CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI
Petition No. 133/TL/2024

Coram:
Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri Ramesh Babu V, Member

Date of Order: 16.06.2024

In the Matter Of:

Application under Section 14 and 15 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 Grant of separate Transmission License for Supply and Installation of OPGW on existing Line 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line which is to be LILOed at Kallam Substation under TBCB project namely Transmission System for Evacuation of Power from potential renewable energy zone in Osmanabad area (1 GW) of Maharashtra on Regulated Tariff Mechanism (RTM) route.

AND

In the Matter Of:

Western Transco Power Limited,
Adani House, Shantigram,
3rd Floor, South Wing, SG Highway,
Ahmedabad - 382421 **… Petitioner**

Versus

1)POWERGRID Corporation of India Limited,
Saudamini, Plot No.2, Sector-29,
Gurgaon-122001

2)MP Power Trading Company Ltd.,
Shakti Bhawan, Jabalpur – 482008

3)Gujarat Urja Vikas Nigam Ltd.,
Sardar Patel Vidyut Bhavan,

Race Course, Vadodara – 390007

4)Maharashtra State Electricity Distribution Company Ltd.,
Prakashgad, G-9, Bandra (E),
Mumbai – 400051

5)Chhattisgarh State Power Distribution Co. Limited,
Vidhyut Sewa Bhavan,
Danganiya, Raipur- 492013

6)Electricity Department,
Governor of Goa, Govt. of Goa,
Vidyut Bhawan, Panaji, Goa – 403001

7)Electricity Department,
Administration of Daman & Diu
Daman-396210

8)Electricity Department,
Administration of Dadra & Nagar Haveli
U.T., Silvassa- 396230

9)M P Audyogik Kendra Vikas Nigam Ltd.,
3/54, Press Complex,
Agra Mumbai Road,Indore- 452008 **….Respondents**

Parties Present:

Shri Tanmay Vyas, WTPL

Shri Siddharth Sharma, CTUIL

Shri Akshayvat Kislay, CTUIL

ORDER

Western Transco Power Limited (hereinafter referred to as “Petitioner”) has filed an instant Petition under Sections 14 and 15 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 grant of separate Transmission License for Supply and Installation of OPGW on existing Line between 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line on RTM route.

2.The Petitioner has made the following prayers:

(a) "Grant Separate Transmission Licence to the Applicant for implementation of "Supply and Installation of OPGW on existing Line between 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line" on Regulated Tariff Mechanism (RTM) basis with detailed scope as per para 5 above.

(b) Allow the Applicant liberty to approach the Hon'ble 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

(c) Condone any inadvertent errors omissions/ errors / shortcomings and permit the Petitioner to add/change/modify/alter these filings and make further submissions as may be required at a future date.

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

The detailed scope under the instant transmission scheme, as mentioned in Prayer (a) above, is mentioned in Paragraph 9 below.

3.Western Region Transmission (Maharashtra) Pvt. Ltd., Mumbai (WRTMPL), was granted a transmission licence vide Order dated 30.12.2008 (License No. 6 of 2008) to execute the WRSSS Project B.

4.The nature and scope of this original transmission project is as below:

	Name of the Transmission Element	**Actual COD**
1.	Parli (New) – Pune 400kV D/C transmission line	05.12.2013
2.	Pune – Aurangabad 400kV D/C transmission line	
3.	Parli (New) – Solapur (Limbi Chincholi) (New)400kV D/C transmission line	
4	Solapur (Limbi Chincholi) (New)-Kolhapur 400kV D/C transmission line	
5	LILO of Lonikhand – Kalwa 400kV D/C transmission line at Pune	
6	LILO of Solapur (MSETCL) – Karad 400 kV D/C transmission line at Solapur (Limbi Chincholi) (New)	

5.Further, Reliance Infrastructure Limited (RInfra) approached the Commission for approval for restructuring of its business by merging WRTMPL with RInfra on the basis of approval of the merger by the Bombay High Court vide Order dated 15.7.2014. The Commission vide Order dated 7.1.2015 in Petition No.54/MP/2014 accorded the

approval for the merger of WRTMPL with RInfra subject to the condition that RInfra shall maintain the accounts of transmission businesses separately.

