JOINT ELECTRICITY REGULATORY COMMISSION
(FOR THE STATE OF GOA AND UNION TERRITORIES)
GURUGRAM

CORAM
Shri Alok Tandon, Chairperson
Smt. Jyoti Prasad, Member (Law)

Petition No.: 133/2025
Date of Hearing: 09.04.2025
Date of Order: 20.05.2025

In the matter of:
Petition for approval of agreement for "Purchase of Power through DG Sets at Ograbranj Village of South Andaman District on round the clock basis to supply power to the 33 KV Rural Feeders having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month for a period of three years".

And in the matter of:
The Electricity Department, A&N Administration,
Vidyut Bhawan Sri Vijaya Puram - 744101.

...........Petitioner

And in the matter of:
M/s. Modern Hiring Service, SAM House, Plot No-136,
D'Lima Street Road, Dockyard, Mumbai Pin – 400010

...........Respondent

Present: -

For the Petitioner
1. Ms. Madhuri Shukla, Superintending Engineer
2. Ms. Rizwana, Executive Engineer
3. Mr. K Nageshwar Rao, Executive Engineer
4. Mr. Suresh Kumar, Assistant Engineer
5. Ms. Usha Kapoor, Assistant Engineer
6. Ms. K. Jayashree, Assistant Engineer

For the Respondent
1. Mr. Narsing Agrawal, VP
2. Mr. Kapinjal Mishra, Tender Executive

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ORDER

1. The Petitioner has filed instant Petition on 24.12.2024 u/s 86(1)(b) of the Electricity Act, 2003 with following prayers:
   a. Accord approval to execute an agreement for Purchase of Power through DG sets at Ograbranj village of South Andaman District on round the clock basis to supply power to the 33 KV Rural Feeders having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month for a period of three years as submitted in the petition.

2. The Petitioner's submissions in brief are as under:

   a. The Petitioner herein i.e. Electricity Department of A&N Administration (hereinafter 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, the Commission has the jurisdiction to approve the purchase of power from different sources.

   b. The Power requirement of Sri Vijaya Puram & South Andaman area in the recent time especially during the last summer have increased to 52 MW. This is drastic demand compared to 45MW of last year demand.

   c. This high time demand is predominantly due to the fast development activities in Sri Vijaya Puram & South Andaman due to heavy influx of and the high humid heat wave conditions prevailed in these Islands especially from January, 2024 onwards.

   d. A task force Committee vide order dated 30.05.2024 for selection of a suitable location for establishment of 5 MW Aggregate capacity DG Power Plant in South Andaman to cater the power demand of rural areas viz. Chouldari, Ograbranj, Tushnabad, Mithakhari, Portmout, Namunaghar, Tirur including Manglutan, Sippighat, Guptapara, Manjeri & Wandoor. The Committee recommended 5 to 6 MW standalone/grid connected DG Power Plant at Ograbranj in the Departmental land is available.

   e. In the present scenario, two rural feeders viz. Outer & Tiger emanating from the Garacharama Substation is feeding Power to the entire Rural Population starting from Garacharama village to Chouldari, Ograbranj, Tushnabad, Mithakhari, Portmout, Namunaghar, Tirur including Manglutan, Sippighat, Guptapara, Manjeri & Wandoor.

   f. The existing feeders are prone to faults due to overhead bare conductor formations and environmental factors. The proposed power plant aims to feed the Major load of the 33 KV Tiger Feeder and Outer Feeders.

   g. Three new feeders proposed are Chouldari, Tirur, and Mithakhari to improve reliability. These aforesaid feeders are lying in the overhead bare conductor formation and susceptible to frequent line fault. It is noteworthy to mention that the faults on these lines are due to falling of trees, breakage of lines and occurrence of intermittent faults due to High Tension lines coming in to contact with tree branches during heavy wind flow. On occasion, the faults on these feeders travel up to the Sub- station causing complete shutdown of Power plants. The frequent line faults and breakage of these lines found to have occurred due to their virtue of passing through the Forest and dense vegetation of Coconut & Arecanut trees.

