 'RECTPCL'). Power Grid Corporation of India Limited (PGCIL) participated in the competitive bidding process conducted by RECTPCL and emerged as a successful bidder. Letter of Intent (LoI) was issued by RECTPCL to PGCIL on 23.5.2014. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in the Applicant Company by executing a Share Purchase Agreement with RECTPCL on 23.5.2014. The Commission in its order dated 15.6.2015 in Petition No. 94/TL/2015 granted transmission licence to the Applicant for inter-State transmission of electricity. The Project has also been successfully completed and achieved the Commercial Operation Date (COD) on 12.7.2017.

### **Submissions of the Petitioner**

4. The Applicant Petitioner has submitted the following chronological events for appreciation of its prayers:

(a) Empowered Committee on Transmission (ECT) in its 3<sup>rd</sup> meeting held on 21.12.2018 has recommended the implementation of 125 MVAR Bus Reactor at Kala Amb sub-station through RTM by PGCIL as a part of the NRSS-XL scheme. ECT was of opinion that the scheme is basically a technical up-gradation at existing ISTS (implemented through TBCB route by PGCIL).

(b) Ministry of Power, Government of India vide Notification No.15/3/2018-Trans Pt (1) dated 5.3.2019 has notified the implementation of 125 MVAR Bus Reactor at Kala Amb sub-station under the Regulated Tariff Mechanism ('RTM') to the Applicant, Powergrid Kala Amb Transmission Limited.

(c) For the scope of Kala Amb Bus Reactor, complete diameter (Main Tie Main bay) is being considered due to special requirement of GIS in line with the decision taken in the 2<sup>nd</sup> Meeting of Northern Region Standing Committee on Transmission held on 13.11.2018.

(d) The Applicant vide letter dated 5.6.2020 informed the Central Electricity Authority ('CEA') about scope of bays and the estimated cost of the Project. In response, CEA vide its letter dated 7.7.2020, *inter alia*, informed the Applicant that approximate cost estimates for 1 number of 125 MVAR/420 kV reactor along with 2 numbers of 420 kV GIS bays (1 number 420 kV reactor bay and 1 number future bay) works out to be around Rs.31 crore (excluding the contingency, IEDC and IDC charges). In view of the above, the Applicant is seeking amendment to the transmission licence so as to include 1×125 MVAR, 420 kV Bus Reactor at Kala Amb within its scope of work.

(e) After amendment to the transmission licence, the Applicant shall proceed to implement 125 MVAR Bus Reactor at Kala Amb sub-station. The estimated completion cost of the Project as per the Detailed Project Report is Rs.35.34 crore (including IDC, IEDC and contingency, etc.) consisting a time schedule of 15 months from the date of investment approval by the Board of Directors of the Applicant company.

(f) Upon implementation of the work, the Applicant will approach the Commission with actual cost incurred for determination of transmission charges in accordance with Section 61 and Section 62 of the Act and as per Regulation 8(2) of the Transmission Licence Regulations.

(g) The Applicant has complied with all provisions of Transmission Licence Regulations.

### **Hearing dated 26.3.2021**

5. During the course of hearing, after noting the submissions of the Applicant

and the CTUIL, the Commission observed that the Applicant has been granted transmission licence to establish 'Transmission System for Northern Region System Strengthening Scheme NRSS XXXI Part-A' pursuant to its selection in TBCB process under Section 63 of the Act and, thus, the transmission charges in respect of the Project has been adopted under said provision for the entire life of the Project. The Commission further observed that by inclusion of the aforesaid elements under RTM in the transmission licence as prayed for would entail the tariff determination including the truing-up exercise for such elements under Section 62 of the Act and would lead to situation whereby a licensee, under the scope of its licence, will have two different sets of elements/assets, one set of elements/assets under TBCB and another set of elements/assets under RTM.

6. In the above background, the Commission posed a query as to why should there not be separate licences for two different sets of elements/assets, instead of a single licence containing both TBCB and RTM based elements/assets. The Commission also inquired into the enabling legal framework and the consequent technical/commercial implications, if any.

7. In response, the learned counsel for CTUIL submitted that in her opinion, there is no restrictions under the Act and the Transmission Licence Regulations framed thereunder that a licence can contain only one set of elements/assets i.e. either TBCB or RTM and not both. However, the learned counsel sought liberty to file her written response thereon.

