

**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.: 128/2025

Date of Hearing: 09.04.2025

Date of Order: 06.05.2025

In the matter of:

Petition for approval of agreement for “Purchase of Power through DG Sets to deliver 10 MW power continuously to the 33 KV Grid of Electricity Department at Chatham Power House Complex with minimum guaranteed unit delivery of 5.84 MU per month for a period of three years (with a provision to extend up to 2(two) years under same terms & conditions with mutual consent of both the parties) or till augmentation of new same or more capacity DG sets at Departmental Power plant at Sri Vijaya Puram, whichever is earlier”.

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. Sudhir Sales & Service Limited, Plot No.1, Sector – 34
EHTP, Gurugram Haryana – Pin – 122001

.....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

Nil

ORDER

1. The Petitioner has filed instant Petition on 23.12.2024 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 to deliver 10 MW power continuously to the 33 KV Grid of Electricity Department at Chatham Power House Complex with minimum guaranteed unit delivery of 5.84 MU per month for a period of three years (with a provision to extend up to 2(two) years under same terms & conditions with mutual consent of both the parties) or till augmentation of new same or more capacity DG sets at Departmental Power plant, Sri Vijaya Puram, whichever is earlier 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 also 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 15 Years Power Purchase contract with the independent Power Producer (IPP) M/s Surya Chakra Power Corporation Ltd. (SPCL) at Bambooflat expired on 31.03.2018.
 - c. In the wake of expiry of Power Purchase contract with IPP, Ministry of Power, GoI had nominated M/s NTPC Ltd, to establish 15 MW Power Plant at Sri Vijaya Puram (5 MW at Chatham Power House Complex & 10 MW at IPP Complex, Bambooflat) to resolve the power crisis of Sri Vijaya Puram and South Andaman. The Electricity Department. Administration of Andaman & Nicobar had executed two Power sale agreements with M/s NTPC Vidhyut Vyapar Nigam Limited on 07.03.2018 & 20.04.2018 respectively.
 - d. Accordingly, M/s NTPC Vidhyut Vyapar Nigam (NVVN) Limited had established a 10 MW Hiring Power Plant at Bambooflat & 5 MW Power Plant at Chatham Power House Complex. The Commercial operation of the 10 MW Plant at Bambooflat declared on 17.10.2018 and the 5 MW Power Plant Chatham Power House achieved the COD on 29.04.2018. After expiry of the original three years Power sale Agreement, A &N Administration was procuring power under extended contract from M/s NVVN. Whereas the 5 MW extended PSA with M/s NVVN at Chatham shall be expiring on 26.07.2025 and the 10 MW extended PSA with M/s NVVN at Bambooflat shall be expiring on 14.09.2025.
 - e. Envisaging a huge Power shortfall due to outage of the 15 MW PSA, the Chief Secretary in the Review meeting held on 04.10.2023 has directed the Department to

initiate fresh tender immediately to mitigate the shortfall to be experienced during ensuing summer season.

- f. Andaman & Nicobar Administration vetted draft tender document and accorded approval for Purchase of Power through DG Sets to deliver 10 MW power continuously to the 33 KV Grid of Electricity Department at Chatham Power house Complex with minimum guaranteed unit delivery of 5.84 MU per month for a period of three years (with a provision to extend up to 2(two) years under same terms & conditions with mutual consent of both the parties) or till augmentation of new same or more capacity DG sets at Departmental Power plant, Sri Vijaya Puram, whichever is earlier at an estimated contractual cost of Rs. 21,44,45,000/- (Rupees Twenty One Crore Forty Four lakh Forty Five Thousand only).
- g. Tender Published in CPP Portal vide Tender ID No. 2023_ED_12712_1 dated 21.12.2023 with Pre-bid meeting and Bid opening date scheduled on 29.12.2023 and 18.01.2024 respectively. In the Pre-bid meeting held on 29.12.2023, prospective bidders raised queries mainly on clauses in respect of ageing of DG sets, capacity of the DG Sets, standard Fuel Consumption (SFC) and HSD storage facility specified in tender documents. Consequent to the Pre-Bid meeting, the bid due date extended to accommodate the pre-bid amendments, the Bid due date was extended till 02.02.2024. Pre-Bid amendment Corrigendum was published on 20.01.2024 with due approval of the Competent authority. The bid could not be opened on 02.02.2024 due to low bidder participation, leading to an extension until 09.02.2024. EMD documents were received from two bidders. M/s Sudhir Sales & Services. Ltd. Haryana & M/s Express Genset Consortium Pvt. Ltd., however, only one bidder participated on the portal, resulting in a re-tender published in CPP Portal vide Tender ID No. 2023_ED_12712_2 on 14.02.2024 with a new bid opening date set for 06.03.2024.
- h. On 06.03.2024, the tender could not be opened due to non-participation, leading to another extension until 15.03.2024. The bid was successfully opened on 15.03.2024, with participation from two bidders. After evaluating the bids, the Tender Evaluation Committee recommended M/s Sudhir Sales & Services Ltd. Gurgaon and disqualified M/s Perennial Energy Pvt Ltd, Pune due to non- submission of requisite document as per the Terms & conditions of Tender documents. With the approval of the competent authority, the financial bid of the single technically qualified bidder was opened.
- i. The Ministry of Home Affairs, Government of India, approved the acceptance of the single tender of M/s Sudhir Sales and Services Ltd for the purchase of 10 MW power at the Chatham Powerhouse Complex for a period of three years, with a total contractual cost of Rs.19,34,20,800/-. The entire tender process was conducted transparently, allowing sufficient time for bidder participation and evaluation.
- j. The bidding process in Chronological Order is detailed as under:

21.12.2023	Tender Published in CPP Portal vide Tender ID No 2023_ED_12712_1 dated 21st December 2023 with bid opening date scheduled on 18.01.2024.
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19.12.2023	Pre-bid meeting held. Prospective bidders raised queries mainly on clauses in respect of aging of DG sets, capacity of the DG Sets, standard Fuel Consumption (SFC) and HSD storage facility specified in tender documents.
05.01.2024	Due date extension done prior to 18/01/2024 in order to accommodate pre-bid amendments up to 02/02/2024.
10.01.2024	Proposal submitted to A & N Administration for according approval for amendment of the Clauses viz, aging of DG sets, capacity of the DG Sets and HSD storage facility specified in tender documents.
23.01.2024	Technical bid corrigendum uploaded in CPP Portal, after obtaining approval from the competent authority.
01.02.2024	Due to poor participation in the bid, the bid due date extended till 09.02.2024.
09.02.2024	Technical bid opened and found only one bidder namely M/s. Sudhir Sales & Services, Ltd. Haryana participated in the bid whereas the EMD received from two bidders.
10.02.2024	Proposal put to the competent authority for cancellation of the bid and for initiating re-tender.
13.02.2024	The retendering initiated and tender floated vide Tender ID No. 2023_ED 1272 2 dated 14.02.2024 with bid opening date scheduled on 06.03.2024.
05.03.2024	As no bidder participated in the Tender (2023 ED_1272_2) till closing of due date, the Bid due date extended till 15. 03.2024.
15.03.2024	Technical bid opened having with two bidders participated namely M/s Sudhir Sales & Services Ltd, Gurgaon & M/s Perennial Energy Pvt. Ltd, Pune, Maharashtra.
10.04.2024	Technical Bid evaluation meeting held and after scrutiny of the bid document submitted by the bidders, Committee had recommended to seek shortfall documents of both the bidders for further evaluation MoM dated 10.04.2024.
22.04.2024	Tender evaluation Committee meeting for revaluation of the Technical Bids convened on 22.04.2024 (Meeting Notice). The Committee after revaluations of the bids found that the bidder M/s. Sudhir Sales & Services Ltd. have technically qualified and the another bidder M/s Perennial Energy Pvt. Ltd did not technically qualify due to non-submission of requisite documents as per the terms & Conditions of the tender document.
10.05.2024	Approval of the competent authority for opening of Price Bid of single Technically qualified Bidder M/s. Sudhir Sales & Services Ltd. Gurgaon, Haryana.
13.05.2024	Price Bid of single Technically qualified bidder M/s Sudhir Sales & Services Ltd., Gurgaon, Haryana opened by uploading notice in the CPP Portal and bid opened on 14.05.2024.
02.07.2024	Proposal Sent to Ministry of Home Affairs (Grih Mantralaya), Govt. of India (Bharat Sarkar), North Block New Delhi.
03.09.2024	Approval Received from the Under Secretary to Govt. of India, Ministry of Home Affairs.
14.10.2024	Administrative Approval and Expenditure Sanction accorded by the A&N Administration.

- k. The copy of draft Power Purchase Agreement to be executed between the Electricity Department, A&N Administration and M/s Sudhir Sales & Service Ltd, Haryana, duly approved by Law and Finance wing of A&N Administration 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 17.03.2025. 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 as hereunder:
- 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. This 10 MW Power purchase is proposed in lieu of 10 MW Power Sale Agreement with M/s NVVN Ltd, whose original contract has expired and is under extended mode to meet the Power demand of the capital city of Andaman & Nicobar Islands.
- 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 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 upto 2028, as the tender document needs 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 Puran. 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 SFC of this proposed 10 MW Power plant is 3.8 units/litre (0.263 litre/Unit) which is at par with already operating Grid connected plants of M/s Sudhir Sales & Service Ltd (10 MW Bambooflat), M/s Aggreko Energy Renta India Pvt. Ltd (5 MW Bambooflat) & M/s Sudhir Ready Genset Consortium (5 MW Phoenix Bay) and the PPA's have been duly approved by the Hon'ble Commission for all three contracts
- e. On declaration of CoD (Commercial operation Date) by the proposed 10 MW Power plant, the extended 10 MW PSA with M/s NVVN Ltd will be closed.
- f. It is humbly submitted that the PPA to be allowed by the Commission for a period of three years with provision for two years extension, as the bidder while quoting the rates in the tender has taken into account the firm period of 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 Power Plant or RE Projects of adequate capacity in Sri Vijaya Puram. Considering the timelines and current status of these two projects, their inceptions are not anticipated before 2028.