h. Under the above circumstances, taking note of the aforesaid condition, on account of feeder bifurcation/modification, 5 MW Aggregate capacity dedicated standalone Power Plant is proposed at Ograbranj to cater the load of the Outer & Tiger Rural feeders emanating from the 33 KV Garacharama Substation and also so as to meet the increasing demand and to minimize the power grid failure in Sri Vijaya Puram and South Andaman.

i. Andaman & Nicobar Administration vetted draft tender document and accorded approval for Purchase of Power through DG Sets at Ograbranj Village of South Andaman District on round the clock basis to supply power to the 33 KV Rural Feeders having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month for a period of three years at an estimated contractual cost of Rs.9,18,00,000/- (Rupees Nine Crore Eighteen Lakh only).

j. Tender was published in CPP Portal vide Tender Id No. 2024_ED_15333_1 dated 27.08.2024. The bidding process in respect of the aforesaid tender is detailed as under:

27.08.2024	Bid Published with bid opening date scheduled on 24.09.2024
23.09.2024	Bid Due date extended due to Poor participation of Bidders.
01.10.2024	Technical bid opened with three bidders namely: i. M/s. Express Gensets Consortium Pvt. Ltd. Delhi. ii. M/s. Sudhir Sales & Services Ltd, Gurgaon. iii. M/s. Modern Hiring Service, Mumbai.
07.10.2024	Technical evaluation meeting held and after scrutiny of the bid document submitted by the bidders, the Committee found that all the three bidders technically qualified.
15.10.2024	The Financial Bid of all the three Technically qualified Bidders opened, wherein M/s. Modern Hiring Service emerged as the lowest bidder by offering @90 Paisa per unit.

k. Details of the bidder given as under: -

Name of the Firm	Description	Per Unit (KWh) cost
M/s. Modern Hiring Service, SAM House, Plot No-136, D'Lima Street Road, Dockyard, Mumbai Pin – 400010	Cost of per unit energy (KWh) at specific fuel consumption of 3.7 units/ lit (0.270 lit/unit) the rate inclusive of operation & maintenance charges, lub oil, taxes & duties but excluding the cost of HSD oil (as HSD will be supplied by Electricity Department).	90 Paisa (Ninety paisa only)

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l. The A&N Administration vide Order No. 2778 dated 19.11.2024 has accorded Administrative approval and expenditure sanction for acceptance of L1 rate of 90 Paisa per unit and awarding the contract to M/s Modern Hiring Service, Dockyard, Mumbai, for Purchase of Power through DG Sets at Ograbranj Village of South Andaman District on round the clock basis to supply power to the 33 KV Rural Feeders having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month for a period of three years at a total contractual cost of Rs. 8,10,00,000/- (Rupees Eight Crore Ten Lakh only).

m. The copy of draft Power Purchase Agreement to be executed between the Electricity Department, A&N Administration and M/s Modern Hiring Service, Mumbai duly approved by Law and Finance wing of A&N Administration is submitted for perusal and approval of the Commission.

3. The Petition was heard on 16.01.2025. The Commission after hearing admitted the Petition. Further during the hearing, the Commission sought certain information vide deficiency note dated 13.02.2025. The Petitioner has submitted its reply along with revised draft PPA on 25.03.2025 on the information sought by the Commission. The reply of the Petitioner as well as revised draft PPA is taken on record.

4. The Petition was listed for hearing on 09.04.2025. The Commission after hearing directed parties to submit their written submission within a week. The Petitioner's submission dated 16.04.2025 is here under:

a. The present evening peak demand of Port Blair and South Andaman is to the tune of around 43 to 45 MW as against the available capacity of 39 MW. The deficit and shortfall of 5-6 MW is managed by curtailing 2 MW Load of Defence and the remaining by exercising rotational feeder-wise load shedding on as & when required basis. It is also experienced that the peak demand has even reached around 51 MW during summer.

b. The proposed 5 MW standalone power plant aims to feed the Major load of the two 33 KV feeders (Outer & Tiger) by way of feeder bifurcation to increase system reliability. This plant has been conceived in view of load growth specially in tourist industry, expansion of defence establishment and to maintain redundancy to mitigate the shortfall in generation that occurs in the event of forced /scheduled maintenance of DG sets in other Power Plants in operation with grid in Sri Vijaya Puram & South Andaman.

c. Simultaneous action for augmentation of generation capacity through RE is also under mission mode. The SECI on behalf of Andaman & Nicobar Administration has floated tender for 30 MW RTS in RESCO mode for residential and commercial buildings in A&N Islands 3(three) times. However, these tenders could not be finalized due to non-participation of bidders. Now the Ministry of Home Affairs, GoI on 21.03.2025 has directed A & N Administration to initiate tendering action on their own, which is being expedited.