8. The representative of the Applicant submitted that issuance of transmission licence for assets/elements under Section 14 of the Act, is independent of determination of its tariff either under Section 62 or under Section 63 of the Act. It was further submitted that even is separate licence is issued for RTM based

assets/elements, tariff determination under Section 62 of the Act would require to be undertaken for the same licensee.

9. After considering the submissions of the learned counsel for the CTUIL and the representative of the Petitioner, the Applicant and CTUIL were directed to file their responses on the aforesaid observations of the Commission on affidavit.

### **Response of the Petitioner**

10. In compliance with the direction of the Commission vide Record of Proceedings for the hearing dated 26.3.2021, the Applicant, vide its affidavit dated 12.4.2021, has mainly submitted as under:

(a) As per Section 12 of the Act, authorization to transmit electricity is given to a 'person' through grant of transmission licence by the Appropriate Commission and that '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 juridical person.

(b) If new asset has to be included in the scope of transmission licensee, Section 18 of the Act and Regulation 19 of the Transmission Licence Regulations provide for amendment to the transmission Licence. As per Section 16 of the Act, the Commission may, however, specify any general or specific conditions which shall apply to a licensee. The Act, however, does not specify any provision to grant more than one transmission licence to the same person.

(c) In another matter, the Commission vide orders dated 20.8.2019 and 7.10.2019 in Petition No. 118/TL/2019 has approved amendment to the transmission licence granted to the Applicant therein, Adani Transmission (India) Ltd. to include 12 ohm Series Line Reactor in Mohindergarh-Dhanonda 400 kV D/c line Ckt. I & II at Mohindergarh end and also directed to include the above scope of work in the transmission licence granted to the Applicant therein.

(d) Further,



- (i) Part IV of the Act deals with the licensing, whereas the Part VII of the Act deals with tariff.
- (ii) Determination of tariff by the Commission under Section 62 of the Act and determination of tariff by bid process and adopted by the Commission under Section 63 of the Act are two different methodologies provided in the Act for determination of tariff.
- (iii) Tariff for an asset is determined based on the applicable Sections viz. Section 62 or Section 63 of the Act and has no bearing on the transmission licence being granted through amendment or fresh licence.
- (iv) In the Statement of Reason of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Businesses) Regulations, 2020 dated 3.3.2020, it has been observed that “...*The transmission licence is granted to eligible transmission company irrespective of manner of determination of tariff under Section 62 and Section 63 of the Act...*”
- (v) In case a transmission licensee has one asset under Section 63 and other asset under Section 62 of the Act, the tariff stream for both the assets shall be governed as per the respective methodology. Tariff for the asset under Section 63 of the Act shall be adopted for 35 years and governed by the TSA (Transmission Service Agreement) whereas, the tariff for the assets under Section 62 of the Act will be governed as per the applicable Tariff Regulations notified by the Commission from time to time.

### **Response of CTUIL**

11. CTUIL, vide its affidavit dated 7.6.2021, has mainly submitted as under:
- (a) Transmission licence once granted under Section 14 of the Act may be amended under the provisions of the Section 18 of the Act.
- (b) For determination of transmission charges for the licensed transmission assets, a provision is made in Regulation 8 of the Transmission Licence Regulations for both the assets implemented through TBCB route or the assets implemented through RTM route.

(c) Provisions of the Act and the Transmission Licence Regulations reveal that there is no mandatory or directory requirement therein for a transmission licence to comprise of assets implemented through only one of the routes viz. RTM or TBCB. It follows that a transmission licence, when granted or amended, may comprise of assets that have been implemented through the TBCB route or RTM route or through both.

(d) On previous occasion, a transmission licence granted by the Commission and consisting of assets implemented through TBCB route has been amended by the Commission to include an asset implemented through RTM route. The said amendment has been permitted under order dated 29.7.2013 passed in Petition No. 44/TL/2012 and order dated 7.10.2019 in Petition No. 118/TL/2019 (Adani Power Ltd. v. PGCIL).

(e) In the Statement of Reason to the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Businesses) Regulations, 2020 issued on 3.3.2020, it has been stated that a transmission licence is granted to an eligible transmission company irrespective of the manner of determination of tariff under Section 62 (the RTM Route) of the Act or Section 63 (the TBCB Route) of the Act and that there is no distinction of transmission assets based on the manner of the tariff determination.

