

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

- 1. Shri Ashok Basu, Chairman**
- 2. Shri K.N. Sinha, Member**

**Petition No. 40/2003**

**In the matter of**

Application for grant of transmission license to Tala Delhi Transmission Company Ltd.

**And in the matter of**

Tala Delhi Transmission Company Ltd., New Delhi ..... **Applicant**

The following were present:

1. Shri S. Garg, DGM(JV), PGCIL
2. Shri Akhil Kumar, DGM (IPTC) PGCIL
3. Shri Arun Kumar, PGCIL
4. Shri V.M. Kaul, PGCIL
5. Shri R.K. Agarwal, POWERLINKS
6. Shri Utpal Dhar, Powerlinks
7. Shri S.Das, POWERLINKS
8. Shri Suresh Sachdev, ED, POWERLINKS
9. Shri B.A. Chaudhari, Powerlinks
10. Shri Atulya Sharma, Dua Associates
11. Shri Kuljit Singh, VP, Powerlinks
12. Shri Jasmeet Wadhera, Dua Associates
13. Ms. Aarti Arora, Dua Associates
14. Shri Karun Daubit Singh, Daubit Singh Associates,
15. Shri M. Yashasvi, Daubit Singh Assocites
16. Shri Yogesh Agarwal, KPTCL

**ORDER  
(DATE OF HEARING: 17.10.2003)**

The application was filed under Section 14 of the Electricity Act, 2003 (the Act) by Tala-Delhi Transmission Limited for grant of license to transmit electricity as a transmission licensee. It was subsequently informed vide letter dated 9.9.2003 that the name of the company was changed from "Tala-Delhi Transmission Limited" to "Powerlinks Transmission Limited". A copy of the fresh

certificate of incorporation dated 27.8.2003 issued by the Registrar of Companies, NCT of Delhi and Haryana was annexed to the said letter dated 9.9.2003. An affidavit sworn on 17.10.2003 by Shri Utpal Dhar, the Managing Director of Powerlinks Transmission Limited has been filed on 17.10.2003 informing the change of name of the company from "Tala-Delhi Transmission Limited" to "Powerlinks Transmission Limited" and that the Registrar of Companies had issued a fresh certificate of incorporation in the name of "Powerlinks Transmission Limited" consequent upon change of name. A fresh copy of the certificate of incorporation dated 27.8.2003 duly attested by the deponent of the affidavit has also been filed. It is affirmed that the change of name does not involve change in any substance of the company, does not have an impact on its share holding pattern and the terms of the implementation and transmission service agreements. It has been prayed that change of name be noted. In view of the affidavit, we direct that the name of the petitioner be noted as "Powerlinks Transmission Limited" (hereinafter referred to as the "applicant") in the records of the Commission.

2. In July 2000, Power Grid Corporation of India Ltd had invited bids for selection of its joint venture partner for construction of Tala Transmission System for transmission of power generated from 1020 MW Tala Hydroelectric Project in Bhutan to be wheeled to the Constituents of Eastern and Northern Regions. The then Tata Power Company Ltd. was selected as the prospective joint venture partner by the Power Grid Corporation of India Ltd. The applicant is a joint venture company between Power Grid Corporation of India Ltd and Tata Power Company

Ltd. with Power Grid Corporation of India Ltd currently holding 49% equity and Tata Power Company Ltd. holding 51% equity. The scope of work included in the Tala Transmission System is as under:

(i)	Siliguri – Purnea 400 kV D/C (Quad. Conductor) transmission line	162 KM
(ii)	Purnea-Muzaffarpur (New) 400 kV D/C (Quad. Conductor) transmission line	242 KM
(iii)	Muzaffarpur (New) – Gorakhpur 400 kV D/C (Quad. Conductor)	233 KM
(iv)	Gorakhpur - Lucknow 400 kV D/C (Twin Conductor) transmission line	277 KM
(v)	Bareilly-Mandola 400 kV D/C (Twin Conductor) transmission line	237 KM
(vi)	Muzaffarpur (New) – Muzaffarpur (BSEB) 220 kV (Twin Conductor) transmission line	20 KM

3. The techno-economic clearance for the project was issued to the Power Grid Corporation of India Ltd by CEA on 18.4.2002 at an estimated constant price of Rs.2202.74 Crore, including IDC of Rs.292.16 Crore (First Quarter of 2001 price level) and an estimated completion cost of Rs.2454.55 Crore, including IDC of Rs.313.09 Crore. The transmission system which includes the sub-stations has received the approval of the Central Government at an estimated cost of Rs.1980.70 Crore, including IDC of Rs.217.92 Crore. This apparently involves reduction in scope of work in view of reduction in cost. This fact has been noted. The application for grant of license under Section 14 has been filed.

