

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

**CORAM**

Shri M.K. Goel, Chairperson

**Petition No.                    47/2021**  
**Date of Hearing                : 08.06.2021**  
**Date of Order                 : 12.07.2021**

**In the matter of:**

Petition for approval of agreement for "Purchase of Power at Baratang - Supply of round the clock Electric Power through containerized DG Sets at Baratang in the existing 33 KVT&D system having existing Average evening Peak load of 800 KW and Average day & night load to the tune of 600 KW".

**And in the matter of:**

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

.....Petitioner

**Vs**

M/s Express Gensets Consortium Pvt. Ltd.,  
83, Rajdhani Nikunj, 94, I.P Extension Patparganj,  
New Delhi - 110019

.....Respondent

**Present**

**For the Petitioner**

1. B. Ajit Kumar, Superintending Engineer, ED, A&N

**For the Respondent**

1. Shri N.K. Gupta

**ORDER**

1. The Commission heard this Petition on 08.06.2021 and after hearing the Petitioner in detail gave directions to provide additional information pertaining to the process of bidding etc. on affidavit within a week. The said affidavit by the Petitioner was submitted on dt. June 14, 2021. The same is taken on record.
2. The Petitioner has advanced his arguments in detail. The same are mentioned in brief as under: -

- a) That the petitioner submitted that Baratang Island under Middle Andaman is geographically located in the tail end from the source of supply i.e. at a distance of 9 KM from Rangat Bay Power House. Presently, the day and night demand is met from Rangat Bay Power House and the peak demand is met by running standalone departmental Power plant. The power transmission lines feeding from Rangat Bay Power House to Baratang Pass through dense Jarwa Forest Reserve and thus susceptible to frequent faults and also due to long transmission line the tail end voltage become very short and thereby quality of power become very poor. The matter of scarcity of Power at Baratang was also raised by the Hon'ble Member of Parliament, A&N Islands.
- b) That in view of above, it was proposed to purchase power at Baratang on round the clock to the existing 33 KVT&D system having Average Evening Peak load of 800 KW (05:00 PM to 10:00 PM) and Average day & night load to the tune of 600 KW with minimum guaranteed generation of 3.36 Lakh Units per month in such a manner so as to take care of complete load of Baratang Island including Kadamtala viz. covering complete consumers of T&D Kadamatala Sub-Division.
- c) That a proposal and tender document was approved by A&N Administration. A tender notice for Purchase of Power at Baratang for the period of 03 years was floated in the e-procurement website of Andaman & Nicobar Administration on 09.08.2019 vide ADOE-71 with due date on 04.09.2019. The tender was also published in the Andaman & Nicobar Dweep Samachar and the daily telegrams which has wide circulation in the A&N Islands.
- d) That In response to the above tender notice the following 4 firms submitted their offer:-
- I. M/s Mona Generator Services (P) Ltd., New Delhi
  - II. M/s Modern Hiring Service, Mumbai
  - III. M/s Express Genset Consortium Pvt. Ltd, New Delhi
  - IV. M/s Aggreko Energy Rental India Pvt. Ltd, Viman Nagar Pune
- e) That the Bids were analysed on 04.09.2019 at 04:00 PM under the chairmanship of Superintending Engineer (Elect). Out of four, three firms were qualified technically. The detailed comparative technical statement was prepared and the same was placed before the Technical Evaluation Committee.
- f) That a meeting was held in the office of Superintending Engineer, Electricity Department, Port Blair on 13.09.2019 at 16:30 hours. The following officials of the Department were present in the meeting.

<b>SL. No.</b>	<b>Name of the officer</b>	<b>Designation</b>	<b>Department/ Representative</b>
1	Shri B. Ajit Kumar	Superintending Engineer	Electricity Department, Port Blair
2	Shri Arun Srivastava	HOD (Electrical))	Electricity Department, Port Blair
3	Shri Karuna Jaydhar	EE (PG)	Electricity Department, Port Blair

SL. No.	Name of the officer	Designation	Department/ Representative
5	Smt. B. Vasuki	Sr. Account Officer (c)	Electricity Department, Port Blair
6	Shri Pran Krishna Mistry	AE (PR)	Electricity Department, Port Blair

- g) That the price bid of the technically qualified firms were opened and analysed by the Technical Evaluation Committee and comparative statement was prepared. M/S Express Genset Consortium Pvt. Ltd, New Delhi emerged as the lowest bidder. Details of successful bidder (L1) is submitted below:

Name of the Firm	Description	Rate per unit inclusive of taxes (Rs.)
M/s Express Genset Consortium Pvt. Ltd, New Delhi	Cost of per unit energy (KWh) to be delivered to the 33 KV T&D System of Baratang (inclusive of operation & maintenance charges, lub oil, taxes & duties excluding the cost of HSD oil)	1.06/-