6. Subsequently, the Commission approved the assignment of licences granted to WRTMPL in favour of RInfra, vide Order dated 22.9.2015 in Petition No.176/MP/2015.

7. In order to divest its transmission business, M/s RInfra proposed to sell its transmission assets under WRSSS Project B to M/s Adani Energy Solutions Limited (AESL) (Previously known as Adani Transmission Limited (ATL)). M/s RInfra entered into a Term Sheet Agreement dated 05.10.2016 and a Share Purchase Agreement dated 06.12.2016 with AESL for the sale of 100% economic interest in WRSSS Project B. As part of the divestment process, RInfra incorporated a fully owned subsidiary in the form of a Special Purpose Vehicle (SPV) on 06.12.2016, namely Western Transco Power Limited (WTPL), for the purpose of holding the assets of WRSSS project B through execution of Business Transfer Agreement (BTA) between RInfra and the SPV. After the transfer of the assets of WRSSS B to WTPL, RInfra approached this Commission vide its Petition No. 31/MP/2017, under Section 17(3) of the Electricity Act, 2003, for the transfer of assets of WRSSS Project B to AESL along with assignment of the transmission licence, in favour of AESL, and also for the transfer of entire equity shareholding. Subsequently, this Commission vide its order dated 07.08.2017 granted its approval qua above transfer, and accordingly, RInfra transferred its 100% equity shareholding in Western Transco Power Limited (WTPL) to Adani Energy Solutions Limited.

8. The National Committee on Transmission (NCT), vide its Minutes of the 16th Meeting dated 30.11.2023, notified implementation of Transmission System for Supply and Installation of OPGW on existing Line between 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line on Regulated Tariff Mechanism (RTM) to Western Transco Power Limited in line with the MoP Office Order dated 28.10.2021. The MoP office order dated 28.10.2021 was issued with reference to the Re-constitution of the National Committee on Transmission (NCT) and the Terms of Reference of NCT.

9. The NCT approved the implementation of a Transmission System for Supply and Installation of OPGW on the existing Line on the Regulated Tariff Mechanism (RTM) to Western Transco Power Limited. The Scope of the instant Project is as follows:

SN	Name of the scheme and Implementation timeframe	Estimated Cost (₹ Crores)	Remark
1	Supply and Installation of OPGW on existing Line 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line which is to be LILOed at Kallam Substation under TBCB project namely Transmission System for Evacuation of Power from potential renewable energy zone in Osmanabad area (1 GW) in Maharashtra Implementation timeframe: 24 months	14	Approved to be implemented under RTM by Western Transco Power Limited. (M/s Adani)

The Detailed Scope of the Scheme is as under:

"The OPGW Supply and installation along with accessories on the following line by replacing the existing one no. earthwire by Live Line installation:

765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line 2. STM-16, 3 MSP (FOTEs of requisite configuration at Pune, Parli for establishing the communication in between Pune-Kallam-Parli":

10. The Petitioner has submitted that the Chief Engineer & Member Secretary (NCT), vide its letter dated 26.12.2023, requested Central Transmission Utility of India Limited (CTUIL) to take necessary action for the implementation of the above scheme. Thereafter, CTUIL, vide its letter dated 27.12.2023, requested the Petitioner to initiate the necessary actions for the implementation of the aforementioned transmission scheme.

11. Petitioner has submitted that Section-14 of the Electricity Act, 2003 provides that the Appropriate Commission may, on an application made under Section-15 of the Electricity Act, 2003, grant 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 juridical person. Therefore, the Petitioner, under Section 14 of the Electricity Act, 2003, is filing the present Petition/Application inter-alia seeking a grant of Transmission Licence for the Project as explained above.

12.The Application for grant of a Transmission Licence was uploaded on the website www.adanienergysolutions.com as required under Regulation 7(4) & 7(5) of CERC (Procedure, Terms and Conditions of Transmission Licence and other related matters) Regulations, 2009 read with CERC order dated 22.01.2022 in Suo-motu Petition No. l/SM/2022 so as to facilitate access to the Application by any person through the internet.

13.On completion of the Project, the Applicant shall approach the Commission with the actual cost incurred for the determination of transmission charges in accordance with Sections 61 and 62 of the Electricity Act 2003.

