

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 44/TL/2024

Coram:

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

Date of order: 10th July, 2024

In the matter of:

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

And

In the matter of

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

Address for correspondence:

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

...Petitioner

Vs

- 1. Madhya Pradesh Power Management Company Ltd.,
Shakti Bhawan, Rampur
Jabalpur-482008**
- 2. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd.,
3/54, Press Complex, Agra-Bombay Road, Indore-452008**
- 3. Maharashtra State Electricity Distribution Co. Ltd.,
Hongkong Bank Building, 3rd Floor
M.G. Road, Fort, Mumbai-400001**

4. **Gujarat Urja Vikas Nigam Limited,**
Sardar Patel Vidyut Bhawan,
Race Course Road, Vadodara-390007
5. **Electricity Department, Govt. Of Goa,**
Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa-403001
6. **Electricity Department, Administration of Daman & Diu,**
Daman-396210
7. **DNH Power Distribution Corporation Limited,**
Vidyut Bhawan, 66kv Road, Near Secretariat,
Amli, Silvassa-396230
8. **Chhattisgarh State Power Distribution Co. Ltd.,**
P.O. Sunder Nagar, Dangania, Raipur
Chhattisgarh-492013
9. **Netra Wind Private Limited,**
B 504, Delhi Building, Orchard Avenue,
Sector No. 3, Hiranandani Business Park,
Powai, Mumbai-400076
10. **Adani Green Energy Limited,**
Adani House, 4th Floor,
South Wing, Shantigram, S.G Highway,
Ahmedabad-382421
11. **PFC Consulting Limited,**
9th Floor, A-Wing,
Statesman House, Connaught Place,
New Delhi-110001
12. **Central Transmission Utility of India Limited,**
Saudamini, Plot No. 2, Sector-29,
Gurgaon -122001

...Respondents

Parties present:

Shri Shubham Arya, Advocate, PBTL

Shri Ravi Nair, Advocate, PBTL

Shri Devyanshu Sharma, Advocate, PBTL

Shri Abhijit, PBTL

Shri Ranjeet Rajput, CTUIL

Shri Akshayvat Kislay, CTUIL

ORDER

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

2. The Petitioner has made the following prayers:

- (a) *Grant separate Transmission License to the Applicant for implementation of additional scope of work under RTM mode detailed at para 3 above.*
- (b) *Allow the Applicant liberty to approach the Hon'ble Commission for determination of transmission charges after commissioning of the scope of works mentioned at Para 3 above, in accordance with Section 61, 62 of the Electricity Act, 2003 and as per 8(2) of the Transmission License Regulations, 2009.*
- (c) *Condone any inadvertent omissions/shortcomings/errors and permit the Applicant to add/modify/alter this application and make further submissions as may be required at a future date.*
- (d) *Pass such other order/orders, as may be deemed fit and proper in the facts & circumstances of the case*

3. The scope of the communication scheme for which a transmission licence has been sought is as follows:

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

4. The Petitioner's Company, Bhuj-II Transmission Limited (BTL) was incorporated as a special purpose vehicle by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding ('TBCB') process for implementing the "Transmission System for providing connectivity to RE Projects at Bhuj-II (2000 MW) in Gujarat" on Build, Own, Operate, and Maintain (BOOM) basis. Power Grid Corporation of India Limited (PGCIL) participated in the competitive bidding process conducted by PFCCL, and upon emerging as the successful bidder, a Letter of Intent (LOI) was issued by PFCCL to PGCIL on 31.7.2019. In accordance with the bidding documents, PGCIL acquired 100% of the shareholding in BTL by executing a Share Purchase Agreement with PFCCL on 16.10.2019 and changed the name of the company to POWERGRID Bhuj Transmission Limited (PBTL). PBTL entered into a Transmission Service Agreement (TSA) with LTTCs on 23.4.2019. The Commission, vide its order dated 3.3.2020 in Petition No. 447/TL/2019, granted a transmission licence to the Petitioner for inter-State transmission of electricity to establish the transmission project, namely "Transmission System for providing connectivity to RE Projects at Bhuj-II (2000 MW) in Gujarat" comprising the following elements which have already commissioned:

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

5. SCOD of the above project was revised vide MoP letter dated 04.04.2022, and the details of revised scope of works with SCOD and actual commissioning dates are as

follows:

