

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

Coram*
Shri S.K.Chaturvedi, Member
Petition No. 111/2013
Date of Order 20.11.2013

In the matter of

Petition for approval of agreement between Electricity Department, Andaman & Nicobar Administration and M/s Mona Generator Service Pvt. Ltd., New Delhi for procurement of power by hiring of 40-65 KW 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 40-65 KW Capacity DG between Electricity Department, Andaman & Nicobar Administration and M/s Mona Generator Service Pvt. Ltd., New Delhi, 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 lay down that it was proposed to electrify the 03 Un-electrified Revenue Villages in the North Andaman Island namely Gandhi Nagar, Shanti Nagar & Ganesh Nagar in the FY 2012-13*

in order to achieve the targets laid down in National Electricity Policy (NEP) and Rural Electrification Policy of MOP. It was also proposed to provide round the clock Power Supply to one more Village an isolated small island in North Andaman namely Sagar Dweep (Smith Island) where only 12 hours Power Supply was available.

3. The three villages namely Gandhi Nagar, Ganesh Nagar & Shanti Nagar are very remote and isolated villages far away from grid and there is no road connectivity. In order to draw T&D lines to these villages, the T&D lines have to be taken through dense forest area for which the required clearance from Forest Department could not be obtained. Hence, it was proposed to electrify these villages by stand alone DG Power Houses.
4. Subsequently in a meeting held in the A&N Administration, it was decided to reduce the capital cost investment on civil construction works and the department was directed to take immediate action for hiring of DG Sets for these four villages.

Sl. No.	Name of village	Households (Nos.)	Power requirement # (KW)
1.	Gandhi Nagar I & II	115	57.50
2.	Ganesh Nagar	130	65.00
3.	Shanti Nagar	126	63.00
4.	Sagar Dweep (Smith Island)	80	40.00
# Considering the power requirement @ 500 Watts per house hold			

5. Accordingly, a tender notice for supply of rental DG sets to deliver 40-65 KW continuous electric power was issued on 14.02.2012. Copy of the tender document is attached vide **Annexure-1** and tender notice published in the news papers are attached as **Annexure-2**.
6. In response to the above said Tender Notice, the following 2 firms submitted their offer and the technical bids were opened on the due date i.e. 05.04.2012.
 - i. M/s Sunny Diesel Sales & Service, Port Blair
 - ii. M/s Mona Generator Services (P) Ltd, New Delhi

The technical Bids were evaluated and both the firms mentioned at sl. No.i & ii were found technically qualified.
7. The price bid of the technically qualified two firms were opened on 11.06.2012 and M/s Mona Generator Services (P) Ltd., New Delhi was found to be the lowest bidder and was selected for supply of rental DG sets to deliver 40-65 KW continuous electric power at above four villages in North Andaman. The details of contracted supply & cost are provided in the table below.

The Copy of comparative/evaluation statement of the technical & financial bid are attached vide **Annexure-3**.

Name of the village	Capacity of Plant (KW)	Rate per Hour Rs.	Rates per month Rs.
Gandhi Nagar	60	147.00	1,05,840.00
Shanti Nagar	65	147.00	1,05,840.00
Ganesh Nagar	65	147.00	1,05,840.00
Sagar Dweep (Smith Island)	40	147.00	1,05,840.00
Total Hiring Charges for two years (i.e 24 months @ Rs. 1,05,840/- per month per station which is inclusive of operation & maintenance charges but excluding cost of HSD.			1,01,60,640.00

8. The approval of A&N Administration for acceptance of lowest bidder was accorded on 23.07.2012. The copy of approval of the A&N Administration for acceptance of lowest bidder is attached vide **Annexure-4**.
9. The agreement for a period of 02 years executed on 21.08.2012 between the Electricity Department, A&N Administration and M/s Mona Generator Services (P) Ltd., New Delhi for Hiring of 40-65 KW DG Capacity. Copy of the agreement is attached vide **Annexure-5**.
10. It is submitted that all the above four villages were electrified and local residents of these villages are enjoying round the clock power supply being generated by the Hiring DG Sets provided by M/s Mona Generator Services (P) Ltd., New Delhi. The date of electrification and the installed capacity of the plant are tabulated below:

Name of the village	Installed capacity (KW)	Date of electrification
Gandhi Nagar	2x65	07.11.2012
Shanti Nagar	1x65	22.11.2012
Ganesh Nagar	1x65	21.11.2012
Sagar Dweep (Smith Island)	2x65	07.11.2012

11. 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 no payment has been released for the above procurement of power.

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 40-65 KW DG Capacity from the lowest bidder i.e. M/s Mona Generator Services (P) Ltd., 1-A Basement, 30-31, Raja House, Nehru Place, New Delhi-110019 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 Mona Generator Service Pvt. Ltd., New Delhi for procurement of power by hiring of 40-65 KW 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 Mona Generator Service Pvt. Ltd., New Delhi for procurement of power by hiring of 40-65 KW Capacity DG under section 86 (1) of Electricity Act, 2003 in line with section 86 (1) (b) of EA, 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