14.CTUIL, vide its letter dated 01.04.2024, has recommended a grant of transmission licence for executing the subject communication scheme.

Hearing Dated 08.05.2024:

15.The relevant extract of RoP for the hearing dated 08.05.2024 is as under:

> "…*Petitioner submitted that the present Petition had been filed for the grant of a separate transmission licence for the implementation of "Supply and Installation of OPGW on existing Line between 765/400kV Pune (PG)(GIS) - 400kV Parli (PG) line" on the Regulated Tariff Mechanism (RTM) basis. He further submitted that the Petitioner has already complied with all the requirements for the grant of a transmission licence as stipulated in the Central Electricity Regulatory Commission (Procedure, Terms, and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 and CTUIL has also given its recommendations under Section 15(4) of the Electricity Act, 2003 for the grant of a transmission licence to the Petitioner. The representative of the Petitioner further submitted that the estimated cost of the Project is approximately Rs. 14 crores.*
>
> *In response to the specific observation of the Commission regarding the element being a communication system and, thus, the requirement of issuing a separate transmission licence for its implementation rather than considering it under the scope of Change in Law provisions of the existing Transmission Service Agreement (TSA), the representative of the Petitioner submitted that the existing TSA in case of the Petitioner predates the Tariff Based Competitive Bidding Guidelines of 2006 regime and also, the period of the TSA is only for 25 years out of which approximately 10 years are remaining. The representative of the Petitioner further submitted that CTUIL has also recommended for the grant of a separate transmission licence to the Petitioner for implementing the elements covered under the present Petition, and accordingly, the Commission may consider issuing a separate transmission licence.*
>
> *Considering the submissions made by the representatives of the Petitioner and the CTUIL, the Commission directed as under:*

(a) Admit. Issue notice to Respondents.

(b) The Respondents to file their respective replies.

(c) The Petitioner to clarify on an affidavit within a week whether a separate transmission licence can be granted for a communication system under Section 14 of the Act.

(d) CTUIL to file its submissions and recommendations on an affidavit whether a separate transmission licence can be granted for a communication system under Section 14 of the Act. Submit CTUIL's proposition for the approval of additional scope of work for the existing TBCB licensee.

Subject to the above, the Commission reserved the matter for order."

In compliance with RoP, neither CTUIL nor the Petitioner submitted their reply.

Hearing dated 29.05.2024:

16. Relevant extracts of RoP for the hearing dated 29.05.2024 are as below:

"Since the order in the matter (which was reserved on 8.5.2024) could not be issued prior to one Member of this Commission, who formed part of the Coram, demitting office, the matter has been re-listed for the hearing.

2. The representative of the Petitioner submitted that the present Petition has been filed for the grant of a separate transmission licence for the implementation of the "Supply and Installation of OPGW on existing Line between 765/400 kV Pune (PG)(GIS)-400 kV Parli (PG) line" on the Regulated Tariff Mechanism basis. The representative of the Petitioner further submitted that the matter has already been heard in detail on 8.5.2024, and accordingly, the Commission may reserve the matter for order. He, however, added the vide Record of Proceedings for the hearing dated 8.5.2024, a clarification was sought from the Petitioner on the aspect as to whether a separate transmission licence can be granted for a communication system under Section 14 of the Electricity Act, 2003 and the Petitioner may be allowed a week time to file its submission to the said query.

3. The representative of Respondent, CTUIL, also prayed for an additional time to file its response to the similar queries posed to CTUIL under paragraph 3(d) of the said Record of Proceedings and further submitted that the matter may be reserved for order.

4. Considering the submissions made by the representatives of the Petitioner and CTUIL, the Commission permitted the Petitioner and CTUIL to file their respective submissions on the queries posed to them under paragraph 3(c) and (d) of the Record of Proceedings for the hearing dated 8.5.2024 within a week with a copy to the other side.

