



Bihar State Power Transmission Company Limited (BSPTCL)

Petition

For

Regulatory Approval of the Hon'ble Commission for
Leasing of Dark Fiber of OPGW Network

Submitted to

Bihar Electricity Regulatory Commission

Submitted By,

Bihar State Power Transmission Company Limited (BSPTCL)

4th Floor, Vidyut Bhawan - II,

Jawaharlal Nehru Marg,

Patna - 800 021

.....th May 2023



Before the Hon'ble Bihar Electricity Regulatory Commission,

Patna, Bihar

Filing No.:

Case No.:

IN THE MATTER OF:

Filing of the Petition for the approval of Leasing of Dark Fiber of OPGW Network of BSPTCL under Bihar Electricity Regulatory Commission (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2021 & Bihar Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 along with the other guidelines and directions issued by the Hon'ble BERC from time to time and under the Electricity Act, 2003 read with the relevant guidelines.

AND

IN THE MATTER OF THE APPLICANT

Bihar State Power Transmission Company Limited (herein after referred to as 'BSPTCL' or 'The Petitioner'), which shall mean for the purpose of this Petition the Licensee, having its registered office at Vidyut Bhawan -II, Jawaharlal Nehru Marg, Patna - 800 021.



The Petitioner respectfully submits as under:

1. Bihar State Power Company Limited (herein after referred to as “BSPTCL” or “Petitioner”) is responsible to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system for smooth flow of electricity from a generating station to the load centres under section 39 of the Electricity Act, 2003.
2. Regulation 41 of the Electricity Act, 2003 provides that the Transmission licensee with prior intimation to the Appropriate Commission, may engage in any business for optimum utilization of its assets.
3. The Hon’ble Commission (BERC) notified the Bihar Electricity Regulatory Commission (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 on 21st May 2013. Regulation 3 of the aforesaid Regulation provides as follows:

“The licensee, proposing to engage in other business for optimum utilisation of assets and associated facilities or proposing to discontinue or having discontinued Other Business, shall give intimation in writing to the Commission on the format in Annexure -‘A’.”
4. BSPTCL has provided primary information of other business vide its Tariff Petition for the FY 2023-24. However, in compliance of the provisions of the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 BSPTCL is filling this current Petition.
5. BSPTCL is filing this Petition before the Hon’ble Commission so as to take Regulatory approval for leasing of Dark Fiber of OPGW Network to be taken up under ‘Other business’ of BSPTCL, in accordance with the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013.
6. The present Petition is prepared in accordance with the provisions of the following Acts/Regulations namely:



- Electricity Act, 2003.
 - BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013, as amended time to time.
 - BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2021.
7. BSPTCL along with this petition is submitting information to the extent applicable and would make available any further information/additional data directed to be submitted by the Hon'ble Commission.
8. BSPTCL may also be permitted to propose suitable changes to the petition prior to the final approval by the Hon'ble Commission.



9. In view of the above, BSPTCL respectfully prays that the Hon'ble Commission may be pleased to consider and approve the following:
- a. Admit this Petition;
 - b. Examine the proposal submitted in the enclosed Petition for a favorable dispensation;
 - c. To kindly grant Regulatory approval as sought in this Petition for the 'Other Business' to be carried out as submitted in this Petition.
 - d. To kindly grant sharing mechanism as sought in this Petition for the 'Other Business' to be carried out as submitted in this Petition.
 - e. Permit to propose suitable changes to the petition, prior to the final approval by the Hon'ble Commission;
 - f. Condone any inadvertent omission/errors/short comings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.
 - g. Pass such Order as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case.

Bihar State Power Transmission Company Limited (BSPTCL)
Patna.

Place: Patna.

Date:May, 2023.

Chief Engineer



(1) Introduction

1.1 Historical Background of Bihar State Power Transmission Company Limited (BSPTCL)

The erstwhile Bihar State Electricity Board (hereinafter referred to as 'Board' or 'BSEB') was originally constituted on 1st April 1958 under Section 5 of the Electricity (Supply) Act, 1948 and was engaged in the management of electricity generation, transmission, distribution, and related activities in the State of Bihar.