Sl. No.	Phase No.	Details of Elements	SCOD	COD
i	1	<ul style="list-style-type: none">• Bhuj-II PS with 1 no. 1500 MVA 765/400kV ICT and 4x500 MVA (400/220 kV) ICT with 765kV (1x330 MVA) and 420 kV (125 MVA) bus reactor and associated bays• Reconfiguration of Bhuj PS – Lakadia PS 765 kV D/C line so as to establish Bhuj-II – Lakadia 765 kV D/C line as well as Bhuj – Bhuj-II 765kV D/C line• 1x240 MVA switchable line reactor for each circuit at Bhuj–II PS end of Bhuj-II – Lakadia 765kV D/C line and associated bays	31.05.2022	24.08.2022
ii	2	765/400 kV ICT at Bhuj-II PS and associated bays	30.09.2022	16.11.2022

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

7. The Petitioner has submitted that after the grant of a separate transmission licence, the Petitioner shall proceed to implement the subject scheme under RTM mode. The estimated cost of the scheme as per CTUIL's Office Memorandum (OM) dated 10.7.2023 is Rs.0.30 crore, and the cost of the project as per the DPR is Rs.0.42 crore. After completion of the scheme, the Petitioner shall approach the Commission for the determination of transmission charges in accordance with Transmission Licence

Regulations.

8. The Commission, vide its order dated 18.4.2024, after considering the application of the Petitioner in light of the provisions of the Act and the Transmission Licence Regulations, prima facie proposed to grant a separate transmission licence to the Petitioner to implement the scheme detailed in paragraph 1 of the order. The relevant extracts of the order dated 18.4.2024 are extracted as under:

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

27. Regulation 24 of the Transmission Licence Regulations, dealing with the power to relax in appropriate cases, provides as under: “24. The Commission may, when it considers necessary or expedient to do so and for reasons to be recorded in writing, relax or depart from any of the provisions of these regulations”.

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

*29. Since the Petitioner is already an inter-State transmission licensee and has been identified as an agency to implement the project as per RTM, the Commission, in the exercise of power under Regulation 24, hereby relaxes the provision of Regulation 6 of the Transmission Licence Regulations and holds that the Petitioner is eligible for the grant of a transmission licence. We, hereby, direct that a public notice under clause (a) of subsection (5) of Section 15 of the Act be published to invite suggestions or objections to grant a transmission licence aforesaid. The objections or suggestions, if any, shall be filed by any person before the Commission by **3.5.2024.**”*

9. A public notice under Sub-section (5) of Section 15 of the Act was published on 1.5.2024 in all editions of the Indian Express (English) and Dainik Jagran (Hindi). No suggestions/objections have been received from members of the public in response to the public notice.

Hearing dated 08.05.2024:

10. The case was called out for a hearing on 8.5.2024. The learned counsel for the Petitioner submitted that no objection had been received in response to the public notice published by the Commission under sub-section (5) of Section 15 of the Act. Accordingly, it was requested that a separate transmission licence be granted to the Petitioner. Further, in response to the Commission's specific observation of whether there is a requirement to issue a separate transmission licence for the implementation of the communication system element rather than considering it under the scope of Change in Law provisions of the existing Transmission Service Agreement, the learned counsel for the Petitioner, as well as the representative of CTUIL, submitted that the said element would qualify under "works"/"other works" under the definitions of the "Power System"/ "Transmission lines" as provided in the Electricity Act, 2003. Learned counsel, however, stated that the Petitioner, as such, has no objection if the Commission deems it appropriate to consider such element as an additional scope of work under the existing Transmission Service Agreement and provide a suitable mechanism for recovery of its costs while considering it under Change in Law provisions. However, the learned counsel pointed out this approach might lead to a situation where the expenditure incurred towards such an element may not cross the minimum threshold provided for availing the Change in Law relief under the agreement.

11. Considering the submissions made by the learned counsel for the Petitioner and

the representative of CTUIL, the Commission directed the parties to furnish their clarifications within a week in respect of the following and reserved the matter for order:

(a) Clarification as to how the element involved in the instant case would qualify for a grant of the transmission licence.

(b) Explore and submit the other available options for recovering the expenditure to be incurred against the execution of work covered under the present Petition without the grant of the transmission licence.

