

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.160/MP/2022**

- Subject : Petition under Sections 79(1)(c), 79(1)(d) and 79(1)(k) of the Electricity Act, 2003 read with Regulation 4 of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2020 for giving prior intimation of undertaking the telecommunication business by the Petitioners in compliance with the Commission's letter dated 4.5.2022.
- Date of Hearing : 25.4.2023
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Khargone Transmission Limited (KTL) and 3 Ors.
- Respondents : Madhya Pradesh Power Management Co. Ltd. (MPPMCL) and 19 Ors.
- Parties Present : Shri M. G. Ramachandran, Sr. Advocate, KTL  
Shri Deep Rao Palepu, Advocate, KTL  
Shri Arjun Agarwal, Advocate, KTL  
Shri Ravi Sharma, Advocate, MPPMCL  
Shri Ranjeet Singh Rajput, CTUIL  
Shri Lashit Sharma, CTUIL

**Record of Proceedings**

Learned senior counsel for the Petitioners submitted that the present Petition has been filed for giving prior intimation to the Commission for undertaking the activity of providing and facilitating data transfer solutions in collaboration with the Respondent No. 20, Sterlite Interlinks Limited to various Communication Service Providers by tapping the unutilized capacity on spare pairs of optical ground wire containing optical fibers (OPGW). Learned senior counsel submitted that in response to certain queries/observations of the Commission vide Record of Proceedings for the hearing dated 14.2.2023, the Petitioners have already filed their submissions on 6.3.2023. Learned senior counsel further submitted as under:

- (a) If the proposed business model by the Petitioners is considered as 'Telecommunication Business', each co-Petitioner shall receive 10% of gross revenue from SIL which would be in turn remitted to their respective LTTCs. Under this, the revenue estimated to be earned by SIL for providing bundled data transfer solution is estimated to be Rs. 36,971.2 per route per km for entire assets of Respondent No.1, KTL. The actual revenue will be earned based on the OPGW fibers actually utilized for providing services to CSPs.

(b) The above working is on the basis of estimated revenue of Rs. 8,000 per fiber pair per km per annum to SIL for providing bundled data transfer solutions to CSPs using spare capacity on co-Petitioners' OPGW fibers. The above per unit estimated revenue is for bundled data transfer solutions which presupposes the development of sufficient co-location infrastructure and last mile connectivity upto the CSP's Point of Presence.

(c) If the proposed business model is considered as the 'other business' i.e. business of merely granting access & utilization of spare OGPW cables, in such case, the services being offered by the co-Petitioners will be merely access rights to spare OPGW capacity on a standalone basis and will not include co-location infrastructure and last mile connectivity to CSPs Point of Presence.

(d) As per co-Petitioners' *bona fide* best estimate, the revenue potential for granting access and utilization of rights on their spare OPGW fibers to CSPs is approximately Rs.1060 per fiber pair/km/annum. A detailed working for the aforesaid estimated revenue for Petitioner No.1's asset is also furnished. The estimated is based on the responses received from the two leading ISPs in Maharashtra who are keen to expand their footprint to Madhya Pradesh.

(e) As per the Revenue Sharing Regulations, the revenue to be shared with LTTCs for the 'other business' is to be determined by the Commission on case-to-case basis and accordingly, the Commission may fix a revenue sharing proportion which it finds appropriate.

2. In response to the specific observation of the Commission regarding revenue potential of Rs.1060 per fiber pair/km/annum appears to be on lower side, learned senior counsel for the Petitioners submitted that the above rates are for merely access rights to spare OPGW capacity and does not include the co-location infrastructure & last mile connectivity up to CSPs Point of Presence, etc. as required for bundled/aggregated services, which the person availing the services will required to arrange their own.

3. Learned counsel for the Respondent No.1, MPPMCL submitted that the proposed business model of the Petitioners cannot be considered as 'telecommunication business' and has to be considered as 'other business' – i.e. merely providing access to their spare OGPW cables. Learned counsel submitted that for the latter model, as such the Respondent has no objection, However, the revenue proposed to be earned appears to be on the lower side and the Respondent may be permitted to file the relevant data including the data of its STU, in this regard.

4. After hearing the learned senior counsel for the Petitioners and learned counsel for the Respondent, MPPMCL, the Commission observed that the Petitioners vide its affidavit dated 6.3.2023 has submitted the estimated revenue as Rs.1060 per fiber pair/km/annum if business model is considered as the 'other business'. The Petitioners vide the said affidavit has also furnished the annual leasing rate/FP/KM being used by other State Transmission Utilities/ PSUs, wherein the annual leasing rate in respect of AP Transco and TS Transco is Rs. 12500. Accordingly, the Commission directed the Petitioners to find out recent leasing rate of fibre pair is discovered through competitive bidding by State Transco or other transmission companies for leasing out fiber of their transmission companies in last one year and to submit the same along with details of infrastructure and services provided by transmission companies against the above discovered leasing rate on affidavit within three weeks with copy to other side. The Commission further directed the Petitioners to propose an index/ benchmark against

which yearly charges for fiber can be charged and also to review their estimated revenue in light of the prevailing market rate and submit the same with detailed justification.

5. The Commission directed the Respondent, MPPMCL to file its affidavit placing on record the relevant details/data indicating the derived revenue from use of spare OGPW capacity, if any, within three weeks with copy to other side.

6. The Petition shall be listed for hearing on 19.7.2023.

**By order of the Commission**

**Sd/-**

**(T.D. Pant)**

**Joint Chief (Law)**