It is important to mention that, as per the Action Plan, this 30 MW RE plant was earlier expected by 2027, however due to aforesaid decision of GoI, the timeline may extend up to 2028, as the tender document need to be modified in accordance with procurement policy of A & N Administration and participation in this tender by prospective bidders cannot be anticipated at this stage.

Further, the upcoming 100 MW RE project with BESS at Sri Vijayapuram is also awaiting CRZ clearance, only after which the tender for the same can be floated, which is also likely to come after 2028.

Further, it was already submitted that the 30 MW RE installations including Ground Mounted SPV and RTS Plants have been completed in Sri Vijaya Puram. Any further huge capacity can only be added with BESS. Two BESS projects are yet to be tendered, one by SECI and other by Japan International Corporation Agency (JICA) under Grant-in-aid and hence anticipated to be executed in 2027-28.

d. The Power status of Sri Vijaya Puram and South Andaman Area even after the commissioning of new 10 & 5 MW Power Plant shall still carry a deficiency, as there shall be no addition of the generating capacity because they shall only replace the existing NVVN Power Plants.

The expected Power availability in Sri Vijaya Puram & South Andaman Area without this 5 MW proposed power plant shall be as under: -

Sl. No.	Power Plants	Available Capacity	Remark
1	Departmental Power House (Existing)	04 MW	
2	Private Power Plants (Existing)	20 MW	Without 2 PSAs of NVVN (15MW)
3	Private Power Plants (New Proposed)	15 MW	In lieu of 2 PSAs of NVVN (15MW)
Total		**39 MW**	

e. It is humbly submitted that the PPA be allowed by the Commission for a period of three years with a provision for two years extension, as the bidder while quoting the rates in the tender has taken into account the firm period of 3 (three) years. The provision for two years extension has been kept on mutual consent and it is needless to mention that the same shall come into effect only in the event of delay in inception of 50 MW LNG or RE Projects of adequate capacity in Sri Vijaya Puram. Considering the timelines and current status of these two projects, their inceptions are anticipated before 2028.

Analysis and Decision

5. The Petitioner has filed the instant petition seeking approval u/s 86 (1)(b) of the Electricity Act, 2003 to execute an agreement for purchase of power through DG sets at Ograbranj village of South Andaman District on round the clock basis to supply power to the 33kV

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rural feeders having an average day & night load to the tune of 4 MW and average evening peak load of 4.5 MW (5:00 PM to 10:00 PM) with a targeted monthly generation of 2.5 Million Units per month for a period of three years. In support the Petitioner has stated as follow:

a. That the present peak demand of Sri Vijaya Puram and South Andaman is around 43 to 45MW against the available capacity of 39 MW. The deficit and shortfall of 5 to 6 MW is managed by curtailing 2 MW Load of Defence and the remaining by exercising rotational feeder-wise load shedding on as & when required basis. The Petitioner has also submitted that it has also experienced that the peak demand has even reached around 51 MW during summer.

b. That presently two 33 KV Rural Feeders emanating from the Garacharama sub-stations viz. Outer & Tiger are overhead bare conductor lines configuration and passing through Forest and dense vegetation of coconut & Arecanut tree. It is feeding Power to the entire Rural Population starting from Garacharama village to Chouldari, Ograbranj, Tushnabad, Mithakhari, Portmout, Namunaghar, Tirur including Manglutan, Sippighat, Guptapara, Manjeri & Wandoor. Further, it is susceptible to frequent line faults due to falling of trees, breakage of lines, and occurrence of intermittent faults due to high tension lines coming into contact with tree branches due to high wind flow which is a common phenomenon in Island. The Line faults generally travel up to the sub-station and cause complete shutdown of the Power Plants.

