

- Enable sharing of good practices and models for monetisation of infrastructure assets for value maximization and tapping private sector efficiencies.

## **2. Definitions**

2.1. In these guiding principles, unless the context otherwise requires, -

- a) AOMT: Acquire, Operate, Maintain and Transfer model of asset monetization wherein the SPV owning the identified transmission assets is bought by the selected Investor Entity with responsibility to operate and maintain these assets for a certain duration of time with associated rights and duties against payment of upfront lumpsum amount.
- b) CTUIL: Central Transmission Utility of India Limited notified by the Central Government under Section 38 of the Electricity Act, 2003.
- c) Investor Entity: An eligible company or Trust selected through competitive bidding process to take over the SPV of the Sponsoring Transco for specified Transfer Transaction period on AOMT basis
- d) Infrastructure Sector: Infrastructure Sector shall mean such sectors notified by Department of Economic Affairs, in its Gazette Notification no. 13/1/2017-INF dated 14th November, 2017 and as amended from time to time
- e) Sponsoring Transco: A Transmission Company owned by the Central or State Government seeking to monetize assets under these guiding principles.
- f) SPV: A company incorporated under the Companies Act which will hold the identified assets of the Sponsoring Transco and will be taken over by the Investor Entity.
- g) STU: State Transmission Utility notified under Section 39 of the Electricity Act, 2003.
- h) Transfer Agreement: An Agreement governing the terms and conditions of transfer of assets of a Sponsoring Transco housed in a SPV to private entity for a specified period on BOMT basis
- i) TBCB asset: The transmission asset built through tariff based competitive bidding under Section 63 of the Electricity Act, 2003
- j) Transmission Service Provider (TSP): Once an Investor Entity takes over the SPV consequent to signing of Transfer Agreement, it shall be referred to as Transmission Service Provider (TSP)

k) Upfront Payment: A lumpsum payment to be paid by the selected bidder to acquire the asset

2.2. Words and expressions used and not defined herein but defined in the Act shall have the meaning respectively assigned to them in the Act.

### 3. Scope of the Guiding Principles

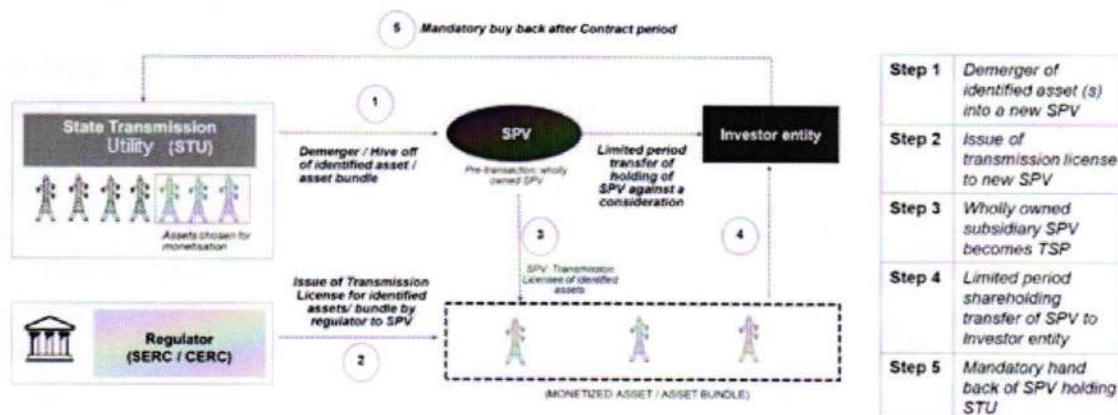
- 3.1. The guiding principles are intended to enable implementation of monetization program for identified transmission assets of the State Government owned transmission undertakings and CPSEs/PSUs/other Government Organizations in the Central Sector who may adopt this framework with the approval of the respective competent authority.
- 3.2. The aforementioned framework has been detailed under this document to delineate the broad principles and an approach for undertaking monetisation transaction for transmission assets.
- 3.3. The guiding principles detailed in this document are not mandatory and the respective asset owning entities may adopt any other approach and / or model based on necessary due diligence for appropriately structuring transactions, on a case-to-case basis and as necessitated by various respective regulatory and commercial considerations.

