



01.07.2016

Notice under Section 6 (2) of the Competition Act, 2002 given by JSW Energy Limited

CORAM:

Mr. Sudhir Mital
Member

Mr. U.C. Nahta
Member

Mr. M.S. Sahoo
Member

Mr. G. P. Mittal
Member

Legal representative: Cyril Amarchand Mangaldas

Order under Section 31(1) of the Competition Act, 2002

1. On 13.05.2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) filed by JSW Energy Limited (“**JSWEL**” or “**Acquirer**”). The notice has been filed pursuant to execution of a Securities Purchase Agreement (“**SPA**”) on 03.05.2016 between JSWEL, Jindal Power Limited (“**JPL**”), Everbest Steel and Mining Holdings Limited (“**SPV**”) and Jindal Steel and Power Limited (“**JSPL**”).
2. The proposed combination relates to (a) transfer of a 1000 MW operational coal fired thermal power plant at Tamnar, Chhattisgarh (“**Target Asset**”), currently owned by JPL, to SPV on a going concern basis pursuant to a scheme of arrangement amongst JPL, JSPL and the SPV; and (b) subsequent acquisition of 100 per cent stake in the SPV by JSWEL.
3. The proposed combination falls under Section 5(a) of the Act.



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(Combination Registration No. C-2016/05/399)



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4. JSWEL, a listed public limited company, was incorporated under the provisions of the Companies Act, 1956. It is stated to be *inter alia* engaged in the business of power generation, power trading & power transmission, mining and equipment manufacturing.
5. JSPL is a listed public limited company and is stated to be the flagship company of the JSPL Group. The JSPL Group is engaged in steel, power, mining and infrastructure sectors. JPL is an unlisted public limited company in which JSPL holds 96.42 per cent of the equity stake. JPL is engaged in power generation in India. Further, SPV is an unlisted public company and was incorporated in January, 2013. At present, 99 per cent of the shareholding of SPV is held by JSPL and the remaining 1 per cent held by others. It is stated that the SPV currently does not have any business operations.
6. It is observed that there is horizontal overlap between the Acquirer and JPL (through Target Asset) as they are both engaged in generation of power in India. However, the combined market share of the Acquirer and the Target Asset, both in terms of installed capacity and electricity generation is insignificant to raise any competition concern. Further, the Commission observes that there are many players engaged in the power generation business in India that include public sector undertakings like National Thermal Power Corporation Ltd., Maharashtra State Power Generation Company Ltd., along with various private players such as Adani Power Limited and Tata Power Limited.
7. It is also noted that the Acquirer is also engaged in the downstream markets of power transmission and power trading. However, its market share in both these downstream markets as well as upstream market is insignificant and therefore, it is unlikely that the Acquirer would have the ability to foreclose either markets.
8. Considering the facts on record, the details provided in the notice given under sub-section (2) of section 6 of the Act and assessment of the proposed combination on the basis of factors stated in sub-section (4) of section 20 of the Act, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the same under sub-section (1) of section 31 of the Act.



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9. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
10. The information provided by the Acquirer is confidential at this stage subject to the provisions of Section 57 of the Act.
11. The Secretary is directed to communicate to the Acquirer accordingly.