c. That a meeting was held under the Chairmanship of the Chief Secretary, A&N Administration in the presence of Commissioner-cum-Secretary (Power), Secretary (Power), Director (Power) and Superintending Engineer (Tech) on 29.05.2024 to Review the Power Scenario in A&N Island. Accordingly, it was apprised that installation of suitable size DG plant to operate on standalone mode be explored for two locations to feed 33 KV Rural feeders namely Shoalbay – Ferrargunj, Panel-V, Outer & Tiger in Port Blair so as to reduce the size of lengthy feeders required for improvement in power supply reliability.

d. That a Task Force Committee headed by Executive Engineer (PG) was constituted on 30.05.2024, F.No. EL/PL/19-2(33/11 KV)/2024/2302, to inspect and examine 33 KV Outer & Tiger feeders emanating from Garacharama Sub-station. The committee submitted their report on 12.06.2024 and recommended that a power plant of 5 to 6 MW standalone / grid connected, can be established at Ograbranj site in departmental land, in the combination of 2 incomer, 3 outgoing, with a bus PT and synchronizing arrangement with the grid.

e. That, the Power Generation Division accordingly proposed to create three feeders as Chouldhari, Tirur & Mithakari by reallocating the existing feeders and to establish a dedicated standalone 5 MW DG Power Plant to cater the major load of Outer & Tiger feeders.

f. That the proposed 5 MW standalone DG set aims to feed the major load of the two 33kV feeders (Outer & Tiger) by way of feeder bifurcation to increase system reliability and to maintain redundancy to mitigate the shortfall in generation that occurs in the event of forced / scheduled maintenance of DG sets in other power plants in operation with grid in Sri Vijaya Puram & South Andaman.

g. That Andaman & Nicobar Administration vetted draft tender document and accorded approval for Purchase of Power through DG Sets at Ograbranj Village of South Andaman District on round the clock basis to supply power to the 33 KV Rural Feeders having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month for a period of three years at an estimated contractual cost of Rs.9,18,00,000/- (Rupees Nine Crore Eighteen Lakh only). The tender notice no. EL/PR/58A/5MW-ograbranjstandalone/T-24/2024/3302 issued on dated 27.08.2024 with the EMD fixed as Rs. 18,36,000/- (Rupees Eighteen Lakh Thirty six Thousand Only).

h. That the tender was published in CPP Portal vide Tender Id. 2024_ED_15333_1 dated 28.08.2024 with Pre-bid meeting and Bid opening date scheduled on 06.09.2024 and 24.09.2024. Due to poor bidder participation bid Corrigendum:1 was published on 06.09.2024, and due date was extended upto 01.10.2024.

i. That the technical bid was opened on 01.10.2024 and found that 3 (Three) bidders participated in the bid. Details of the Bidder is given as under:
   i. M/s. Express Genset Consortium Private Limited. Patparganj Delhi.
   ii. M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana.
   iii. M/s. Modern Hiring Services, Mumbai, Maharashtra.

j. That the Tender Evaluation Committee meeting was held on 07.10.2024 and after evaluating the technical bids, the committee found that all three bidders meet the prequalification requirements outlined in tender. The Corrigendum vide No.: EL/PR/58A(5MW)/T-24/2024/93 dated 14.10.2025 issued for opening of price bid on 15.10.2024 of the technically qualified bidders.

k. That the financial bid was opened on 15.10.2024. The details of rate offered by the bidder is as under:

Sl. No.	Name of the Firm	Rate per Unit inclusive of taxes in (Rs.)	Total contract price as per estimated 9,00,00,000 Units for period of three years in (Rs.)	
i	M/s. Express Genset Consortium Private Limited. Patparganj Delhi.	0.91/-	8,19,00,000/-	L2
ii	M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana	1.25/-	11,25,00,000/-	L3
iii	M/s. Modern Hiring Services, Mumbai, Maharashtra	0.90/-	8,10,00,000/-	L1