5. Subject to the above, the Commission reserved the matter for order."

17. In Compliance with the RoP of the hearing dated 29.05.2024 and 08.05.2024, CTUIL has not filed any reply.

Submissions by the Petitioner:

18. The Petitioner, WTPL, in compliance with ROP of hearings dated 29.05.2024 and 08.05.2024, vide affidavit dated 10.06.2024, has submitted as under:

a) Transmission License granted to original assets/ elements does not envisage Supply and Installation of OPGW on the 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line. The requirement for installing these elements arose during the 16th Meeting of the National Committee of Transmission ("NCT").

b) The Chief Engineer and Member Secretary (NCT) issued a letter dated 23.12.2023 to CTUIL directing the implementation of Supply and Installation of OPGW on the existing line between 765/400 kV Pune (PG)(GIS)-400 kV Parli (GS) by the Petitioner on RTM basis. Accordingly, on 27.12.2023, CTUIL issued a letter to the Petitioner for implementation.

c) In lieu of Section 15 of the EA 2003 read with CERC Transmission License Regulations, 2009 and the CERC Transmission License Regulations, 2024, there is no impediment upon this Hon'ble Commission from granting a separate Transmission License to the Petitioner qua the aforesaid transmission element.

d) In the instant case, the Petitioner will not be able to recover the expenses incurred by it as the Tariff Schedule of the Power Transmission Agreement (PTA) expires in FY 2036, i.e., only 12 years of validity are left. The same shall not be sufficient to recover the expenses incurred by the Petitioner on account of the replacement of earth wire with OPGW.

e) The transmission element/ asset can be considered under a change in law only in cases where a project is under construction. In the present case, the Petitioner's project has been under operation since November 2013 and therefore, there would be a mismatch in the useful life of the assets if the installation of OPGW is allowed under a change in law.

f) Petitioner has submitted that for any event to be qualified as a change in law event, there should be an increase/decrease in cost/expenses of the existing project during the construction/ operation period. However, in the present case, the additional scope of work for the installation of OPGW is over and above the scope of the TBCB project, as RfS provided for the installation of earthwire in the original scope of the TBCB asset. Hence, installation of OPGW cable by removing earthwire is a new scope of work and, therefore, cannot fall under Change in Law.

Analysis and Decision

19. The Petitioner has filed the instant Petition seeking a separate licence for works of replacement of earthwire with OPGW on existing Line 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line, which is to be LILOed at Kallam Substation.

20. We have considered the submissions of Petitioner and Respondents. The issue which arises for our consideration is whether a separate licence can be granted for the installation of OPGW under the Act and Transmission Licence Regulations, 2009.

21. The sub-clause 1(c) of Clause 89 of the CEA (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2010, provides technical particulars and requirements of transmission lines as under:

> ***"(c) Earthwire-*** *The earthwire of appropriate size to cater to predicted and design fault currents and lightning shall be used. The earthwire shall be either of galvanized stranded steel (GSS) or alternatively ACSR or AACSR conductor type. Optical fibre ground wires may also be used as earthwire. Other new technology earthwires conforming to international standards and specifications may also be used. Generally, one earthwire shall be used for transmission lines upto 220 kV and two earthwires shall be used for transmission lines of 400 kV and higher voltage classes."*

The Petitioner which is an existing TBCB licensee was required to install Earthwire on the 400 kV D/C Parli (PG)-Pune (PG)(GIS) transmission line in terms of RFS and the then prevailing CEA Standards quoted above.

22. CEA (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2022 provides as under:

> *"(3) Earthwire.—*

(a) The earthwire of appropriate size to cater to predicted and design fault currents and lightning shall be used.

(b) Single earthwire shall be used for transmission lines up to 220 kV and two earthwires shall be used for transmission lines of 400 kV and higher voltage classes.

(c) The earthwire used in 66 kV voltage class lines shall be Optical Ground Wire or galvanized stranded steel or Aluminium Alloy Conductor Steel Reinforced type.

(d) The earthwire used in 110 kV and above voltage class lines shall be Optical Ground Wire.

Provided that in case of 400kV and above voltage class lines, at least one out of two earthwires shall be Optical Ground Wire and second earthwire shall be either of galvanized stranded steel or Aluminium Alloy Conductor Steel Reinforced conductor type"

As per the above, new 110kV and above voltage class lines are mandated to have earthwire which is OPGW.