12. In compliance with the RoP for hearing dated 08.05.2024, the Petitioner vide affidavit dated 11.06.2024 submitted that the element involved in the present Petition was agreed in the 3rd Communication Planning meeting of Western Region held on 27.12.2022, 46th WRPC meeting held on 03.02.2023 and 14th meeting of NCT held on 09.06.2023. Considering the above, the Central Transmission Utility of India Limited, on 01.04.2024, recommended that the Petitioner be granted a transmission licence for executing the said element. Further, this Commission, vide order dated 31.10.2023 passed in Petition No. 217/TL/2023 in the matter of Torrent Powergrid Limited vs Torrent Power Limited and Ors., has been pleased to grant a Transmission Licence to Torrent Powergrid Limited for implementation of FOTE at Pirana (PG) 400 kV Line Bays.

13. The Petitioner has also submitted that the implementation timeframe for the instant communication scheme as per CTUIL OM dated 10.07.2023 is 12 months from the date of allocation of works by NCT, which was done on 07.07.2023, i.e., SCOD is 06.07.2024. Considering the delay in the grant of a separate transmission licence to PBTL under RTM mode, it is proposed that the implementation timeframe may be allowed from the date of issuance of an order of transmission licence by the Commission.

Analysis and Decision:

14. The Petitioner has filed the present Petition seeking a separate transmission licence for the implementation of the communication scheme, namely “Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater to the connectivity of RE Gencos” in Regulated Tariff Mechanism mode.

15. We have considered the submissions of Petitioner and Respondents. The issue that arises for our consideration is whether a separate licence can be granted under the Act and Transmission Licence Regulations, 2009 for the Supply and installation of 01 no. 5 MSP (1+1) FOTE (STM-16 capacity), which is part of a communication system.

16. The relevant provisions under Schedule-2 of the Transmission Service Agreement for the transmission project, namely “Transmission System for providing connectivity to RE Projects at Bhuj-II (2000 MW) in Gujarat,” executed by the Petitioner in TBCB mode is as under:

“Technical Requirement of Communication System

.....

Establishment of Bhuj-II PS (GIS)

(i) TSP shall provide 96 Fiber FODP and 24F Approach Cable at Bhuj-II PS (GIS) which shall be connected to OPGW on 765 kV Bhuj-II PS(GIS)-Lakadia PS and 765 kV Bhuj-II PS (GIS)-Bhuj PS D/c line.

(ii) TSP (Transmission Service Provide) shall provide STM-16 SDH equipment at Bhuj-II PS (GIS) and at repeater stations (if any) along with necessary interfaces to meet the voice and data communication requirement and shall be integrated with the remote end wideband nodes i.e. Bhuj PS & Lakadia S/s.

.....”

As per above, the Petitioner, an existing TBCB licensee, was required to provide STM-16 SDH equipment at Bhuj-II PS (GIS) and at repeater stations (if any) along with necessary interfaces to meet the voice and data communication requirement.

17. The MoP 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 Guidelines on Planning of Communication Systems enjoin upon

transmission licensees to upgrade/ modify the existing ISTS Communication system, for capacity upgradation.

18. The requirement of an additional 01 no. 5 MSP (1+1) FOTE (STM-16 capacity) at Bhuj-II station to cater to the data volume of increasing RE connectivity was discussed in the 46th WRPC meeting held on 03.02.2023. The relevant extract of minutes of the 46th WRPC meeting is as under:

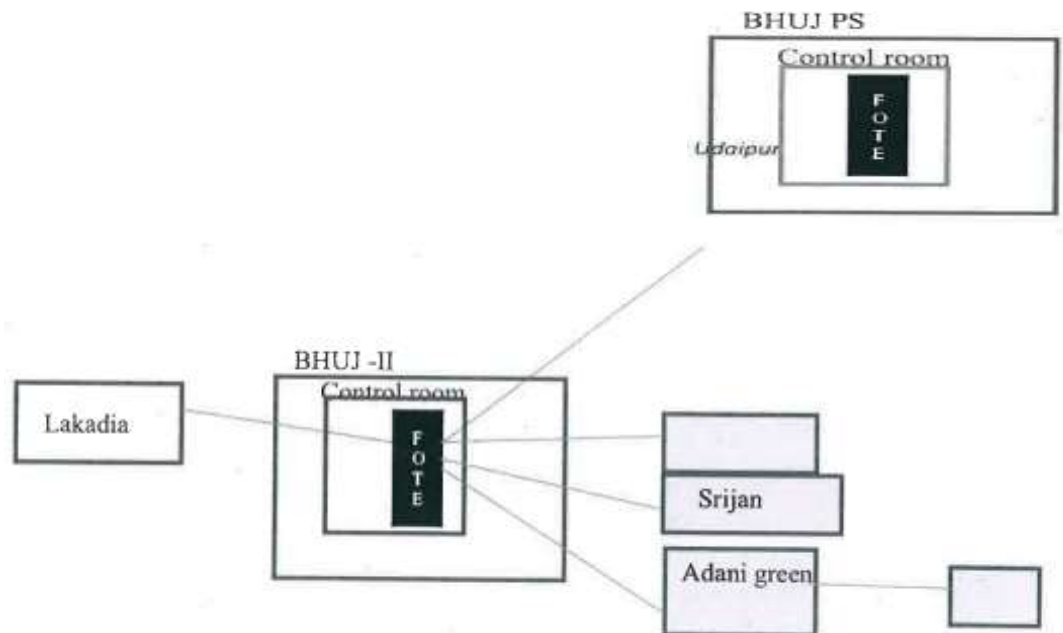
“Item no. 19. Requirement of additional FOTE at Bhuj PS and Bhuj-II stations to cater data volume of increasing RE connectivity