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l. That M/s. Modern Hiring Services, Mumbai, Maharashtra is the lowest bidder offered at rate per unit (inclusive of taxes) Rs. 0.90/- (Paisa Ninety Only) and total contract price Rs. 8,10,00,000/- (Rupees Eight Crore Ten Lakh Only) as per estimated 9,00,00,000 Units for period of three years for supply of power on round the clock basis to the three 33 KV Rural Feeders at Ograbranj Village of South Andaman having an average day & night load to the tune of 4 MW and average evening Peak load of 4.5 MW (05.00 PM to 10.00 PM) with a targeted monthly generation of 2.5 Million Unit per month and minimum specific fuel consumption of 3.7 units/litre (0.270 litre/Unit).

m. That vide A&N Administration's Order No. 2778, F. No. Proc/146/2024/-Purchase-ELE-ELE_AN dated 19.11.2024, the Commissioner-cum-Secretary (Power), A&N Administration has accorded approval for acceptance of L1 rate of 90 Paisa (Ninety Paisa) per Unit and award the contract to M/s. Modern Hiring Services, Mumbai, at total contract price 8,10,00,000/- (Rupees Eight Crore Ten Lakh Only) towards Purchase of Power through DG sets at Ograbranj Village of South Andaman to feed three Rural feeders for a period of three years.

n. That the Respondent is required to supply, install and commission all weather proof DG Sets based standalone power plant of Aggregate capacity of 5 MW so as to meet existing average evening peak load of 4.5 MW (05.00 PM to 10.00 PM) and average day & night load to the tune of 4 MW with a targeted monthly generation of 2.5 Million Unit per month and minimum monthly generation of 1.5 Million Unit per month for a period of three years to the existing 33 KV T&D system at Ograbranj, South Andaman. The total operation & maintenance shall be the responsibility of the Respondent. The capacity, type and number of DG Sets, transformers, switch gears and allied auxiliaries may be decided/designed based on the available space, load pattern, grid characteristic, climatic condition etc. However, the age of the DG set should not be more than 6 (six) years as on the date of commissioning of DG set at the proposed site.

o. That the fuel i.e. HSD required for Power Generation will be supplied to the Respondent free of cost by the Petitioner. The Respondent is required to establish, on his own cost, suitable capacity of HSD storage tank facilities at the plant site, so as to store HSD at least for 5 days requirement. The fuel efficiency of all weatherproof DG sets shall normally be maintained at 3.7 Units/Litre i.e. 0.270 Litre/Unit. However, for inefficient operation of DG sets i.e. less than 3.7 Units/Litre (equivalent to 0.270 Litre/unit), 100% cost of excess fuel (HSD) along with transportation charges (based on actuals), if any shall be recovered from Respondent. However, if the specific fuel consumption is better than 0.270 litre/Unit, the HSD will be accounted as per actual and no incentive will be paid to Respondent on account of HSD saved as the HSD will be supplied by the Petitioner. The HSD available in A&N Island is BS-VI grade.

p. That the installation & commissioning of all-weather proof DG Set shall be in such manner, (including transportation, shipment, erection, commissioning, testing etc.) so that power is made available within 120 days from the date of execution of power purchase agreement. The date on which full 5 MW Power to the 33 KV feeders emanating from Ograbranj Power House are delivered continuously at least for 8 hours will be considered as Commercial Operation date (COD) and the period of contract will be valid for three years from COD. No payment shall be made to the Respondent for the units generated during testing and commissioning period. The HSD for testing & commissioning period shall be supplied by the Petitioner. However, penalty will be imposed on account of excess HSD consumption of 0.270 Litre/KWh (below 3.7KWh/Litre) during the testing and commissioning period. The monthly invoice for the month in which COD is achieved shall be allowed on pro-rata basis, if the date of COD falls on any date other than 1st day of the month, in such case the minimum guaranteed unit to be delivered will be calculated on pro-rata basis.

q. That the Performance Bond/Security amount @5% of the contract has to be deposited by the Respondent in favour of the Assistant Accounts Officer(C), Electricity Department, Port Blair, having validity from the date of execution of Power Purchase Agreement upto sixty days after the date of completion of all contractual obligation.

6. The Commission has considered the submissions of the parties. It has also examined the additional information dated 17th March 2025 submitted by the Petitioner in response to the queries raised by this Commission vide deficiency note dated 13th February 2025.

