

**JOINT ELECTRICITY REGULATORY COMMISSION FOR
THE STATE OF GOA AND UNION TERRITORIES
GURGAON**

Coram*
Shri S.K.Chaturvedi, Member
Petition No. 112/2013
Date of Order 20.11.2013

In the matter of

Petition for approval of agreement between Electricity Department, Andaman & Nicobar Administration and M/s Tractor India Pvt. Ltd., Kolkata for procurement of power by hiring of 1 MW Capacity DG, under section 86 (1) of Electricity Act, 2003.

And in the matter of

The Electricity Department, A&N Administration, Vidyut Bhawan, Port Blair-744101.

Present for Petitioner

1. Shri M. Eappan, Asst. Engineer, ED- Andaman & Nicobar Islands.
2. Shri Yogesh Tiwari, J.E., ED- Andaman & Nicobar Islands.
3. Mrs. Ruchi Sindhvani, Advocate, ED- Andaman & Nicobar Islands.
4. Ms. Bandana Shukla, Advocate, ED- Andaman & Nicobar Islands.
5. Shri Arvind Tewari, Consultant, ED- Andaman & Nicobar Islands.

Order

The petitioner- ED -Andaman & Nicobar Administration has filed the present petition for exemption from licence for distribution of electricity in a rural area of UT of Andaman & Nicobar Islands under proviso 8 of section 14 of the Electricity Act, 2003 and in alternative for approval of agreement for procurement of power by hiring of 1 MW Capacity DG between Electricity Department, Andaman & Nicobar Administration and M/s Tractor India Pvt. Ltd., Kolkata under section 86 (1) of Electricity Act, 2003. The petition runs as under:-

Quote

1. The Petitioner herein i.e. Electricity Department of A&N Administration (herein after called Electricity Department or the petitioner) is a Government department engaged in the generation, transmission and distribution of electricity in the Andaman & Nicobar Islands. To meet its obligation for supply of electricity to its consumers, the petitioner sources energy from its own generating stations and by purchasing of power from other sources. In terms of section 62, 63 & 86 of the Electricity Act, 2003, Hon'ble Commission has the jurisdiction to approve the purchase of power from different sources.
2. It is to submit that District Headquarter i.e. Mayabunder of North and Middle Andaman District is far away from the two Power Houses namely Kalpong Hydro Electric Project, Diglipur (North

Andaman) and Rangat Bay Power House, Rangat Bay (Middle Andaman). The transmission lines feeding the demand of Mayabunder area passes through forest and is prone to frequent line faults thereby causing power interruptions in the District Headquarters. Hence, it was decided to establish 1 MW DG capacity on hiring basis to provide uninterrupted power supply in Mayabunder area.

3. In the meanwhile, power crisis began in Diglipur, North Andaman due to breakdown of turbine units at Kalpong Hydro Station and moreover in every summer, water level of Kalpong dam reduces to such an extent that it restricts the power output of the Kalpong Hydro Station. Hence, it was decided to shift the 1 MW DG capacity on hiring basis to Sitanagar, Diglipur, from Mayabunder (where it was earlier proposed to be installed).
4. In order to improve the power situation and to meet its obligation keeping the consumer need as paramount, the petitioner decided to hire 1 MW DG capacity for a period of 3 years.
5. Accordingly, a tender notice for supply of rental DG sets to deliver 1 MW continuous electric power was issued on 25.04.2012. Copy of the tender document is attached vide **Annexure-1** and tender notice published in the newspapers are attached as **Annexure-2**.
6. In response to the above said Tender Notice, the following 5 firms submitted their offer and the technical bids were opened on the due date i.e. 15.05.2012.
 - i. M/s Plast Projects Pvt. Ltd., Mumbai.
 - ii. M/s Tractors India Pvt. Ltd, Kolkata
 - iii. M/s Aggreko Energy Rental Pvt. Ltd, Pune
 - iv. M/s Suhdir-Ready Gensets Consortium, Delhi.
 - v. M/s Mona Generator Services Pvt. Ltd., New Delhi.

The technical Bids were evaluated and four firms mentioned at Sl. No. ii to v were found technically qualified and the firm at sl. No. i was found unqualified.

7. The price bid of the technically qualified four firms were opened on 11.06.2012 and M/s New Tractor India Pvt. Ltd., Kolkata, was the lowest bidder and was selected for supply of rental DG sets to deliver 1 MW continuous electric power. Details of contracted supply & cost are provided in the table below. The Copy of comparative/evaluation statement of the technical & financial bid is attached vide **Annexure -3**.

Name of the Firm	Capacity of Plant	Supply of Power	Rates/Charges
M/s Tractors India Pvt. Ltd, Kolkata	1 MW	0.670 MUs per month	Fixed hiring charges of Rs. 9,87,160/- per month for supplying 0.670 MUs from 1 MW hired DG Capacity inclusive of cost of Lube oil. The HSD required for running the plant is supplied by the petitioner.