Background:

.....

Bhuj-II Sub-station

Similarly, in Bhuj-II substation, presently 1 no STM-16 SDH equipment with 5-MSP (Multiplex Section Protection) is installed, which is catering to communication link with Bhuj PS and Lakadia. Recently, connectivity to 04 nos RE generators (SITAC, Adani, Srijan, Inox) have been granted by CTU at Bhuj-II and many more to come in near future. Therefore, 01 no. additional STM-16 SDH equipment with 5-MSP is required at Bhuj-II



In view of the above, the following scheme is proposed:

S. No.	Items	Details
7.	Name of Scheme	Requirement of FOTE of STM-16 level at Bhuj PS and Bhuj-II substations to cater connectivity of RE Gencos
8.	Scope of Scheme	4. Supply and installation of a) 01 number 10 MSP (1+1) FOTE or 02 No. 5 MSP (1+1) FOTE (STM-16 level) at Bhuj PS b) 01 No. FOTE (STM-16, 5 MSP 1+1) at Bhuj-II station.
9.	Schematic Diagram	As shown above
10.	Estimated Cost	Rs. 90 lac. (approx.) excluding GST. On approval, Same shall be included by POWERGRID in their ongoing Western region communication system strengthening scheme for WR
11.	Implementation Timeframe	Approx. 12 months from the date of allocation.
12.	Implementation Mode	Though POWERGRID-RTM as both the stations are under POWERGRID ownership

The scheme was discussed in the 7th SCADA committee and recommended the same for implementation and suggested the matter may be put in ensuing WRPC/TCC for necessary approval.

46th TCC Discussions:

MS WRPC informed the additional FOTE at Bhuj PS and Bhuj-II stations was approved in the 7th SCADA committee.

CTU representative informed that Bhuj II Substation was awarded as a TBCB project to PBTL, hence the project implementation SPV would be given to PBTL in RTM mode. Further it was informed that the information regarding TBCB project awarded to PBTL was inadvertently missed in the SCADA committee meeting. The same may be noted in the TCC.

The 46th TCC/WRPC approved the above scheme.”

As per the above, the requirement of 1 no. additional FOTE at Bhuj-II PS arose for catering to the communication link of new connectivity grantees at Bhuj-II PS.

19. The subject scheme was approved in the 14th NCT meeting dated 09.06.2023 under Regulated Tariff Mode (RTM) to be implemented by the Petitioner. The relevant extracts of the 14th NCT minutes are as follows:

“3.7 Requirement of additional FOTE of STM-16 capacity at Bhuj-II substation to cater connectivity of RE Gencos.

3.7.1 To connect 6 number of RE generators (Inox, Vadava Desalpar, Narayanpar, Adani Ratadia, Renew Power, Alfanar Energy) directly to existing FOTE at Control Room of Bhuj PS maintaining MSP (1+1) and for making independent connectivity for upcoming generators at this station, Additional STM-16 capacity SDH equipment is required

3.7.2 The “Requirement of additional FOTE of STM-16 capacity at Bhuj II to cater connectivity of RE Gencos”, has been deliberated in 46th TCC/ WRPC meeting. WRPC concurred the proposal of “Requirement of additional FOTE of STM-16 capacity at Bhuj II to cater connectivity of RE Gencos” at estimated cost of Rs 30 Lacs.