Analysis and Decision

5. The Commission has considered the submissions of the parties. It has also examined the revised draft Power Purchase Agreement (PPA) dated 17.03.2025, along with additional information submitted by the Petitioner.
6. It is noted that as per the Petitioner, the Commercial operation of the 10 MW Plant at Bambooflat declared on 17.10.2018 and the 5 MW Power Plant Chatham Power House achieved COD on 29.04.2018 is procuring power under extended contract from M/s NVVN after expiry of the original three years Power Sale Agreement. The 5 MW extended PSA with M/s NVVN at Chatham shall be expiring on 26.07.2025 and the 10 MW extended PSA with M/s NVVN at Bambooflat shall be expiring on 14.09.2025.
7. In view of above a meeting was held under the Chairmanship of the Chief Secretary (I/c), A&N Administration on 04.10.2023 to review the power supply and demand scenario of Port Blair South Andaman. Accordingly, a key decision made to Electricity Department to follow up approval of the draft bid document for 10 MW plant at Chatham Power House and float tenders expeditiously to ensure all process for positioning and COD of the plant within 6 months.
8. It is noted that Andaman & Nicobar Administration vetted draft tender document and accorded approval for Purchase of Power through DG Sets to deliver 10 MW power continuously to the 33 KV Grid of Electricity Department at Chatham Power house Complex with monthly targeted generation of 5.84 MU per month and minimum guaranteed unit delivery of 4.088 MU per month for a period of three years or till

augmentation of new same or more capacity DG sets at Departmental Power plant, Sri Vijaya Puram, whichever is earlier at an estimated contractual cost of Rs. 21,44,45,000/- (Rupees Twenty One Crore Forty Four lakh Forty Five Thousand only). The tender notice no. EL/PR/58A(11)/10MW-CHP/T-08/161 issued on dated 15.12.2023 with the EMD fixed as Rs. 42,88,900/- (Rupees Forty Two Lakh Eighty Eight Thousand Nine Hundred only).

9. It is noted that tender published in CPP Portal vide Tender ID No. 2023_ED_12712_1 dated 21.12.2023 with Pre-bid meeting and Bid opening date scheduled on 29.12.2023 and 18.01.2024 respectively. In the Pre-bid meeting held on 29.12.2023, prospective bidders raised queries mainly on clauses in respect of ageing of DG sets, capacity of the DG Sets, standard Fuel Consumption (SFC) and HSD (fuel) storage facility specified in tender documents. Consequent to the Pre-Bid meeting, the bid due date was extended to 29.01.2024 Corrigendum - I published on 06.01.2024 for accommodate the pre-bid amendments. Further, Corrigendum - II published on 20.01.2024 and the Bid due date was extended till 02.02.2024. In apropos to the Pre-bid meeting and subsequent to deliberation in the meeting the amendment Technical Bid Corrigendum - III published on 23.01.2024. The bid could not be opened on 02.02.2024 due to poor bidder participation, leading to an extension until 09.02.2024 Corrigendum - IV published on 02.02.2024. The bid opened on dated 09.02.2024 found only one bidder participated on the portal whereas EMD documents were received from two bidders. M/s Sudhir Sales & Services. Ltd. Haryana and M/s Express Genset Consortium Pvt. Ltd.
10. It is noted that further Corrigendum(Re-tender) Notice No.: P/14/2023-EE(PG)-ELE-ELE_AN/1087 issued on dated 12.02.2024 and re-tender published in CPP Portal vide Tender ID No. 2023_ED_12712_2 dated 14.02.2024 with bid opening date as 06.03.2024. The tender could not be opened due to non-participation, leading to another Corrigendum - I published on 05.03.2024 for the Bid due date extension till 15.03.2024. The bid was successfully opened on 15.03.2024, with participation from two bidders: M/s Sudhir Sales & Services Ltd. Gurgaon and M/s Perennial Energy Pvt Ltd. Tender Evaluation Committee meeting held on 10.04.2024, after evaluating the technical bids, the committee decided to seek shortfall documents from both parties and subsequently place before the committee for further evaluation. Further, Tender Evaluation Committee meeting held on 22.04.2024, after reevaluating the technical bids, the committee found that the bidder M/s Sudhir Sales & Services Ltd. Gurugram is technically qualified and another bidder M/s Perennial Energy Pvt Ltd, Pune did not technically qualify due to non-submission of requisite documents as per the terms & condition of the tender document. The committee decided to submit the proposal to the competent authority and seek approval for opening of financial bid of the technically qualified single bidder M/s Sudhir Sales & Services Ltd. Gurugram. With the approval dated 10.05.2024 of the Commissioner cum Secretary (Power) A&N Administration, the financial bid of the single technically qualified bidder M/s. Sudhir Sales & Service Ltd. was opened dated 14.05.2024. As per the Price Bid, M/s. Sudhir Sales & Service Ltd. has offered at rate of Rs. 0.92/KWh and total contractual cost of Rs.19,34,20,800/- (Rupees Nineteen Crore Thirty Four Lakh Twenty Thousand Eight Hundred only) as per estimated 210,240,000 Units for a period of three years.