7. The Commission observes that the Petitioner is seeking approval for purchase of power u/s 86 (1)(b) of the Electricity Act, 2003. The Commission has further noted that the said power was intended to be procured by the Petitioner from Deiseal Generator through transparent tariff based competitive bidding process as envisaged u/s 63 of the Electricity Act 2003.

8. Section 86 (1)(b) of Electricity Act, 20003 empowers the Commission to *"regulate electricity purchase and procurement process of licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State."*

9. From Section 86 (1)(b) of the Electricity Act, 2003, it emerges that before according approval of the power purchase of licensees from generating companies or licensees or from other sources through agreements, the Commission must be satisfied on the following counts:

a. Whether the quantum and power to be procured is required?
b. Whether the procurement process is as per the Act or Policy or Regulations?
c. Whether the rate at which power to be procured is cost effective?

10. The analysis with respect to above three issues is as under: -

a. Whether the quantum and power to be procured is required?

i. The Petitioner was asked to submit the load curve and justification in support of peak demand vide deficiency note dated 13th February 2025. However, the Petitioner failed to submit the load curve and has submitted data as given below showing projections of consumers, connected load, average load & Peak load for FY 2025-26 over FY 2024-25 which is 25%, 25%, 30% & 40% respectively on YoY basis.

	Consumers			Connected Load (KW)			Avg Load (KW)			Peak Load (KW)		
Feeders	2024-25	2025-26	inc (%)	2024-25	2025-26	inc (%)	2024-25	2025-26	inc (%)	2024-25	2025-26	inc (%)
Outer	5868	7335	25%	2206	2758	25%	1856	2412.8	30%	2001	2801	40%
Tiger	6846	8558	25%	2916	3645	25%	2167	2817.1	30%	2509	3513	40%
Total	12714	15893	25%	5122	6403	25%	4023	5230	30%	4510	6314	40%

The Commission finds that it has approved consumer growth, connected load growth & sales growth for the control period FY 2022-23 to FY 2024-25 based on the actual growth rate at 2.78%, 7.27% & 4.52% respectively in its Business Plan Order dated 1st August 2022. This clearly reflects that the petitioner has unrealistically projected its consumer base, connected load, average load and peak load at around 4 to 5 times the normal growth.

ii. The Commission also finds that the Petitioner has submitted hourly demand load profile of Sri Vijaya Puram showing power availability & peak demand in MW at 18:30 hrs, 19:30 hrs & 20:30 hrs for a limited period of 1&1/3 months i.e. from 01.04.2024 to 10.05.2024. It is observed from the demand profile that only 54 peak-demands are higher than the mean values (45.4 MW) of all the 960 (40x24) hourly peak demands during the period from 01.04.2024 to 10.05.2024. In other words, the peak demands exceeding the average peak demands (45.4 MW) is only for a duration of 5% to 6% of the total time duration. It is also observed that the Petitioner has been meeting successfully the evening peak demand upto 45.76 MW from its existing power availability without imposing load shedding.

In view of the above, the Commission does not find merit in Petitioner's claim of having shortage of 4 to 4.5 MW power to meet the evening peak demand of Sri Vijaya Puram and South Andaman.

b. Whether the procurement process is as per the Act or Policy or Regulations?

i. The Commission observes that the Petitioner has preferred procurement of power through transparent tariff based competitive process u/s 63 of the Electricity Act, 2003 rather than Regulatory Tariff Mechanism (RTM) process u/s 62 of the Electricity Act, 2003. Section 63 of the Electricity Act, 2003 provides that-

"Section 63. (Determination of tariff by bidding process): Notwithstanding anything contained in Section 62, the appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government."

ii. The Commission observed that the Central Government has not issued any guideline for the power purchase through tariff based competitive bidding to Diesel Generator sets based plant. In this context, it is necessary to highlight the judicial determination of Hon'ble Supreme Court of India. In the matter of Energy Watchdog Versus. Central Electricity Regulatory Commission & Others (2017) 14 SCC (80), the Hon'ble Supreme Court has held that:

"……………In fact, Sections 62 and 63 deal with "determination" of tariff, which is part of "regulating" tariff. Whereas "determining" tariff for inter-state transmission of electricity is dealt with by Section 79 (1) (d), Section 79 (1) (b) is a wider source of power to "regulate" tariff. It is clear that in a situation where the guidelines issued by the Central Government under Section 63 cover the situation, the Central Commission is bound by those guidelines and must exercise its regulatory functions, albeit under Section 79(1)(b), only in accordance with those guidelines. As has been stated above, it is only in a situation where there are no guidelines framed at all or where the guidelines do not deal with a given situation that the Commission's general regulatory powers under Section 79 (1) (b) can then be used."