(f) There is no legal bar in inclusion of the subject asset i.e. 125 MVA bus reactor at Kala Amb sub-station (implemented under RTM) under the transmission licence dated 4.9.2014.

### **Hearing dated 17.9.2021**

12. During the course of hearing on 17.9.2021, the Applicant and CTUIL made their detailed submissions by referring to their respective responses, which are not produced herein for the sake of brevity. However, in response to the specific query regarding benefits/advantages which the Applicant foresees by way of amendment in existing licence and not issuance of a separate licence for the RTM based asset/element, the representative of the Applicant only submitted that the provisions

relating to amendment of licence enabled the Applicant to include a new asset/ element to its existing licence. Accordingly, the Applicant has sought amendment to the existing licence instead of issuance of separate licence. However, the Applicant as such has no objection if the Commission proceeds to issue a separate licence for RTM based assets/ elements instead of amending the existing licence issued to the Petitioner. The learned counsel appearing on behalf of CTUIL also pointed out that the Commission may take a considered view in the subject matter as more such situations are likely to come up in the near future.

### **Analysis and Decision**

13. We have considered the submissions made by the Applicant and CTUIL. The present Petition has been filed by the Applicant seeking amendment to the Transmission Licence No. 30/Transmission/2014/CERC dated 4.9.2014 so as to include therein an additional element of *1x125 MVAR, 420 kV Bus Reactor at Kala Amb* in the scope of the Project covered under the aforesaid transmission licence.

14. In the meeting of 3<sup>rd</sup> Empowered Committee on Transmission ('ECT'), held on 21.12.2018, NCT recommended the 125 MVAR Bus Reactor at Kala Amb sub-station for implementation through RTM route. Relevant portion of minutes of meeting dated 21.12.2018 is extracted as under:

*"8.1 To control high voltage in the Northern grid, the provision of reactive compensation, was discussed and approved in the 39<sup>th</sup> meeting of Standing Committee on Power System Planning of Northern Region held on 29-30, May, 2017 which involved installation of bus reactors at various 220Kv & 400 Kv buses. Further, in the 2<sup>nd</sup> ECT installation of bus reactors at various substations of POWERGRID in Northern Region was recommended for implementation through RTM by POWERGRID as a part of the scheme NRSS-XL. The scheme which was agreed in the 39<sup>th</sup> meeting of SCPSPNR also involved installation of 125 MVAR bus reactor at Kala Amb substation.*

*The scope of works is as follows:*

S. No	Scope of Transmission Scheme	Capacity/km	Est. Cost (Rs. Cr)
1	1x125 MVAR, 420 kV Bus Reactor at Kala Amb	1x125 MVAR, 420 KV Bus Reactor, 420 kV reactor bay-1	16

8.2 NCT was of opinion that the scheme is basically technical up-gradation at existing ISTS (implemented through TBCB route by M/s POWERGRID). NCT recommended the above scheme for implementation through RTM.

8.3. ECT concurred the recommendations of NCT for awarding the elements under RTM.”

15. Ministry of Power vide its Office Memorandum dated 30.1.2019 approved the implementation of 125 MVAR, 420 kV Bus Reactor at Kala Amb through RTM route.

Relevant portion of Office Memorandum dated 30.1.2019 is extracted as under:

*Subject : New Transmission schemes to be taken up under compressed time schedule through regulated tariff mechanism route.*

*The undersigned is directed to inform that the Empowered Committee on Transmission (ECT), in its 3<sup>rd</sup> meeting, held on 21.12.2018 has approved the implementation of the following transmission schemes along with the broad scope by Power Grid Corporation of India Limited (POWERGRID), under compressed time schedule through regulated tariff mechanism (RTM):*

Sl No.	Name of the Scheme	
8	125 MVAR bus reactor at Kala Amb substation:	
	Scope:	
	Scope of the Transmission Scheme	Capacity/km
	1x125 MVAR, 420 kV Bus Reactor at Kala Amb	1x125 MVAR, 420 KV Bus Reactor, 420 kV reactor bay-1

16. Subsequently, Ministry of Power vide its letter dated 5.3.2019 modifying the OM dated 30.1.2019, allocated the work of implementation of 125 MVAR, 420 kV Bus Reactor at Kala Amb on the RTM route to the Applicant instead of PGCIL.