Under the 'Bihar State Electricity Reforms Transfer Scheme, 2012', the BESB was unbundled into five Companies, viz., Bihar State Power (Holding) Company Limited (BSPHCL), Bihar State Power Transmission Company Limited (BSPTCL), Bihar State Power Generation Company Limited (BSPGCL), South Bihar Power Distribution Company Limited (SBPDCL), and North Bihar Power Distribution Company Limited (NBPDC), with effect from 1st November 2012 vide Notification No. 17 dated 30th October 2012.

- **“Bihar State Power (Holding) Company Limited” or “BSP(H)CL”**
BSP(H)CL is the Apex Holding Company that owns the share of the other four companies i.e., Bihar State Power Generation Company Limited, Bihar State Power Transmission Company Limited, South Bihar Power Distribution Company Limited and North Bihar Power Distribution Company Limited.
- **“Bihar State Power Generation Company Limited” or “BSPGCL”**
BSPGCL is the Generating Company to which the Generating Undertakings of the Board have been transferred in accordance with this scheme.
- **“Bihar State Power Transmission Company Limited” or “BSPTCL”**
BSPTCL is the Transmission Company to which the Transmission Undertakings of the Board have been transferred in accordance with this scheme.
- **“South Bihar Power Distribution Company Limited” or “SBPDCL” and “North Bihar Power Distribution Company Limited” or “NBPDC”**
SBPDCL and NBPDC are the Distribution Companies to which the Distribution Undertakings of the Board have been transferred in accordance with this scheme.



1.2 Approach to Filing of Current Petition

1. Regulation 3 of BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulation, 2013 specifies the procedure to be followed by the licensee to obtain the necessary regulatory approval of the Hon'ble BERC to engage in 'Other Business'. The relevant extract of BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulation, 2013 is as follows:

"3. Intimation of other business . –

(1) The licensee, proposing to engage in other business for optimum utilisation of assets and associated facilities or proposing to discontinue or having discontinued Other Business, shall give intimation in writing to the Commission on the format in Annexure - 'A'.

(2) The intimation under sub-regulation (1) shall be given to the Commission in the months of April and October every year.

(3) The licensee shall intimate the impact of the use of assets and associated facilities for the other business on the Licensed Business and on the ability of the licensee to carry out the duties and obligations of the licensed business.

(4) The licensee shall intimate the manner in which the assets and facilities of the Licensed Business shall be used and justification that it will be used in an optimum manner without affecting the maintenance of the activities of the Licensed Business."

2. Therefore, the Petitioner is filing the current Petition for regulatory approval to engage in 'Other business as per the provisions of the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulation, 2013 and in accordance with the other guidelines/ directions issued by the Hon'ble BERC time to time.
3. However, there may be certain deficiencies/infirmitities in the Petitions owing to the different aspects related with the operations of Transmission Company on independent basis. Hence, BSPTCL prays to the Hon'ble Commission that the information provided be accepted for the current filing and deficiencies, if any, may please be condoned. It is also requested that the Hon'ble Commission may kindly intimate of any further details/information required in this regard.



(2) Petition for Approval of 'Other Business':

2.1 Background:

Bihar State Power Transmission Company Ltd. (BSPTCL) has an extensive Optical fiber network spreading over 7,500 Km in its Transmission Grid consisting of EHV links of 220 kV and 132 kV voltage levels and their corresponding sub-stations across Bihar. BSPTCL has 24 fibers in its OPGW network and accordingly, BSPTCL plans to lease out up to 8 pairs of fiber (Sixteen fibers) of the existing OPGW network.