4. The applicant had published the notices as required under sub-Section 2 of Section 15 of the Act in the following newspapers:

Hindustan Times	:	Lucknow, Patna
Hindustan	:	Lucknow, Patna, Varanasi
Statesmen	:	Kolkata
Bartman	:	Kolkata

5. We have been informed that no objections were received in response to these public notices. The Central Transmission Utility vide its letter dated 21.8.2003 has recommended grant of transmission license, as prayed for, in favour of the applicant in terms of sub-section (4) of Section 15 of the Act. In our order dated 17.10.2003, issued after hearing on 15.9.2003, we had directed publication of notices as required under sub-section (5) of Section 15 of the Act, inviting suggestions or objections to the grant of transmission license in favour of the petitioner as it was proposed to issue the license. We have been informed that the public notice was published in the Statesman (Kolkata Edition) and Hindustan Times (New Delhi Edition) dated 25.9.2003. In response to the notice, suggestions or objections have been filed by M/s. Dua Associates, Advocates, on behalf of the lenders of the project, under their letter dated 6.10.2003. This has been followed up by an affidavit sworn by Shri Atulya Sharma, Advocate as the authorised representative on behalf of the lenders, filed on 7.10.2003.

6. It has been stated on behalf of the lenders that the applicant has entered into an Implementation Agreement (IA) and Transmission Service Agreement (TSA) with Power Grid Corporation of India Limited on 4.7.2003. Pursuant to these agreements, all disputes thereunder are to be determined according to the agreed arbitration procedures, which includes the manner of appointment of arbitrators. It has been submitted that Section 158 of the Act provides that “where

any matter is, by or under the Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided for in the license of a licensee, be determined by such person or persons as the appropriate Commission may nominate in that behalf of the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996)". In the light of these provisions, it has been submitted on behalf of the lenders that the Commission should include appropriate language in the license so that arbitration procedures in the IA and TSA, including the procedure for appointment of arbitrators should continue to apply. The following formulation has been suggested for insertion in the transmission license:

"Any arbitration proceedings in respect of the IA and TSA shall be governed by and be subject to the provisions of Arbitration and Conciliation Act, 1996, and be determined by such person or persons as the parties to the IA and TSA i.e. the Licensee and CTU may freely appoint in accordance with the provisions of the IA and TSA".

7. This issue was argued at length by Shri Atulya Sharma, Advocate appearing for the lenders and was supported by the representatives of the applicant at the hearing.

8. We have considered the matter. In accordance with Section 79 (I) of the Act, the function to regulate the inter-state transmission of electricity and to determine tariff for such inter-state transmission of electricity are assigned to the Commission. Similarly, under Section 14 of the Act, the power to grant license to transmit electricity as a transmission licensee is vested in the Commission.

Accordingly, any disputes involving these matters which are the statutory functions of the Commission, have to be adjudicated or arbitrated by the Commission in accordance with the provisions of the Act and the rules and regulations made thereunder. These functions cannot be subject to the arbitration by any other person, except the Commission, in accordance with the provisions of the Act, even if provisions to that effect in the IA and TSA have been made. We, therefore, make it clear that the arbitration proceedings in respect of any other matter except the above-noted three issues, shall be governed under the provisions of the IA and TSA. The Commission will have exclusive jurisdiction to adjudicate upon or arbitrate the disputes arising out of its statutory functions to regulate inter-state transmission of electricity, determine tariff for inter-state transmission of electricity and interpretation of the license, including the terms and conditions thereof. In fact, stipulation to that effect is already contained in the Central Electricity Regulatory Commission (Procedure, Terms and Conditions of Transmission License and other related matters) Regulations, 2003, (the Regulations). This disposes of the suggestion or objection received on behalf of the lenders. As we have already recorded there is no other suggestion or objection on record in response to the notice issued under sub-section (5) of Section 15 of the act.

9. This is the first project in the joint sector for which a transmission license has been sought. The project is also important for evacuation of power of Tala HE Project. On consideration of the material available on record, we direct issue of license for transmission of electricity in favour of the applicant, M/s. Powerlinks

Transmission Limited, as prayed for. The license granted shall be subject to the terms and conditions as contained in the Act, the rules prescribed by the Central Government and the Regulations as amended from time to time. The license shall be granted subject to the applicant's depositing the initial license fee of Rs. One lakh within 30 days of this order. The payment of license fee during the validity of the license shall be regulated in terms of fee to be notified by the Commission separately by virtue of powers under sub-clause (g) of sub-section (1) of Section 79 of the Act. Till such time the fee is so notified by the Commission, the applicant shall pay license fee of Rs.25 lakh per annum (1<sup>st</sup> April of a year to 31<sup>st</sup> March of the following year), the license fee for a part of year shall be paid on proportionate basis. The first instalment of fee shall be deposited within 30 days of grant of the license. The license shall be valid for a period of 25 years, unless revoked earlier.

10. With the above directions, Petition No. 40/2003 stands disposed of.

**Sd/-  
(K.N. SINHA)  
MEMBER**

**Sd/-  
(ASHOK BASU)  
CHAIRMAN**

New Delhi dated the 22<sup>nd</sup> October 2003