23. Regulation 26(1) of the CEA (Technical Standards for Communication System in Power System Operations) Regulations, 2020 provides as under:

*"26. **Requirements of fibre optic communication.***

(1) All wideband communications shall be established using fibre optic communication consisting of underground fibre optic cable, optical ground wire (OPGW) or underground fiber optic cable (UGFO) and all dielectric self supporting (ADSS)."

As per the above, all wideband communications shall be established using fibre optic communication.

24. The MOP vide Guidelines on Planning of Communication System for Inter-State Transmission System (ISTS) dated 09.03.2022 provides as under:

*"**Guidelines on Planning of Communication System for Inter-State Transmission System (ISTS)***

4. Categorization of Communication Schemes/Packages
Communication Schemes/Packages under this policy are categorized as Category (A) and Category (B). The description of categories is as under:

***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 main line/substations etc.)*

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

5. Procedure for approval of Communication Schemes/Packages

Category (A): *As planning of ISTS Communication System is an integral part of planning of new Inter-State Transmission System, the requirement for communication system linked with new ISTS shall be included in new ISTS package and combined proposal shall be approved as per the directions contained in MoP office order dated 28.10.2021 regarding Re-constitution of the "National Committee on Transmission" (NCT).*

Further, Communication requirements which are 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 main line/substations etc.) are also to be approved alongwith that of respective transmission system package.

Category (B): *Communication Schemes/ Packages proposed by CTUIL for upgradation/ modification of existing ISTS Communication System, standalone projects, adoption of new technologies shall be put up to RPC for their views. RPC to provide their views on the Schemes/Packages proposed by CTUIL within 45 days of receipt of the proposal from CTUIL. The Schemes/Packages along-with the views of RPC shall be approved by NCT."*

As per the above, the CEA Regulations on Communication Standards and Guidelines on Planning of Communication Systems together enjoin upon transmission licensees to upgrade the existing transmission line with the installation of wideband OPGW in replacement of earthwire, wherein such lines are incidental to new ISTS system.

25. The requirement of OPGW under the instant petition has been discussed in the WRPC meeting. The relevant extract of minutes of the 47th WRPC meeting dated 14-15 June 2023, wherein the matter related to OPGW installation on 765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line was discussed, is as under:

"Item no. 16. OPGW installation on 765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line.

Agenda Notes:

CTU vide email dated 24th May 2023 informed that the scheme was discussed in 7th SCADA & Communication meeting, 47th TCC and recommended in 46th WRPC meeting held on 02.02.2023. However, the cost estimate was not prepared and was not recommended during the meeting for the scheme. The scheme is as under along with the cost estimate:

1. OPGW installation on 765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line which is to be LILOed at Kallam Substations under TBCB project by the line owner M/s Adani.

S. No.	Items	Details
1.	Name of Scheme	Supply and Installation of OPGW on an existing line, which is to be LILOed at Kallam Substation under TBCB project, namely "Transmission system for evacuation of power from RE projects in Osmanabad area (1 GW) in Maharashtra"
2.	Scope of the scheme	1. The OPGW Supply and installation along with accessories on the following line by replacing the existing one no. earthwire by Live Line installation: ➢ 765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line 2. FOTEs of requisite configuration at Pune, Parli for establishing the communication between Pune-Kallam-Parli.
3.	Depiction of the scheme on FO Map	**Figure-I**
4.	Objective / Justification	A new substation, Kallam is proposed to be established by LILOing the following line : ➢ 765/400kV Pune (PG) (GIS) – 400kV Parli (PG) line (272 kms.) The line is owned by M/s Adani. Further, it is to mention that OPGW on the LILO portion is envisaged along with the construction of the proposed lines under the TBCB project. Kallam S/s is being developed by M/s Indigrid, and the tentative COD is 31.10.2023. The connectivity diagram of the scheme is attached in **Annexure-I**. From the diagram, it is apparent that, there is no OPGW on the above-said existing main line, and without OPGW availability on

		the main line, redundancy of data communication of the new Kallam substation to RLDC cannot be maintained. Further OPGW installation on the above line shall create one more intra-state communication path. Thus, OPGW needs to be provided by replacing one earthwire on both the main existing lines and integrating it with OPGW of the upcoming LILO section.
5.	Estimated Cost	Rs. 14 Crore (approx.)
6.	Implementation timeframe	**24 Months from the** date of allocation
7.	Implementing Agency	**Through M/s Adani on RTM mode**
8.	Deliberations with WRPC along with their comments	The scheme was deliberated in the 46th WRPC meeting held on 02.02.2023.