Relevant portion of letter of Ministry of Power dated 5.3.2019 is extracted as under:

*“ .....I am directed to refer to this Ministry’s OM of even no. dated 30.1.2019 on the above subject and to state that there are some modifications in the OM, which are indicated below:*

<b>8. 125 MVAR bus reactor at Kala Amb substation</b>		
125 MVAR bus reactor at Kala Amb substation	<b><u>The implementation of this Scheme under RTM is allocated to POWERGRID Kala Amb Transmission Ltd. instead of POWERGRID</u></b>	Page No. 13&20

17. The Commission observes that the Applicant has been issued transmission licence in respect of the Project pursuant to its selection as successful bidder in the TBCB process conducted under Section 63 of the Act. Therefore, transmission

licence granted to the Applicant contains only TBCB based assets/ elements, whose tariff has been adopted by the Commission for entire life of the Project. However, inclusion of 125 MVAR, 420 kV Bus Reactor at Kala Amb under RTM route in the scope of aforesaid transmission licence, will lead to a situation whereby a transmission licensee, under the scope of its licence, will have two different sets of elements/ assets i.e. TBCB based elements/ assets as well as RTM based elements/ assets. Hence, the question that arises for our consideration is whether there ought to be separate licences for the two different sets of elements/ assets or there can be a single licence containing both TBCB and RTM based elements/ assets.

18. The Applicant and CTUIL have contended that as per the provisions of the Act and the Transmission Licence Regulations, there is no directory requirement for transmission licence to contain only one set of elements/assets i.e set of elements/ assets based only on either TBDB route or RTM route. Therefore, it has been submitted that a transmission licence can contain elements/ assets that have been implemented through TBCB route or RTM route or through both. It has been further submitted that the tariff of an asset is determined based on the applicable provisions of either Section 62 or Section 63 of the Act and the composition of elements/ assets of a transmission licence has no bearing on the same. The Applicant and CTUIL have placed their reliance on the order of the Commission dated 7.10.2019 in Petition No. 118/TL/2019 in the matter of Adani Transmission (India) Ltd. Wherein the transmission licence granted by the Commission and consisting of only elements/ assets implemented through TBCB route has been amended to include an asset implemented through RTM route.

19. We have considered the submissions of the Applicant and CTUIL. We are of the considered view that while the provisions of the Act and Transmission Licence

Regulations do not restrict the inclusion of TBCB based elements/ assets and RTM based elements/ assets in the same transmission licence, it is also equally true that such scenario has also not been clearly envisaged in the aforesaid provisions. So far, such cases have been few and far between. However, as submitted by the CTUIL during the hearing, many such cases are likely to come before the Commission in near future. Therefore, there is a need to take a considered view in the matter.

20. In our view, inclusion of both the TBCB based elements/ assets and the RTM based elements/ assets in the same transmission licence may lead to numerous procedural, legal, commercial issues. A few such issues are highlighted as under:

(a) Transmission licence has been granted to the Applicant pursuant to its selection as TSP on the basis of Tariff Based Competitive Bidding for set of pre-identified TBCB assets/ elements. This transmission licence containing the TBCB assets/ elements is not only subject to the Transmission Licence Regulations along with all other relevant Regulations framed by the Commission but also subject to the terms and conditions stipulated in the Transmission Service Agreement entered into by the Petitioner/ licensee. The provisions of the TSA are such that in the event of default on the part of the Petitioner/ licensee in complying with its obligations as specified therein, they enable the LTTCs to seek the revocation of the transmission licence granted to the Petitioner/ Licensee. However, RTM based assets/ elements would undeniably not be governed by the provisions of TSA and in such circumstances, inclusion of RTM based assets/ elements in the same set of transmission licence, which contains TBCB based assets/ elements, may lead to unnecessary complications.