Further, the Hon'ble Supreme Court of India in the judgment passed in Jaipur Vidyut Vitran Nigam Ltd. And Others v. MB Power (Madhya Pradesh) Limited and Others 2024 SCC Online SC 26, while relying upon its earlier judgements passed in Energy Watchdog v. CERC (2017) 14 SCC 80 and PTC India Ltd. Vs. CERC (2010) 4 SCC *603 held that:*

"113. We have already referred to Section 86(1)(b) of the Electricity Act, which is analogous to Section 79 of the Electricity Act, Section 79 determines the functions of Central Commission, whereas Section 86 provides for the functions of the State Commission, Section 86 of the Electricity Act empowers the State Commission to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

114. It can thus be seen that Section 86(1)(b) of the Electricity Act gives ample power on the State Commission to regulate electricity purchase and procurement process of distribution licensees. It also empowers the State Commission to regulate the matters including the price at which electricity shall be procured from the generating companies etc."

iii. It emerges that where there are no guidelines or guidelines issued under Section 63 do not cover a situation, the Commission shall exercise its regulatory powers under Section 86 (1) (b) along with Section 63 for approval/adoption of tariff and procurement process of distribution licensee.

iv. In the present Petition, the Commission has noted that despite the fact that the Central Government has not issued any guidelines for procurement of power from the DG Sets under Section 63, the Petitioner has opted competitive bidding process u/s 63 of the Electricity Act, 2003 to purchase power at competitive market price. In the light of the principle enunciated in Energy Watchdog judgment and Jaipur Vidyut Vitran Nigam Ltd. judgement, the Commission notes that the transparent bidding process u/s 63 of the Electricity Act, 2003 even in absence of the relevant guidelines of the Central Government has been followed.

This Commission has been specifying Renewable Purchase Obligations (RPO) on all the distribution licensees including ED A&N year on year in its tariff orders since FY 2010-11 onwards and has also kept on monitoring through suo-moto hearing since

2012. The Commission, during those hearings has been instructing/directing ED-A&N to exploit its RE potential and lessen its dependency on diesel generation. The Commission is disheartened to express its observation that despite Commission's year on year directives, ED A&N has not made much progress in setting up fresh RE capacities since last five years.

c. **Whether the rate at which power to be procured is cost effective?**

The Commission observed that the L1 rate of 90 paisa per unit has been discovered in the bidding. This rate is exclusive of cost of HSD oil as HSD will be supplied by ED A&N. The Commission also observes that the discovered rate of 90 paisa per unit is at a specific fuel consumption of 3.7 Unit/litre (0.270 Litre/unit). This translates into Diesel Power Generation Cost of Rs. 21.97 @ diesel fuel cost of Rs. 78.05 per litre at SFC 0.270 litre/unit (=0.27x78.05+ 0.90). The Commission has gone through latest PPA as done by ED A&N for Solar Power + BESS rates discovered in A&N at which ED A&N has executed Power Purchase Agreements with NLC India Limited at the rate of Rs. 6.99/unit determined by the CERC.

Based upon the above, the Commission is of the view that for further augmentation of generation capacities, Renewable Energy sources should be the preferred mode.

11. In view of the above, the Commission declines to accord approval to execute agreement with M/s Modern Hiring Services for purchase of power through DG sets at Ograbranj Village of South Andaman District.

12. The Petitioner is directed to make all out efforts for energy transition from fossil fuel (Diesel) based energy to RE based energy adding RE projects to meet out the demand.

13. Ordered accordingly.

Sd/-	**Sd/-**
(Jyoti Prasad)	**(Alok Tandon)**
Member (Law)	**Chairperson**

(Certified Copy)

(S.D. Sharma)
Secretary I/c, JERC

Place: Gurugram, Haryana
Date: 20th May, 2025