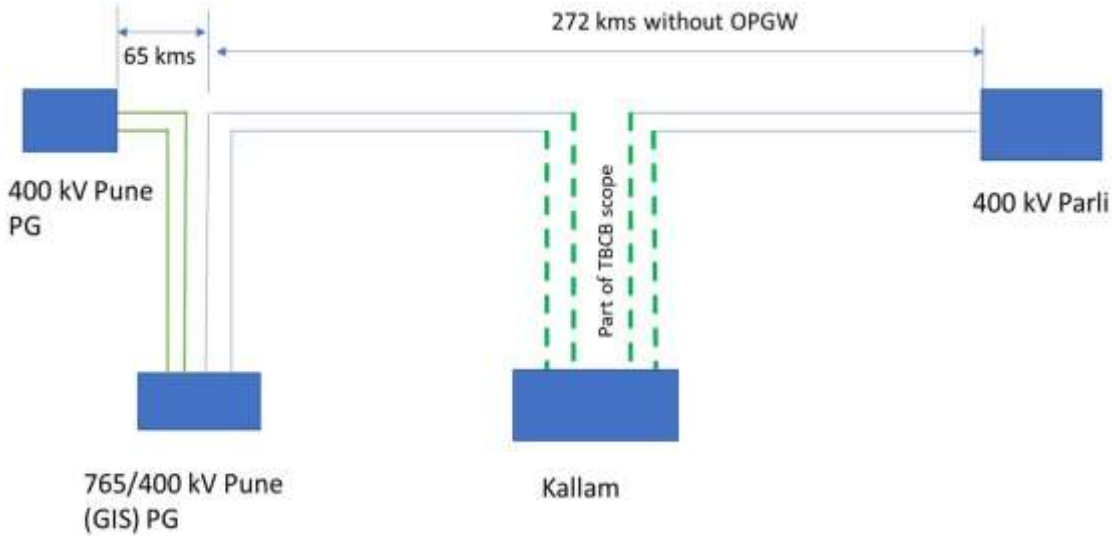

Figure-I

As per the discussion in 46th WRPC, M/s Adani agreed for implementation of the scheme in RTM mode.

Estimated cost of the project is approx. ***14 Cr****.*

47th TCC Discussions:

MS, WRPC informed that the item was discussed in 46th WRPC meeting, wherein the cost of the project was not intimated. Now CTU has conveyed the cost of the project would be 14 Cr.

TCC/WRPC noted the above."

As per the above, it is noted that the requirement of replacement of Ground wire with OPGW on the Pune-Parli line arose due to the reconfiguration of said line with LILO at the Kallam substation and integrating the data communication from the kalam substation through OPGW of Pune-Parli line.

26. The scheme was approved in the 16th NCT meeting dated 30.11.2023 under Regulated Tariff Mode (RTM), to be implemented by Western Transco Power Limited, the relevant extracts of the 16th NCT minutes are as follows:

> *"**4.9 OPGW installation on existing line 765/400 kV Pune (PG) (GIS) – 400 kV Parli (PG) line which is to be LILOed at Kallam Substations under TBCB project.***
>
> *4.9.1 Representative of CTUIL stated that as there is no OPGW on existing line 765/400 kV Pune (PG) (GIS) – 400 kV Parli (PG) line and without OPGW availability on the main line, redundancy of data communication of the new Kallam substation to RLDC cannot be maintained. Further OPGW installation on above line shall create one more intrastate ISTS communication paths. Thus, OPGW needs to be provided by replacing one earthwire on the main D/C existing line and integrating it with OPGW of the upcoming LILO section.*
> *4.9.2 The scheme was deliberated in the 46th & 47th TCC/ WRPC meeting held on 2-3 Feb & 14-15 June 2023 respectively. After deliberations, WRPC concurred the proposal of "Supply and Installation of OPGW on existing line which is to be LILOed at Kallam Substation under TBCB project" at estimated cost of Rs 14 Cr excluding taxes.*
> *4.9.3 NCT approved the scheme for OPGW installation on existing line 765/400 kV Pune (PG) (GIS) – 400 kV Parli (PG) line which is to be LILOed at Kallam Substations under TBCB project for implementation through RTM mode with tentative implementation timeframe of 24 months.*
> *4.9.4 Summary of the scheme is given below:*

