

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.105 of 2010**

**Coram: Dr. Pramod Deo, Chairperson  
Shri S.Jayaraman, Member  
Shri V.S.Verma, Member  
Shri M.Deena Dayalan, Member**

**Date of Hearing: 19.8.2010**

**Date of Order: 10.12.2010**

**In the matter of:**

Application for grant of Inter-State Transmission Licence to Jindal Power Limited.

**And**

**In the matter of:**

Jindal Power Limited , Chhatishgarh

.....**Petitioner**

**Advocates/Representatives present:**

1. Shri M. G. Ramachandran, Advocate
2. Shri Ranjit Singh, Advocate
3. Shri Shashank Kumar, JPL
4. Shri K. R. Nagendra Kumar, JPL
5. Shri Amit Kumar, JPL

**ORDER**

The Applicant, Jindal Power Limited, has filed this application under sections 14 and 15 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') for grant of transmission licence for the Transmission System comprising the following elements:

**(a) Transmission lines:**

S.No.	Name (end-points location)	Voltage Class (kV)	Length (Km)	Type (S/C/ D/C)
1	JPL Tamnar-PGCIL Raipur	400 kV	258	D/C



**(b) Sub-stations**

S.No.	Name (Location)	Voltage Level (s) (kV)	Transformer (Nos. and MVA capacity)	Reactive/ capacity compensation (Device with MVAR capacity)	No. of bays
1	TPL Tamnar 400/220/33 kV switchyard	400kV, 220 kV & 33kV	2 Nos X 315 MVA, 400/220 kV	Nil	400 kV- 2 nos. line bays and 2 nos. of transformer bays. 220 kV- 2 nos. Transformer bays

**(c) Completion Schedule**

S. No.	Scope of work	Completion schedule
1	400 kV JPL Tamnar-PGCIL Raipur Line(ckt. 1)	3.4.2008
2	400 kV JPL Tamnar-PGCIL Raipur Line(ckt. 2)	18.8.2008
3	315 MVA, 400/220 kV Transformer(1 <sup>st</sup> Unit)	30.1.2007
4	315 MVA, 400/220 kV Transformer(2 <sup>nd</sup> Unit)	16.6.2007

2. The applicant has submitted that Jindal Power Limited, a company incorporated under the Companies Act, 1956 is a subsidiary of Jindal Steel and Power Limited, the latter holding 96.424% of the total issued and paid up capital of the applicant company. Jindal Power Limited (JPL) has set up a generating station of 1000 (4x250) MW Thermal Power Plant at Tamnar in Raigarh District of Chhattishgarh. As part of the generation project, JPL has established 258 km dedicated transmission line i.e. 400 kV D/C Transmission Line from JPL, Tamnar Power Plant to Power Grid Corporation of India Limited (PGCIL) sub-station at Kumhari in Raipur District of Chhattishgarh for evacuation of power from the place of generation to the interconnection point for onward inter-State transmission. The subject transmission line is a dedicated transmission line and accordingly, the applicant was not required under sections 7 and 10 of the Act to



obtain a transmission licence to establish the transmission line for evacuation of power from JSL.

3. The applicant has submitted that Jindal Steel and Power Limited (JSPL) is engaged in the business of manufacture of steel and steel products. JSPL has independently established captive power plants at Raigarh for an aggregate capacity of 358 MW and is in the process of commissioning an additional 540 MW at Dongamahua, Raigarh District. The power units of JSPL are connected to the switchyard near the generation project of JPL. JSPL has some surplus generation from time to time which it is in a position to sell to third parties subject to applicable laws and regulations. The applicant has submitted that though JPL will require use of the entire capacity of the said dedicated transmission line from time to time, there would be some surplus capacity available for use by others for evacuation of power. In the circumstances, JPL and JSPL are in a position to enter into an arrangement whereby JSPL can be connected to the switchyard at the power project of JPL and the dedicated transmission line of JPL can be used for evacuation of power of JSPL upto the inter-connection point of PGCIL at Kumhari, Raipur, whenever surplus capacity is available in the said dedicated transmission line after fully providing for the needs of JPL.