Further, BSPTCL submits that it has plan to assist the Internet Service Provider and other telecom players for penetration of Internet and telecom services in the state of Bihar. This shall also encourage establishment of new industries/ companies supported by Internet services. Accordingly, BSPTCL intends to lease out Minimum number of 01 pair of fiber (Two fibers) and Maximum up to 08 pairs (Sixteen fibers) of Dark Fiber of OPGW Network in all the sections to the interested and reputed Telecom Service Provider including but not limiting to Mobile Network Providers, Telecom Operators, Broadband Service Providers, Telecom Infrastructure Service Providers or Internet Service Providers.

2.2 Approval of the BOD and GoI

BSPTCL submits that the Board of Directors of BSPTCL has already agreed upon Leasing of Dark Fibers of OPGW network of BSPTCL and the same was approved by the BOD in its 101st meeting dated 17.08.2022. (Attached herewith as **Annexure - B**).

Board of Directors of BSPTCL has also approved the modification of terms and conditions of lease period, evaluation of bidder, LILO arrangement and requirement of additional Km by successful bidder vide its 102nd meeting dated 23.09.2022. Further, BOD of BSPTCL also approved the authorisation of Managing Director of BSPTCL for approving any further modification and taking decision for leasing of OPGW network of BSPTCL. (Attached herewith as **Annexure - C**).

Further, BSPTCL has also received the Registration Certificate (Certificate No. 1184/2021, dated 06.09.2021) for infrastructure Provider Category - I (IP - I) from Ministry of Communication (Department of Telecom), Govt. of India vide letter No. 10-35/2021-CS-III, dated 06.09.2021. (Attached as **Annexure - D**).

2.3 Estimated Revenue form other Business

BSPTCL submits that it has already invited tender for leasing of Dark Fiber of OPGW network of BSPTCL vide NIT No. 35/PR/BSPTCL/2022 after approval by Board of Directors of BSPTCL in 101st and 102nd meeting.



Further, BSPTCL submits that the Price part has been opened and highest rate of Rs. 14,501.00 per Fiber pair per Km has been discovered. Accordingly, a sum of Rs. 22.75 Cr. (Plus applicable GST) is expected as revenue realization for 1st year from all the bidder. The details of estimated revenue realization from leasing out dark fiber for the 1st year is attached as **Annexure – E**.

Further, BSPTCL respectfully submits that it has also taken initiatives to undertake future repair and maintenance of Dark Fiber of OPGW network of BSPTCL under Annual maintenance contract (AMC). Therefore, BSPTCL requests the Commission to consider such expenses based on actual expenses incurred during the respective years.

2.4 Regulatory Compliance

Regulation 32 of the BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2021 specifies as follows:

“32. Income from Other Business

Where the Transmission Licensee is engaged in any other business under Section 41, the income from such business will be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Licensee in the manner and in proportion as may be specified by the Commission in BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 and its amendments from time to time.

Provided that the Licensee shall follow a reasonable basis for allocation of all joint and common costs between the Transmission Business and the Other Business and shall submit the Allocation Statement as approved by the Board of Directors to the Commission along with the application for determination of tariff;

Provided further that where the sum total of the direct and indirect costs of such Other Business exceed the revenues from such Other Business or for any other reason, no amount shall be allowed to be added to the Aggregate Revenue Requirement of the Transmission Licensee on account of such Other Business.”

Further, Regulation 4 of the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 provides that:

“4. Account. –

(1) The Licensee shall –

(a) maintain separate accounting records including records of revenues, costs, assets, liabilities, reserves or provisions which have been charged from or to any Other Business together with a description of the basis of that charge or determined by apportionment or allocation between the various business activities together with a description;

(b) prepare, on a consistent basis, from such records accounting statements on the format given on Annexure – ‘B’ for each financial year comprising a profit and loss account, a balance sheet and a statement of sources and application of funds;



(c) provide in respect of the account statements so prepared, a report by the Auditors in respect of each Financial Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions reasonably attributable to the business to which the statements relate;

(d) submit to the Commission such information that is required to review the additional cost incurred by the licensee for Other Business; and

(e) submit copies of the accounting statements and Auditor's report specified in clauses (b) and (c) above not later than six months after the close of the financial year to which they relate."