### 4. AOMT transaction structure contours and steps

- 4.1. In order to enable monetisation, selection of de-risked and brown-field assets with a stable and ring-fenced revenue generation profile (or long-term revenue rights) is a *sine qua non*. Hence, as the first step, Sponsoring Transco or Energy Departments (hereinafter referred to as “**Sponsoring Transco**”), may take up monetization of its brown-field transmission assets through the model envisaged under this document by hiving off the transmission assets supposed to be monetised (either individual transmission lines or a bundle of transmission lines and substations) by way of a special demerger under a new specific Special Purpose Vehicle (hereinafter referred to as the “**SPV**”). The nature of such demerger and consequent process requirements will be guided by the constitution of asset owning Transco.
- 4.2. As the RTM assets are typically housed in the balance sheet of the Sponsoring Transcos / Power Department, a demerger into a SPV is necessitated as a first step towards undertaking monetisation. In case of TBCB assets, since such transmission assets are normally housed in a project specific SPVs, such a demerger may not be essential.
- 4.3. Under the AOMT model, the entire shareholding of the SPV would be transferred to an Investor Entity, as part of monetization and bought back at a nominal cost of INR 1.00 at the end of a stipulated transaction period. Such transaction period may be

specified in the Transfer Agreement and be coterminous with the residual economic life of the asset. For the stipulated transaction period, the Investor Entity will undertake O&M of the transmission network including the right to earn transmission charges subject to provisions of the Transmission Service Agreement. An indicative transaction structure and the key steps envisaged therein are depicted in the exhibit below.

**Exhibit: Transaction structure and steps under AOMT model**



- 4.4. The SPV formed under para 4.1 above shall apply to the respective regulatory commission (hereinafter referred to as “**the Regulator**”) for grant of separate Transmission License / (s) to operate and maintain the identified assets / asset bundle for a period up to the terminal date envisaged under the Transfer Agreement
- 4.5. The Investor Entity would be selected through a competitive bidding process to acquire the 100% shareholding of the SPV. As the shareholder of the SPV, it will own, operate and maintain the identified assets during the tenure of the Transfer Agreement
- 4.6. At the expiry of Transfer Agreement, the SPV along with the rights, title and interest in all the assets held by the SPV shall be mandatorily transferred back to the Sponsoring Transco at a nominal consideration of INR 1.00 and free from any encumbrance and liability.

## 5. Identification and Book Value of Assets for transfer to SPV

In case of RTM assets, the Sponsoring Transco shall identify assets which can be clearly ring-fenced, have identifiable revenue stream and clear from all litigations, preferably with vintage of upto 10 years from the date of commercial operation for the purpose of monetization. This is recommended in view of better monetization potential and investor attractiveness. The estimated book value of the assets identified for such transfer will preferably be determined or vetted, as the case may be by an independent auditor, space that may be appointed by the Sponsoring Transco. The key

considerations for identification of assets / asset bundle that need to be assessed at this stage by Sponsoring Transcos are as under:

- a) Vintage of the asset, availability factor and associated maintenance cost
- b) Future capex requirements
- c) Need to bring scale in the transaction to attract credible players and investor entities

#### **6. Scheme for Transfer of identified assets of Sponsoring Transco to an SPV**

As mentioned earlier, the RTM assets are normally housed in the sponsoring transmission entity's balance sheet or are departmentally held (in case of Energy Departments of certain States and UTs) and are not under separate SPVs (which is the case in TBCB assets). Monetisation for such RTM assets under the envisaged model hence may require a scheme of transfer by way of special demerger. With the amendments effected to Section 47 of the Income Tax Act, 1961 under The Finance Bill, 2021, transfer of capital assets by a PSU to another notified public sector company, Central Government or State Government may not be regarded as transfer subject to approval of scheme and certain requirements there under.

The identification of assets and demerger into separate SPVs shall be made taking into consideration the amount to be monetized over a long term (5 years) and in such a manner that multiple SPVs are created abinitio to reduce the impact of capital gains tax.

##### **State Sector:**

In case of RTM assets, the States may, in consultation with the Sponsoring Transco, formulate a scheme of transfer under Part XIII of the Electricity Act, 2003 and as provided in these guiding principles.

Alternatively, the Sponsoring Transco/STU may form an SPV by special demerger with the approval of the State Government and apply for a separate license to it.

##### **Central Sector:**

The identified RTM assets on balance sheet of the Sponsoring Transco owned or controlled by the Central Government may be hived off into a new SPV. The Sponsoring Transco may approach Ministry of Power for approval of the scheme so as to enable requisite notification by the Central Government in the Official Gazette.

#### **7. Grant of Transmission License by respective regulatory commission to the SPV**

The new SPV thus formed will be a wholly owned subsidiary of the Sponsoring Transco. The SPV shall apply to the respective regulatory commission (CERC or SERC, as the case maybe) for grant of a separate transmission license to operate and maintain the identified assets for a period in consonance with the Transfer Agreement.