



## Chhattisgarh State Electricity Regulatory Commission

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### Petition No.22 of 2007(L)

### In the matter of application for grant of transmission licence to M/s Jindal Steel and Power Ltd.

M/s Jindal Steel & Power Limited : Petitioner  
Mandir Hasaud, Raipur

V/s

Chhattisgarh State Electricity Board : Respondent

**Present : S.K. Misra, Chairman  
Sarat Chandra, Member**

### **ORDER (Passed on 27/02/2008)**

M/s Jindal Steel and Power Ltd. (JSPL, for short) submitted an application for revival/regularization of the transmission licence granted to it by the Madhya Pradesh Electricity Regulatory Commission vide order dated 02/02/2000 in petition No. 06/1999. Subsequently, the petitioner prayed that his application be treated as a fresh application for grant of transmission licence under section 14 of the Electricity Act, 2003 (Act, for short)

2. Section 14 of the Act empowers the Commission to grant a licence to any person to transmit electricity as a transmission licensee on an application made under Section 15. The procedure for grant of such licence is laid down in Section 15 of the Act and in the CSERC (Licence) Regulations, 2004 (hereinafter 'Licence Regulations'). Sub-section (2) of section 15 of the Act and clause 8 of the Licence Regulations provide that any person who has made an application for grant of licence, shall within 7 days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted until the objections, if any, received before the expiration of 30 days from the date of publication of the notice have been considered. Sub-section (3) of section 15 further lays down that a person intending to act as a transmission licensee shall immediately on making the application forward a copy of such application to the State Transmission Utility. As per Sub-section (4) of section 15, the State Transmission Utility shall within 30 days after receipt of copy of the application send its recommendations, if any, to the Commission. The petitioner has confirmed that a public notice as required under Sub-section (2) of section 15 of the Act was published in the following newspapers on the dates indicated against each:

- |       |                                  |   |          |
|-------|----------------------------------|---|----------|
| (i)   | Kelo Pravah, Raigarh             | - | 04/12/07 |
| (ii)  | Raigarh Sandesh, Raigarh         | - | 04/12/07 |
| (iii) | Dainik Mulmantra, Janjgir-Champa | - | 05/12/07 |

In response, only CSEB, the State Transmission Utility has filed its objection.

3. The petitioner has applied for transmission licence in respect of the following transmission lines, falling in the geographical area of Raigarh and Ghargoda Tahsils of Raigarh district.

- (i) 220 KV Double Circuit JSPL -O P Jindal Industrial Park  
Length - 23.7 Km.
- (ii) 220 KV Double Circuit - O P Jindal Industrial Park - Jindal Power Ltd. -  
Length- 19.5 Km

Apart from these two 220 KV transmission lines, the 33 KV lines, the first from JPL to Coal Washery of JSPL which is part of the dedicated supply line of JSPL, for supply of power from its captive generating plant to the coal washery for captive use, and the second from JSPL to two intake-wells, also of similar nature, have also been included in the application (Form - 1B). These 33 KV lines being essentially supply lines for supply of power for own use, need not be covered in the transmission licence.

4. The CSEB, the STU has raised the following objections on the application:

- (i) The applicant is holder of a distribution licence and inter-State trading licence. Section 41 of the Act prohibits transmission licensee to engage in business of distribution or trading of electricity. In view of the specific prohibition under the Act as also under clause 33 (4) of the Licence Regulations, JSPL cannot be granted transmission licence since the company is both a distribution licensee and also a trading licensee. Even if JSPL is willing to surrender the trading licence, it would still continue to be a distribution licensee and therefore would not be eligible for grant of transmission licence. CSEB has raised this issue also in the pending case regarding its distribution licence, in which the company holding a transmission (held then) has been cited as a disqualification to hold a distribution licence. The Hon'ble Supreme Court has remanded that case to the Hon'ble Appellate Tribunal for Electricity (ATE, for short) for adjudication of the issue. It has been pleaded that pending adjudication by ATE the request for grant of transmission licence cannot be entertained.
- (ii) JSPL proposes to undertake transmission of power generated by itself and the group company, i.e. Jindal Power Ltd. (JPL, for short). This is not maintainable as there is no provision for grant of joint licence to group companies.
- (iii) Supply of power from JPL to JSPL to meet the latter's own load requirement cannot be a part of transmission activity and a distribution licence is required for it. The line constructed and owned by JPL cannot be part of transmission system of JSPL and such proposal cannot be considered.

5. We have heard the parties on these issues. As regards objection (i) of the CSEB that section 41 of the Act prohibits holding a transmission licence and distribution licence together, is not correct. The bar in section 41 is for holding of a

transmission and trading licence together. The petitioner had approached the CERC to surrender its trading licence which has since been revoked. Although the matter regarding JSPL's distribution licence is pending before the ATE, there is no directive from the ATE not to hear and decide the issue of the application for transmission licence by the Commission. As regards the objection to grant of joint licence to group companies, the petitioner has clarified that the lines constructed by JPL have been transferred to JSPL for its use and maintenance. It may be relevant to add here that JPL is a wholly owned subsidiary of JSPL. In any case, this issue may not be relevant so long as the applicant owns/operates the transmission lines. As regards objection (iii), JPL being a generator is permitted to supply power to JSPL who is a distribution licensee under the provisions of section 10 (2) of the Act. This supply of power may be through the transmission lines constructed by JPL, now under the control of JSPL. There is no prohibition in the Act for supply of power to a distribution licensee through his own transmission lines. However, he requires a transmission licence to do so. As regards the provision in clause 33(4) of Licence Regulations, the Commission finds that no provision in the Act prohibits a distribution licensee from holding a transmission licence and vice versa. Hence incorporation of this clause in the Regulation that a transmission licence should not be associated with distribution may not be legally sustainable not being in keeping with the provisions of the Act. The Commission decides not to act on this provision and to delete this clause from the aforementioned Regulations.

6. As per the submission of the applicant the proposed transmission system is meant for evacuation of power generated by JPL to the JSPL, which is a distribution licensee for a part area in the district of Raigarh. The proposed transmission system qualifies to be classified as intra-state transmission system as defined in clause (37) of section 2 of the Act. We are prima facie satisfied that the proposed transmission system is part of the intra-state transmission system and the Commission has the jurisdiction to grant transmission licence. Further, in response to the notices published by the applicant in the newspapers no objection or suggestion except from CSEB, has been received to the application for grant of licence.

7. In response to the Commission's query the petitioner applicant has confirmed that land for the transmission facility is already in their possession and all the lines covered in the application have been constructed under permission from the State Government. They have got the required forest clearance also. As required under section 15 (2) of the Act, the Commission has ascertained from the petitioner that there is no aerodrome or any other building/places in occupation of the Government for defence purpose in the area from where the transmission lines are passing through.

8. Based on the material on record we propose to issue transmission licence to the applicant to establish and operate proposed transmission lines as given in para 3. Sub-section (5) of section 15 of the Act provides that before granting a licence under section 14, the Commission shall publish a notice in two such daily newspapers as the Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence and consider all

suggestions or objections and recommendations, if any, of the State Transmission Utility, before granting the licence. We, therefore, direct that a public notice under clause (a) of Sub-section (5) of section 15 of the Act be published. The suggestions or objections, if any, to the proposal for grant of licence may be filed by the State Transmission Utility before the Commission which shall be taken into consideration before a final view on grant of licence is taken.

A copy of this order shall also be sent to the State Transmission Utility.

Sd/-  
**Member**

Sd/-  
**Chairman**