(b) The provisions of TSA also permit TSP/ transmission licensee to create encumbrances over the Project assets in favour of lenders as security for amounts payable under the Financing Agreements for the Project. In such cases security interest is created for all the rights, title, interest, benefits, claims and demands whatsoever of the borrower/ licensee on the transmission

licence, albeit subject to the approval of the Commission. Moreover, in case of default in debt repayment by TSP/ licensee, lenders have also been provided with substitution rights under TSA and are entitled to seek for assignment of licence to their nominee subject to the Transmission Licence Regulations. In such circumstances, combining TBCB based assets/ elements, which are subject to the provisions of TSA and RTM based assets/ elements, which are not subject to the provisions of TSA, in a single Transmission Licence may lead to complications.

(c) Considering the difference in the balance life span/ useful life of the TBCB based assets/ elements and RTM based assets/ elements, it may also not be proper to include them in a single licence. The Applicant's TBCB based assets/ elements have already been put into commercial operation with effect from 12.7.2017 and the transmission licence has been granted for a period of 25 years with effect from 4.9.2014. Though, the provisions of TSA envisages the life of TBCB based assets for 35 years and provides for TSP to seek extension of transmission licence beyond the initial period of 25 years up to expiry of TSA, it may still not match with the useful life of RTM based assets/ elements to be implemented by such licensee/ Petitioner, whose useful life or extension thereto is to be governed as per the applicable Tariff Regulations of the Commission.

(d) Though the Applicant has implemented the Project on Build, Own, Operate and Maintain (BOOM) basis, the recent Guidelines notified by the Ministry of Power regarding 'implementation of Transmission Projects on TBCB basis provide for implementation of such Projects on Build, Own, Operate and Transfer (BOOT) basis. As per BOOT model, the transmission licensee is required to transfer the entire Project consisting of TBCB based assets/ elements to the CTUIL or any other nominated agency by the Government, after 35 years from COD. However, BOOT model would not be applicable to RTM based assets/ elements.

21. The above list of issues is only indicative and not exhaustive. Though the Commission accepts that such issues may not always arise in all the cases, the Commission is, however, of the view that it is always prudent to avoid possible future

complexities if an alternative solution is available and possible.

22. As we have already observed, the provisions of the Act do not put any restriction for issuing a second licence to a person, in case it fulfils all necessary requirements specified in the Act and Transmission Licence Regulations. During the course of hearing, the representative of the Applicant has fairly admitted that the Applicant as such has no objection if the Commission considers to issue a separate licence for RTM based assets/ elements instead of amending the existing licence issued to the Petitioner to include such RTM based assets/ elements. The learned counsel appearing on behalf of CTUIL also submitted during the hearing that the Commission may take a considered view in the subject matter as more such situations are likely to come up in the near future.

23. The Commission notes that both the Applicant and CTUIL have placed reliance on the Commission's order dated 7.10.2019 in Petition No. 118/TL/2019 in the case of Adani Transmission (India) Limited (ATIL) and have argued that the transmission licence granted by the Commission and consisting of assets implemented through TBCB route has been amended by the Commission to include an asset implemented through RTM route. In our view, the comparison of the said case with the present case is misconceived, as the present case is distinguishable on the facts of the case. In the said case, transmission licence was granted to ATIL vide order dated 29.7.2013 in Petition No. 44/TL/2012 in respect of the dedicated transmission lines along with associated bays built by the generating company, Adani Power Limited, which on the basis of power flows were concluded as the inter-regional in nature. Further, in respect of said assets/ elements, transmission tariff is being determined by the Commission under the applicable Tariff Regulations. Therefore, subsequent inclusion of 12 ohm Series Line Reactor in Mohindergarh-



Dhanonda 400 kV D/C line ckt I & II at Mohindergarh end on RTM basis in the transmission licence granted to ATIL is clearly distinguishable from the facts of the present case.

24. In view of the foregoing discussions, we are of the view that the Applicant may approach the Commission for grant of a separate transmission licence for the RTM based assets/ elements. Accordingly, the Applicant is granted liberty to approach the Commission for obtaining a separate transmission licence for implementation of 125 MVAR, 420 kV Bus Reactor at Kala Amb on the RTM route by way of a separate Petition in accordance with law. The filing fees deposited in the instant Petition shall be adjusted against the Petition to be filed by the Applicant in terms of the liberty granted as above.

25. Accordingly, the Petition No. 604/MP/2020 is disposed of in terms of the above.

Sd/-  
**(P. K. Singh)**  
Member

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

sd/-  
**(P. K. Pujari)**  
Chairperson