



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/09/431)

14th October, 2016

**Notice under sub-section (2) of Section 6 of the Competition Act, 2002 jointly filed by NLC
India Ltd. and Damodar Valley Corporation**

CORAM:

Mr. Devender Kumar Sikri
Chairperson

Mr. S. L. Bunker
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. G. P. Mittal
Member

Legal Representative: Luthra & Luthra Law Offices

Order under sub-section (1) of Section 31 of the Act

1. On 9th September, 2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) jointly given by NLC India Ltd. (“**NLC**”) and Damodar Valley Corporation (“**DVC**”). Hereinafter, NLC and DVC are together referred to as the “**Parties**”. The notice has been filed pursuant to the execution of a Joint Venture Agreement amongst the Parties on 10th August, 2016.
2. The proposed combination contemplates as follows: (i) Incorporation of a joint venture company, namely, NLC DVC Energy Limited (“**JVC**”) by the Parties in which NLC would hold 74% shares and DVC would hold 26% shares; and (ii) Transfer of 2 x 600 MW power plant situated at Raghunathpur, Purulia district, West Bengal (“**RTPS Plant**”) to the JVC by DVC on slump sale as a going concern basis.



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3. NLC, a Navaratna enterprise of the Government of India, was established in 1956 in Neyveli, Tamil Nadu. NLC comes under the administrative control of the Ministry of Coal, Government of India and is engaged in mining of lignite coal and generation of power through lignite coal based thermal power plants. NLC has also commissioned a solar power plant and a wind power plant.
4. DVC, headquartered in Kolkata, is a statutory corporation set up pursuant to the Damodar Valley Corporation Act, 1948. DVC is under the administrative control of the Ministry of Power, Government of India. It operates several power stations in the Damodar valley of West Bengal and Jharkhand. DVC operates both thermal power stations and hydel power stations.
5. In the notice, it has been stated that the activities of the Parties overlap only in the generation of power (through coal) in India, as only DVC is engaged in transmission and distribution of power in India. The Commission observed that the relevant product market may be taken as the business of power generation although there exists a possibility of further segmenting the relevant product market into generation of power through various fuel-types / sources of energy. However, since the proposed combination is unlikely to cause any appreciable adverse effect on competition in India, the Commission observed that exact delineation of the relevant product market may be left open. With respect to the relevant geographic market, the Commission noted that the same may be country wide as power generation companies have the capacity to supply power to entities across various states. However, since the proposed combination is unlikely to cause any appreciable adverse effect on competition in India, the Commission observed that the exact delineation of the relevant geographic market may also be left open.
6. As per the submission of the Parties, market share (on the basis of installed capacity) of both NLC and DVC in power generation business in India is between 1 – 5%. Moreover, there are several players, including major ones (range of market share indicated along with), that are engaged in the business of power generation in India, such as National Thermal Power Corporation Ltd. (15 – 20%) in the public sector, and various private players such as Adani



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Power Limited (1 – 5%) and Tata Power Limited (1 – 5%), which would continue to provide competitive constraint to the Parties, post combination.

7. In relation to the vertical relationship, it has been submitted that neither the Parties have any existing vertical relationship nor any of the party proposes to enter into any vertical arrangements in future in the market of generation of power with the other party or RTPS Plant.
8. Hence, considering the facts on record and the details provided in the notice given under sub-section (2) of Section 6 of the Act as well as 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 any 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.
9. This order shall stand revoked if, at any time, the information provided by the Parties is found to be incorrect.
10. The information provided by the Parties is confidential at this stage in terms of and subject to the provisions of Section 57 of the Act.
11. The Secretary is directed to communicate to the Parties accordingly.