3.7.3 After detailed deliberations, the scheme was approved to be implemented under RTM mode by M/s PBTL.

3.7.4 Summary of the scheme is given below:

Sl. No.	Name of the scheme and implementation timeframe	Estimated Cost (Rs. Crores)	Remarks
1	Requirement of additional FOTE of STM16 capacity at Bhuj-II substation to cater connectivity of RE Gencos Implementation timeframe: 12 months from date of allocation	0.3	Approved to be implemented under RTM mode by M/s PBTL

3.7.5 Detailed Scope of the Scheme is given below:

Sl. No.	Scope of the Scheme	Estimated Cost
1	Supply and installation of 01 number 5 MSP (1+1) FOTE (STM-16 capacity) at Bhuj-II station.	Rs. 30 lakhs

20. The Petitioner has prayed for the grant of separate transmission under Section 14 of the Electricity Act, 2003 and 2009 Transmission Licence Regulations.

21. In a similar matter vide Order dated 16.06.2024 in Petition No. 133/TL/2024, Commission directed as follows:

“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.

27. 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.

28. We observe that the transmission licence 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.

29. *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.*

30. *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.”*

As per the above, it was observed that 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 does not conform to the Electricity Act, 2003, for the grant of a separate transmission licence.

31. In the instant case, we observe that the transmission licence for the transmission project, namely “Transmission System for providing connectivity to RE Projects at Bhuj-II (2000 MW) in Gujarat,” has already been granted to the Petitioner, which has already been executed by the Petitioner. The FOTE (Fiber Optic Terminal Equipment) at Bhuj-II PS is an integral part of the communication system of the above transmission scheme and is already covered under the existing licence. The function of FOTE equipment is not a conveyance of electricity but to transmit the communication data 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 element does not fulfill the requirements for the grant of a separate transmission licence under the Electricity Act, 2003. The additional FOTE equipment is awarded to the Petitioner for installation at Bhuj- II PS, to facilitate the integration of data volume of increasing RE connectivity at Bhuj-II, shall be part of the communication system of the Bhuj-II PS and

shall be covered under the existing licence as an additional scope. Hence, there is neither a requirement to amend the licence nor seek an additional licence for the upgradation of communication equipment.

32. We have also perused Order dated 31.10.2023 passed in Petition No. 217/TL/2023 referred to by the Petitioner regarding the transmission licence for the implementation of FOTE at Pirana (PG) 400 kV Line Bays. We observe that the said Petition regarding transmission licence included a number of transmission elements where FOTE was also covered, whereas in the instant Petition transmission licence is being sought only for FOTE i.e., upgradation of communication equipment.

33. We observe that the function of the FOTE (Fiber Optic Terminal Equipment) is to meet the voice and data communication requirement at substations, and the requirement of 01 number 5 MSP (1+1) FOTE (STM-16 capacity) at Bhuj-II station is for the purpose of facilitating the integration of data volume of increasing RE connectivity at Bhuj-II PS which has been approved by the 14th NCT on 09.06.2023, which is an additional scope of work for the licensee, and the expenditure towards the same is required to be allowed to the licensee.

22. 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.

34. The Petitioner has submitted that the implementation timeframe for the instant communication scheme is 06.07.2024 and that considering the delay in granting of separate transmission license to PBTL under RTM mode, it is proposed that the implementation timeframe may be allowed from the date of issuance of an order of transmission licence by the Commission. We have considered the submissions of the Petitioner. We observe that the NCT vide letter dated 07.07.2023 awarded the subject communication scheme to the CTUIL for implementation through the Petitioner, and subsequently, CTUIL vide letter dated 10.07.2023 instructed the Petitioner to initiate necessary action for the implementation of the subject scheme. The implementation time frame of the subject communication scheme is 12 months from the date of allocation by the NCT, i.e., up to 06.07.2024. However, the Petitioner approached this Commission for a grant of the transmission licence through the instant Petition during the month of January 2024, i.e., approx. six months after the date of allocation. Hence, there was a delay on the part of the Petitioner in approaching this Commission. However, considering that the scheduled timeline has already expired on 6.07.2024, we direct the CTUIL to communicate the implementation schedule to the petitioner, keeping in view the timeframe of requirement of the subject scheme.

14. Petition No. 44/TL/2024 is disposed of in terms of the above.

**Sd/
(Arun Goyal)
Member**

**Sd/
(Jishnu Barua)
Chairperson**