- h) That the A&N Administration vide letter under file ref No. EL/PR/124A/T-14/2019/3262 dated 24.10.2019 conveyed the approval of the competent authority for acceptance of L1 rate i.e., @Rs.1.06/- per unit through M/s Express Genset Consortium Pvt. Ltd, New Delhi.
- i) That the PPA with M/s Express Genset Consortium Pvt. Ltd, New Delhi was signed on 07<sup>th</sup> February, 2020 with a validity of 3 years from COD. Further, the COD of this project has not yet been started.
- j) That the petitioner further submitted that due to Pandemic and Nation wide lockdown, the filling of the present petition has been delayed.
3. The Commission has considered the Petition, additional information filed by the Petitioner on the affidavit and the entire record placed before it by the Petitioner. The Commission has also examined the relevant provisions of the Electricity Act, 2003 and rules and regulations made thereunder.
4. The Commission is relying on Section 63 and Section 86 1(b) of the Electricity Act, 2003 for approval of the power purchase agreement placed before it by the Petitioner.
5. The Section 63 of Electricity Act, 2003 provides that *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.*
6. Section 86 1(b) of Electricity Act, 2003 provides that (1) *The State Commission shall discharge the following functions, namely: -*
- b) *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;*

7. The Commission is also relying on Regulation 60 of JERC (Conduct of Business) Regulations, 2009 which is as under:
  - a. *The licensee shall file with the Commission in complete form copies of all Power Purchase Agreements already entered into by the licensee.*
  - b. *The Commission shall be entitled to direct that the licensee shall establish to the satisfaction of the Commission that the purchase of power by the licensee is under a transparent power purchase procurement process and is economical and the power is necessary for the licensee to meet its service obligation.*
  - c. *The licensee shall apply to the Commission to approve the draft Power Purchase Agreement that the Licensee proposes to enter into. The Commission may pass orders:*
    - I. *Approving the agreement; or*
    - II. *Approving the agreement with modifications proposed to the terms of the agreement; or*
    - III. *Rejecting the agreement.*
  - d. *Nothing contained herein shall affect the obligations of distribution licensee under the existing contracts and arrangements for purchase, import or acquisition of electricity from generating companies, electricity traders and from other persons with whom the licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreements and arrangements consented to or approved by the Commission.*
  - e. *The provisions of sub-regulation (ii) and (iii) above or any action taken therein shall not, in any manner, prejudice the exercise of functions and powers of the Commission under any of the other provisions of the applicable law, the Regulations and orders to be issued from time to time.*
8. From the above provisions provided in the Electricity Act, 2003 particularly Section 86 1(b) it is clear that Commission's approval of the power purchase agreement is not only mandatory but without the said approval the power purchase agreements lack legal binding force.
9. The Commission has noted that approval for purchase of power at Baratang in favour of successful bidder (M/s Express Gensets Consortium Pvt. Ltd.) was conveyed to the Petitioner by the A&N Administration on 24.10.2019.
10. The Commission further noted that PPA was executed between the Petitioner and M/s Express Genset Consortium Pvt. Ltd, New Delhi on 07<sup>th</sup> February 2020 with a validity of 3 years from COD. Further, the COD of this project has not yet been started so the PPA is valid for a period of 3 years from the date of COD.
11. Though the Petitioner has provided some reasons and citing the COVID-19 pandemic situation for unreasonable delay in seeking the Commission's approval for the said PPA

but Commission is not at all convinced with the reasons advanced by the Petitioners as the approval was accorded by administrator A&N on 24.10.2019 and the PPA was executed by ED A&N on 07<sup>th</sup> February, 2020, therefore sufficient time was available with ED A&N for filling the PPA Petition hence the reason for delay in filing the petition due to COVID-19 pandemic is not convincing at all.

12. Not only this the Commission is also not inclined to accept the reasons for delay in filing the Petition for approval of the PPA as the Petitioner has filed the Petition in a very casual manner in the month of March 2021.
13. Since the COD has not yet started, the Power Purchase Agreement is approved by the Commission.
14. In view of the above, the Commission takes a serious view on the such lapse on the part of the Petitioner and hereby directs the Petitioner that in future they should strictly adhere to the provisions of section 63, 86 1(b) of the Electricity Act 2003 and Regulation 60 of JERC (Conduct of Business) Regulations, 2009, which clearly provides that the petitioner should file Power Purchase Agreement for the approval of the commission after conveying its approval to the successful bidder within the reasonable time, failing which commission is not bound to accord its approval to the said Power Purchase Agreement and would-be constrained to take appropriate legal action against the petitioner.

Ordered accordingly.

**Sd/-**  
**(M.K. GOEL)**  
**CHAIRPERSON**

**CERTIFIED COPY**



**(RAKESH KUMAR)**  
**SECRETARY**