4. The applicant has further submitted that since the dedicated transmission line is a system for conveyance of electricity from the place of generation to the place of inter-connection point of PGCIL in the State of Chhatishgarh, it is incidental to the inter-State transmission being undertaken by PGCIL and is accordingly an inter-State transmission system within the meaning of section 2(36)(ii) of the Act. The applicant has further

submitted that the use of the dedicated transmission line for conveyance of power of JSPL from the switchyard at generation facilities of JPL to the inter-connection point of PGCIL may constitute an activity of transmission of electricity requiring a licence under section 12 read with section 14 of the Act. Moreover, such transmission would be an inter-State transmission of electricity as the power to be transmitted by JSPL is intended for sale outside the State of Chhatishgarh and conveyed through the inter-State transmission system of PGCIL. In the facts and circumstances, the applicant has filed the application for grant of a limited inter-State transmission licence for enabling the conveyance of power of JSPL from the switchyard near the generation facilities of JPL to the inter-connection point of PGCIL. The applicant has further submitted that as the terms and conditions for use of the transmission line can be mutually agreed to between JPL and JSPL, there will not be any need to undertake tariff determination or otherwise to monitor the standard of performance, availability etc. The applicant has also submitted that the requirement to pay the licence fee at the inception as well as annual fee be waived.

5. The applicant has made the following prayers:

“(a) grant inter-State transmission licence to the Applicant, Jindal Power Limited for the limited purpose of making available surplus capacity from time to time for evacuation of power of its group company Jindal Steel Limited and direct that the terms and conditions for use of the transmission system of Jindal Power Limited be mutually agreed to and decided between Jindal Power Limited and Jindal Steel & Power Limited; and

(b) Pass such further order or orders as this Hon’ble Commission may deem just and proper in the circumstances of the case.”



6. The applicant in its affidavit dated 9.4.2010 has submitted that it has posted the application for grant of transmission licence on its website in terms of Regulation 7(5) of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (hereinafter referred to as 'Transmission Licence Regulations'). The applicant has also endorsed a copy of the application to PGCIL, the Central Transmission Utility, in terms of Regulation 7(6) of the Transmission Licence Regulations. The applicant has further submitted that in terms of Regulation 7(7) of the Transmission Licence Regulations, public notices of the application have been issued in Dainik Bhashkar and Business Standard on 2.4.2010. It has been stated that both newspapers have circulation in the State of Chhatishgarh where the project is situated.

7. The applicant in its affidavit dated 24.6.2010 has submitted that the case of the petitioner squarely falls under Regulation 6(c) of the Transmission Licence Regulations as the transmission line was laid down as a 'dedicated transmission line' by JPL from the power generation plant to the inter-connection point of PGCIL at Kumhari, Raipur. It has been submitted that the applicant intends to use the dedicated transmission line as the main transmission line and as a part of the inter-State Transmission System in regard to the surplus capacity that may be used for evacuation of power from time to time by JSPL for connecting to PGCIL and undertaking inter-State transmission of power. The applicant has submitted that as per the letter dated 12.2.2007 from the CTU and the Bulk Power Transmission Agreement (BPTA) between PGCIL and JPL, the transmission line has been laid down in consultation and coordination with the Central Transmission Utility and Central Electricity Authority. The applicant in its

affidavit dated 21.7.2010 has placed on record a copy of the letter dated 12.2.2007 and BPTA dated 19.3.2008 between PGCIL and JPL.

8. The CTU has sent its recommendations under section 15(4) of the Act vide Ref Number CC/PI/2010 dated 29.6.2010. CTU has recommended the following:

“II (a) As the power from JSPL Dongamahua power project is ISTS in nature, therefore to examine the adequacy of ISTS transmission system/additional strengthening, if required, JSPL needs to apply for grant of connectivity/open access as per CERC Regulations, 2009 (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in inter-State Transmission and related matters) to CTU.

(b) The aspect of use of dedicated transmission line of JPL by JSPL for inter-State transfer of power and permission to use the Transmission System for only one client may be looked into by the CERC in terms of Clause 10(6) of CERC Transmission Licence Regulations 2009.”

9. During the hearing of the petition, the learned counsel appearing for the applicant argued that the application is maintainable under Regulation 6(c) of the Transmission Licence Regulations which provides as under:

“6. Eligibility for Grant of licence

No person shall be eligible for grant of licence unless it is-

(a).....

(b).....

(c) a generating company which has established a dedicated transmission line, and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system.”