S. No.	***Name of the scheme and Implementation timeframe***	***Estimated Cost*** *(₹ Crores)*	***Remark***
1	*Supply and Installation of OPGW on existing Line 765/400kV Pune (PG)(GIS)-400kV Parli (PG) line, which is to be LILOed at Kallam Substation under TBCB project, namely Transmission System for Evacuation of Power from potential renewable energy zone in Osmanabad area (1 GW) in Maharashtra* *Implementation timeframe: 24 months*	*14*	*Approved to be implemented under RTM by Western Transco Power Limited. (M/s Adani)*

27. Petitioner has prayed for the grant of separate transmission under Section 14 and Section 15 of the Electricity Act, 2003 and 2009 Transmission Licence Regulations. The relevant extracts of the Act are as under:

> *"**Section 2. (Definitions):** --- In this Act, unless the context otherwise requires:*
> *… … … …*
> *(72) "transmission lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a substation, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works;*
> *(73) "transmission licensee" means a licensee authorised to establish or operate transmission lines;*
> *(74) "transmit" means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;*
> *… … … …*
> ***Section 12. (Authorised persons to transmit, supply, etc., electricity):***
>
> *No person shall*
> *(a) transmit electricity; or*
> *(b) distribute electricity; or*
> *(c) undertake trading in electricity,*
> *unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13.*
> *…..*
>
> ***Section 14. (Grant of Licence):***
>
> *The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person--*
>
> *(a) to transmit electricity as a transmission licensee; or*
> *(b) to distribute electricity as a distribution licensee; or*
> *(c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:*
> ***Section 15. (Procedure for grant of licence):***
>
> *(1) Every application under section 14 shall be made in such form and in such manner as may be specified by the Appropriate Commission and shall be accompanied by such fee as may be prescribed.*
> *…"*

As per the above, a transmission licence can be granted for the purpose of transmission of electricity, which means conveyance of electricity by means of transmission lines.

28. We observe that the function of earthwire or OPGW is the protection of the transmission line, and OPGW additionally functions as a communication system to transmit 'data.' The function of OPGW is not a conveyance of electricity but the

protection of the transmission line and hence does not qualify as a separate transmission element. Since a transmission licence can be granted to a transmission element that transmits electricity, the instant scheme for installation of OPGW in replacement of earth wire already set up doesn't conform to the Electricity Act, 2003 for the grant of a separate transmission licence.

29. We observe that the transmission lincence for 765/400 kV Pune (PG) (GIS) – 400 kV Parli (PG) line has already been issued to the Petitioner, and the scope of works therein already included the earthwire, which is now required to be replaced with OPGW. Since earthwire was an integral part of the transmission licence issued for the 765/400 kV Pune (PG) (GIS) – 400 kV Parli (PG) line, replacement work shall also be covered within the same licence, and hence neither there is a requirement to amend the licence nor seek an additional licence.

30. We observe that the replacement of Earthwire with OPGW in light of the 16th NCT meeting dated 30.11.2023 for the purpose of facilitating communication from the Kallam substation is additional scope of work for the licensee, and the expenditure towards the same is required to be allowed to the licensee.

31. We direct that the Petitioner shall implement the scheme as per the scope of work approved by the NCT and awarded to the Petitioner. After implementation of the scheme, the Petitioner 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 for the implementation of the scheme. The modalities of recovery of such expenditure shall be decided by the Commission in the application to be made by the Petitioner for approval of such expenditure.

32.The Petition no. 133/TL/2024 is disposed of in terms of the above.

Sd/	**Sd/**	**Sd/**
(Ramesh Babu V.)	**(Arun Goyal)**	**(Jishnu Barua)**
Member	**Member**	**Chairperson**