8. The approval of A&N Administration for acceptance of lowest bidder was accorded on 19.07.2012. Copy of the approval of A&N Administration for acceptance of lowest bidder is attached vide **Annexure-4**.
9. The agreement for a period of 03 years executed on 28.08.2012 between the Electricity Department, A&N Administration and M/s Tractor India Pvt. Ltd., Taratolla Road, Garden Reach, Kolkata-700024 for Hiring of 1 MW DG capacity. Copy of the agreement is attached vide **Annexure-5**.
10. It is regretfully admitted that the approval of the Hon'ble Commission could not be obtained at appropriate time as the department was engaged to reduce/eliminate the ongoing power crisis in and around Port Blair. It is further submitted that till date the DG Set has not reached the site and under shipment.
11. It is proposed to establish a DG capacity of 1 MW each at Baratang (Middle Andaman), Kadamtala (Middle Andaman) and Diglipur (North Andaman) at the same monthly charges after receipt of approval from Hon'ble Commission.
12. Further, it is submitted that the above hiring DG capacity has been done in the remote areas which falls under Rural area. The A&N Administration vide Notification No.6-1(22)/2003-Power dated 28th December, 2005 (**Annexure-6**) has notified that all areas declared under section 2 of A&N Islands (Panchayats) Regulation-1994 shall be the Rural areas for the purpose of section 14 of the Electricity Act-2003.
13. In view of the above it is prayed that the Hon'ble Commission may kindly condone the lapse and accept the submission.

Prayer:

In view of the above, the petitioner respectfully prays that Hon'ble Commission may:

- May kindly exempt the above procurement of power in light of submission made in para 12 supra under 8th proviso of section 14 of Electricity Act-2003; **Or**
Approve the agreement for procurement of power by hiring of 1 MW DG Capacity from the lowest bidder i.e. M/s Tractor India Pvt. Ltd., Taratolla Road, Garden Reach, Kolkata-700024 at the rates as submitted in the petition.
- Condone any inadvertent delay/ omissions/ errors/ shortcomings and EDA&N may please be permitted to add/ change/ modify/ alter this filing and make further submission as may be required at a future date.
- Pass such further and other orders, as the Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.

Unquote

The Commission examined the petition and found as per JERC (Conduct of Business) Regulations, 2009. The Commission admitted the petition for hearing on 9.10.2013. The Commission sent notice to the petitioner for hearing on 13.11.2013.

The Commission heard the representative of the petitioner at length on 13.11.2013 and has gone through the petition, relevant provisions of Electricity Act, 2003 and Regulations framed thereunder. Before proceeding further proviso 8 of section 14 of EA, 2003 is reproduced below:-

Proviso 8 of section 14 of EA, 2003

Quote

“Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures which may be specified by the Authority under section 53:”

Unquote

From bare perusal of proviso 8 of section 14 of the EA, 2003 it is clear that if, any person intends to generate and distribute electricity in a rural area to be notified by the State Government such person shall not require any licence for such generation and distribution of electricity. However, the Commission is of the view that such standalone system should be a distinct entity having distinct profit centre. The petitioner has pleaded that ED- A&N shall generate and distribute electricity in a rural area notified by the State Government. From copy of notification no. 23/9/2005-R&R dated 30.06.2005 issued by State Govt. of UT of A&N it is clear that all areas declared under section 2 of the Andaman & Nicobar Islands (Panchayats) Regulation, 1994 (No. 1 of 1994) shall be the Rural areas for the purpose of aforesaid section of the Electricity Act, 2003. Admittedly the petitioner wants to generate and distribute electricity in a rural area. But the Commission found that the petitioner has not framed any policy/ Scheme and has also not formed a distinct entity having profit

centre. Hence, the Commission does not find a fit case for exemption from licence under proviso 8 of section 14 of EA, 2003.

The petitioner in alternative has pleaded for approval of agreement between Electricity Department, Andaman & Nicobar Administration and M/s Tractor India Pvt. Ltd., Kolkata for procurement of power by hiring of 1 MW Capacity DG, under section 86 (1) of Electricity Act, 2003.

The Commission found the petition and the agreement between Electricity Department, Andaman & Nicobar Administration and M/s Tractor India Pvt. Ltd., Kolkata for procurement of power by hiring of 1 MW Capacity DG, under section 86 (1) of Electricity Act, 2003 and JERC (Terms and Condition for determination of tariff) Regulations, 2009. Therefore, the Commission approves the agreement.

Sd/-

20.11.2013

(S.K.Chaturvedi)

Member

Chairperson (Vacant)

- * Post of the Chairperson is vacant. As per proviso of Regulation 9 (II) of JERC (Conduct of Business) Regulations, 2009 for review of its own orders "Coram is all Members". Whereas according to provisions of Section 93 of the Electricity Act, 2003 no act or proceedings of the appropriate Commission shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the Constitution of the appropriate Commission. So the Member only constitute a valid quorum.

Certified Copy

Sd/-

(Rajeev Amit)

Secretary