10. JSPL in its affidavit dated 3.9.2010 has placed on record a letter Ref. C/ENG/SEF/W/06/LTOA dated 16.11.2009 from PGCIL granting additional LTOA for 400 MW to JSL for transfer of power from Tamnar Switchyard (175 MW from existing Tamnar plant and 225 MW from upcoming Dongamahua CPP) to the beneficiaries of Western Region and a copy of the BPTA dated 24.2.2010 between PGCIL and JPL for its existing generating station and Dongah Mohua CPP. JSPL has submitted that JPL has applied for and obtained LTOA from PGCIL in regard to conveyance of 400 MW of power to be evacuated from JPL Tamnar switchyard from the following generating units:

- (i) 175 MW from existing Tamnar TPS (4x250 MW)
- (ii) 225 MW from Dongamahua CPP (4x135 MW) of JSPL

It has been further stated that JSPL shall be bound by the above connection and the terms of the Agreement for LTOA dated 24.2.2010 executed between PGCIL and JPL.

11. The applicant in its affidavit dated 4.10.2010 has submitted that the Dedicated Transmission Line of 400 kV D/C from Tamnar power plant to PGCIL sub-station at Kumhari which shall be used as the main transmission line in respect of the surplus capacity available for undertaking transmission of electricity for others including JSPL on non-discriminatory open access basis and as per the applicable provisions of the Act, Rules and Regulations made thereunder including open access regulations notified by the Commission. It has been stated that the terms and conditions of tariff of such open access shall be as per the determination of the Commission. In its affidavit dated 26.10.2010, the applicant has submitted that the entire 400 kV double circuit transmission line from Tamnar Power Plant to PGCIL sub-station at Kumhari, Raipur be

treated as main transmission line and a part of the inter-State Transmission System as per Regulation 6(c) of the Transmission Licence Regulations.

12. We have considered the submissions of the applicant. The main question for consideration is whether the applicant fulfills the conditions for grant of transmission licence for its dedicated transmission line.

13. The transmission lines and sub-station for which transmission licence has been sought are admittedly 'dedicated transmission lines'. Sub-section (16) of section 2 of the Act defines dedicated transmission line as "any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre as the case may be". Section 10(1) of the Act enjoins upon the generating company the duty "to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder." In accordance with the Electricity (Removal of Difficulty)(fifth) Order, 2005, a generating company shall not be required to obtain a licence under the Act for establishing, operating or maintaining a dedicated transmission line if such company or person complies with the technical requirements mentioned in the said Order. From the above it emerges that a dedicated transmission line is an electric supply line for point to point connection from a generating station to any transmission line, or sub-station or generating station or a load centre and



can be constructed by the generating company without having to obtain a licence under section 14 of the Act.

14. The Applicant has approached for a transmission licence for its dedicated transmission line under Regulation 6(c) of the transmission licence regulations and intends to use it as a main transmission line and part of the inter-State transmission system in terms of the said regulations. The words “main transmission lines” have not been defined in the Act or transmission licence regulations. Section 2 (72) defines ‘transmission lines’ as under:

“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;

15. Thus as distinguished from the dedicated transmission line which is used for point to point connection from a generating station to another generating station or transmission line or sub-station or load centre, transmission lines are used for transmitting electricity from a generating station to another generating station or sub-station. Section 2(74) defines the word ‘transmit’ to mean “conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly”. Further section 2(73) defines a ‘transmission licensee’ as a licensee authorized to operate a transmission line. When a dedicated transmission line is proposed to be used as a main transmission line in terms of Regulation 6(c) of the Transmission Licence Regulations, it ceases to be a dedicated transmission line and is

used for transmitting electricity which can only be operated by a transmission licensee under a licence in accordance with section 14 of the Act and the Transmission Licence Regulations. The transmission licensee will be required to discharge such duties as are enjoined upon it under section 40 of the Act which is extracted as under:

**“Section 40. (Duties of transmission licensees):** It shall be the duty of a transmission licensee -

(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;

(b) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;

(c) to provide non-discriminatory open access to its transmission system for use by-

(i) any licensee or generating company on payment of the transmission charges; or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:

X X X X”