BSPTCL submits that it has already taken initiatives to maintain separate accounting records including records of revenues, expenses, assets and liabilities to ensure the aforementioned regulatory compliances.

2.5 Gain/(Loss) Sharing Mechanism

Regulation 5 of of the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 provides that:

".....(5) In addition to the sharing of costs under sub-regulation (4) the licensee shall account for and adjust in favour of the Licensed Business such percentage of the gross turnover of the Other Business as the Commission may decide each year at the time of determination of Aggregate Revenue Requirement (ARR)

(6) The costs to be shared from the Other Business under sub-regulation (4) above and the amount to be adjusted in favour of the Licensed Business in terms of sub-regulation (5) above shall be the income of the Licensed Business of the Licensee and shall be utilized for reducing the charges of transmission or wheeling, as the case may be, of electricity by the Licensee."

Further, Regulation 32 of the BERC (MYT) Regulations, 2021 specifies as follows:

"32. Income from Other Business

Where the Transmission Licensee is engaged in any other business under Section 41, the income from such business will be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Licensee in the manner and in proportion as may be specified by the Commission in BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 and its amendments from time to time."

BSPTCL respectfully submits that it plans to undertake business of telecommunication services by utilizing transmission assets.

Further, BSPTCL submits that "Telecommunication Service" shall have the same meaning as defined in sub-clause (k) of clause (1) of Section 2 of the Telecom Regulatory Authority of India Act, 1997. Accordingly, BSPTCL has also received the Registration Certificate (Certificate No. 1184/2021, dated 06.09.2021) for infrastructure



Provider Category - I (IP - I) from Ministry of Communication (Department of Telecom), Govt. of India vide letter No. 10-35/2021-CS-III, dated 06.09.2021.

Therefore, BSPTCL respectfully submits to the Commission to treat this other business as Telecommunication Services by utilizing transmission assets as defined in sub-clause (k) of clause (1) of Section 2 of the Telecom Regulatory Authority of India Act, 1997.

Further, BSPTCL submits that Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2020 provides for the sharing of revenue mechanism for Telecommunication business at the rate of 10% of the gross revenue from such business in a given financial year with the long-term customers.

Accordingly, BSPTCL requests the Commission to consider the same for sharing of revenue from this business of telecommunication services.

Copy of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2020 is attached as **Annexure - F**.

2.6 Obligations:

In line with the Regulation 5 of the BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013 BSPTCL submits that—

BSPTCL shall not in any manner utilize the assets and facilities of the Licensed Business for any other business or otherwise directly or indirectly allow the activities to be undertaken in a manner that it results in the Licensed Business subsidising the Other Business in any manner.

BSPTCL shall be responsible to ensure that the utilization of the assets and facilities of the Licensed Business for the other business shall not in any manner affect the performance of the obligations or the quality of service required from the Licensee under the Licensed Business and that any such utilization shall be entirely at the cost and risk of the Licensee.

BSPTCL shall not in any manner, directly or indirectly, encumber the assets and facilities of the Licensed Business for any Other Business or for any activities other than the Licensed Business.



Petition For Regulatory Approval of Other Business

BSPTCL shall not make any fresh capital investment for the purpose of other Business without approval of the Commission.

BSPTCL further submits that the income of the aforesaid business shall be utilized for reducing the transmission charges to facilitate the end consumers.



(3) Prayers

BSPTCL respectfully prays that the Hon'ble Commission may be pleased to consider and approve the following:

- a. Admit this Petition;
- b. Examine the proposal submitted in the enclosed Petition for a favorable dispensation;
- c. To kindly grant Regulatory approval as sought in this Petition for the 'Other Business' to be carried out as submitted in this Petition.
- d. To kindly grant sharing mechanism as sought in this Petition for the 'Other Business' to be carried out as submitted in this Petition.
- e. Permit to propose suitable changes to the petition, prior to the final approval by the Hon'ble Commission;
- f. Condone any inadvertent omission/errors/short comings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.
- g. Pass such Order as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case.