



सत्यमेव जयते



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2021/03/825)

7th June 2021

Notice under Section 6(2) of the Competition Act, 2002 given by The Tata Power Company Limited

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member

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

1. On 30th March 2021, the Competition Commission of India (**‘Commission’**) received a notice under Section 6(2) of the Competition Act, 2002 (**‘Act’**), given by The Tata Power Company Limited (**‘Acquirer’** / **‘TPCL’**). The notice was given pursuant to TPCL’s Letter of Acceptance (**‘LOA’**) dated 6th December 2020 in response to a Letter of Intent dated 3rd December 2020 (**‘LOI’**) issued by Odisha Electricity Regulatory Commission (**‘OERC’**).
2. It is submitted in the notice that in August 2020, OERC initiated the process of sale of 51% of equity share capital of Southern Electricity Supply Company of Odisha Limited (**‘Target’** / **‘SOUTHCO’**), under Section 20 of the Electricity Act, 2003, through a competitive bidding process. OERC *vide* its LOI informed TPCL that it is the successful bidder. Thereafter, TPCL by way of its LOA, provided its acceptance to the LOI



conveying its decision to acquire 51% of equity share capital of Target. [Hereinafter, Acquirer and Target are collectively referred to as the '**Parties**'.]

3. It is stated in the notice that the transaction comprises of the following inter-connected steps:

Step 1: Incorporation of a wholly-owned special purpose vehicle namely TP Southern Odisha Distribution Limited ('**Project SPV/ TPSODL**') by Grid Corporation of Odisha Limited ('**GRIDCO**'), a wholly owned subsidiary of the Government of Odisha, which holds 100% of Target, and transfer of the Distribution Business in the Project SPV by GRIDCO.

Step 2: Acquisition of 51% of equity share capital of the Project SPV (housing the Distribution Business) by TPCL. The remaining 49% of equity share capital will be held by GRIDCO.

(Hereinafter, Step 1 and Step 2 be referred to as the '**Proposed Combination**')

4. TPCL, a public listed company, is primarily engaged in the business of power generation, transmission and distribution in India, directly and through its subsidiaries. Tata Sons Private Limited is the largest promoter of TPCL and the principal holding company of the Tata group. TPCL is also engaged in coal supply and shipping arrangements for its thermal power generation operations in Indonesia and Singapore. TPCL is also present in Bhutan, Zambia, Georgia and Netherlands through joint ventures, to implement hydro projects.
5. SOUTHCO is a wholly-owned subsidiary of GRIDCO. SOUTHCO is engaged in the business of distribution and retail supply of power in six southern districts of Odisha namely, (i) City (certain areas in Ganjam District); (ii) Berhampur; (iii) Aska; (iv) Bhanjanagar; (v) Jeypore; and (vi) Rayagada (*i.e.* '**Licensed Areas**'). SOUTHCO does not have operations outside India



6. It is submitted in the notice that the Parties (directly and indirectly) are engaged in the power sector in India. SOUTHCO is engaged in the business of distribution and retail supply of power and Tata Group is present in the business of generation, transmission and distribution of power in India. In distribution of power, TPCL is operating in the licensed areas of Mumbai, North and West Delhi, some parts of Jharkhand and certain other areas of Odisha. It is submitted that Acquirer and Target operate in the market for distribution of electricity in different licensed areas. Further, TPCL (including its group companies) has not supplied power under open access in Odisha including in Licensed Areas. Accordingly, there is no horizontal overlap between the activities of Tata Group and SOUTHCO. It is further submitted that the distribution companies in Odisha are obligated to fulfil their power requirement from GRIDCO. In the event that GRIDCO conveys its inability to fulfil the demand, they may procure power from alternate sources, with prior approval of the OERC. It is submitted that GRIDCO procures power by way of competitive bidding process at tariffs, regulated and approved by the OERC.
7. The Commission decided to leave the delineation of the relevant market open as the Proposed Combination is not likely to cause an appreciable adverse effect on competition in any of the relevant markets.
8. Further, it is submitted by the Acquirer that there are no existing vertical or complementary relationships between the Tata Group and SOUTHCO. However, there may be following two potential vertical relationships between the Tata Group and SOUTHCO:
- (i) Tata Group is present in power generation (*upstream market*) and SOUTHCO is present in power distribution (*downstream market*)
 - (ii) Tata Group is present in power transmission (*upstream market*) and SOUTHCO is present in the power distribution (*downstream market*).
9. It is submitted in the notice that the market share of the Tata Group in power generation sector in India is in the range of [0-5]% in terms of both installed capacity and actual production (by volume) and [5-10]% in terms of actual production (by value). Further,



the market share of the Tata Group in power transmission sector in India is in the range of [0-5]% in terms of circuit kms. Accordingly, based on the foregoing it appears that the Parties do not have any ability or incentive to foreclose competition in any market.

10. Considering the material on record including the details provided in the notice and the assessment of the Proposed Combination based on the factors stated in Section 20(4) 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. Therefore, the Commission approves the Proposed Combination under Section 31(1) of the Act without prejudice to any proceeding under Section 43A of the Act.
11. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
12. The information provided by the Acquirer shall be treated as confidential in terms of and subject to provisions of Section 57 of the Act.
13. The Secretary is directed to communicate to the Acquirer accordingly.