16. The transmission licensee is required to grant non-discriminatory open access to its transmission system for use by any licensee or generating company or consumers on payment of the transmission charges. The Applicant has submitted that the Dedicated Transmission Line of 400 kV D/C from Tamnar power plant to PGCIL sub-station at Kumhari shall be used as the main transmission line in respect of the surplus capacity available for undertaking transmission of electricity for others including JSPL on non-discriminatory open access basis and as per the applicable provisions of the Act, Rules and Regulations made thereunder including open access regulations notified



by the Commission. In other words, the transmission line will remain a dedicated transmission line to the extent of its use by JPL and the surplus capacity available if any will be used for granting open access to others including JSPL. The submission of the Applicant goes against the provisions of section 40 of the Act which provides for non-discriminatory open access to the licenses, generators and consumers on payment of transmission charges.

17. Regulation 7(4) of Transmission Licence Regulations requires that the Applicant shall serve copy of the application on each of the long term customers. Long term customer has been defined in Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 as a person granted long-term access for use of the inter-State transmission system. Long-term access has been defined in Central Electricity Regulatory Commission (Grant of Connectivity, Long term access and Medium term open access in inter-State Transmission and related matters) regulations, 2009 (Connectivity Regulations) as “the right to use an inter-State transmission system for a period exceeding 12 years but not exceeding 25 years”. In terms of Regulation 4 of Connectivity Regulations, the Central Transmission Utility is the nodal agency for grant of connectivity, long-term access and medium term access. Any utility intending to use the inter-State transmission system is required to obtain connectivity to the inter-State system under Regulation 8 and long term access in terms of Regulation 12 of Connectivity Regulations.

18. In the present case, the applicant has placed on record a letter dated 16.11.2009 from PGCIL granting LTOA for 400 MW to JPL for transfer of power from Tamnar



Switchyard (175 MW from Tamnar TPS and 225 MW for upcoming Dongamahua CPP) to the beneficiaries of Western Region. It is apparent that Dongamahua CPP belongs to JSPL for which long term access has been sought for by JPL and granted by PGCIL. JSPL has submitted an affidavit that it will abide by the connectivity and agreement for LTOA executed between PGCIL and JPL. In our view, both JPL and JSPL are independent legal entities and there is nothing on record to show that JPL was authorized by JSPL to seek connectivity and long term access on its behalf. Therefore, JSPL should apply to the CTU for connectivity and long term access in terms of the Connectivity Regulations and once connectivity and long term access are granted, it can be treated as a Long Term Transmission Customer of the inter-State Transmission System including the 400 kV JPL Tamnar -PGCIL Raipur Transmission lines.

19. The applicant has stated that it will evacuate power from Tamnar Switchyard to the beneficiaries of the Western Region. The applicant is directed to implead the beneficiaries of the Western Region as its Long Term Transmission Customers, provided such beneficiaries have been granted connectivity and long term access.

20. On consideration of the materials on record, we are of the view that the application for grant of transmission licence for the 400 kV JPL Tamnar-PGCIL Raipur D/C Transmission lines under Regulation 6(c) of the transmission licence regulations shall be considered subject to the applicant agreeing to the following conditions:

- (a) After grant of transmission licence, the 400 kV JPL Tamnar-Tamnar Raipur D/C Transmission line will cease to be the dedicated transmission lines of JPL and will be



treated as an inter-State transmission line and part of the inter-State transmission system and the tariff of the transmission line will be determined by the Central Commission in accordance with Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009.

- (b) JPL will be considered as one of the Long Term Transmission Customers of the transmission lines.
- (c) JSPL will be required to seek connectivity and long term access from CTU before it is considered as a long term customer of the transmission line.
- (d) The applicant will be required to implead the beneficiaries of the Western Region and any other beneficiaries as the long term customers of the transmission line for which licence has been sought.
- (e) The applicant will be liable to pay the annual licence fee as required under the relevant regulations of the Commission.

21. If these conditions are acceptable, the applicant shall be required to file an affidavit to that effect within one week from the date of issue of this order. The applicant shall also serve the copy of the application on the long term transmission customers of the transmission lines for which licence is being sought.

22. The Petition will be listed for hearing on 21.12.2010 for further directions.

Sd/-  
**(M.Deena Dayalan)**  
Member

Sd/-  
**(V.S.Verma)**  
Member

Sd/-  
**(S.Jayaraman)**  
Member

Sd/-  
**(Dr. Pramod Deo)**  
Chairperson