11. It is noted that as per Ministry of Home Affairs letter No. 15039/150/2018-UT(Coord) dated 28.01.2019, the delegated financial power of A&N Administration to accept single tender including resultant single offer is Rs. 10.00 Crores (Ten Crores). Further, with approval of the Hon'ble Lt. Governor dated 21.06.2024, A&N Administration approached Ministry of Home Affairs, GoI dated 02.07.2024, File No. EL/PL/11-9/2024/2616 for the approval for acceptance of single tender at rate of Rs. 0.92/KWh and total contractual cost of Rs. 19,34,20,800/- (Rupees Nineteen Crore Thirty Four Lakh Twenty Thousand Eight Hundred only.) for purchase of power from 10 MW Hiring power plant at Chatham Power House Complex, Port Blair for a period of three years.
12. That the Ministry of Home Affairs, Government of India vide letter No. U-13015/3/2024-ANL dated 02.09.2024 accorded approval on the proposal of UT of A&N Administration for award of single tender for 10 MW Hiring Power Plant with total contractual cost of Rs. 19,34,20,800/- (Rupees Nineteen Crore Thirty Four Lakh Twenty Thousand Eight Hundred only) towards purchase of power at Chatham Power House Complex, Port Blair subject to the availability of sufficient funds and adherence of all the codal formalities. Further, A&N Administration's letter No. P/14/2023-EE(PG)-ELE-ELE_AN dated 14.10.2024, the draft Power Purchase Agreement and draft petition has been concurred and vetted by the Finance & Law Department of the A&N Administration.
13. That the Respondent is required to supply, install and commission all weather proof DG Sets of suitable capacity so as to provide continuous 10 MW power on round the clock basis (24 hours a day for at-least for 80% to 85% time in a month) to the 33 KV Grid/Bus Bar of Electricity Department of A&N Administration at Chatham Power House Complex, Sri Vijaya Puram, A&N Islands initially for a period of three years. 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, rating of each DG set should not be less than 1000 KW (1250 KVA). The DG sets intended for the purpose should not be older than 6 (six) years on the date of commissioning of DG set at the proposed site.
14. It is noted that the fuel i.e. HSD required for Power Generation will be supplied to the Respondent free of cost by the Petitioner from the existing 203 KL Departmental Storage Tank at Chatham Power House Complex. The fuel efficiency of all weatherproof DG sets shall normally be maintained at 3.8 Units/Litre i.e. 0.263 Litre/Unit. However, for inefficient operation of DG sets i.e. less than 3.8 Units/Litre (equivalent to 0.263 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 0.263 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 through IOCL is BS-VI grade.
15. That as per the bid document the Performance Bond/Security amount @10% of the contract price is Rs. 1,93,42,080/- (Rupees One Crore Ninety three Lakh Forty two Thousand Eighty only.) in favour of the Assistant Accounts Officer(C), Electricity Department, Port Blair,

having validity for a period of 42 (Forty two) months from the date of execution of Power Purchase Agreement.

16. 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 10 MW Power is delivered to the Grid 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) or till augmentation of new same or more capacity DG sets at Departmental Power Plant at Sri Vijaya Puram, whichever is earlier. 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 0.263 Litre/KWh (below 3.8KWh/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.
17. However, the clause 2.0.0 (I) of the draft PPA stipulate contract period of 3 (three) years (from COD) or till augmentation of new same or more capacity DG sets at Departmental Power Plant at Sri Vijaya Puram, whichever is earlier. The agreement shall be extendable on the same terms & conditions for another 2 (two) years subject to amendment of the contract on mutual consent with the approval of competent authority of the ED A&N. As per the submissions of the Petitioner most of the RE projects is to be commissioned by 2027. Therefore, there is no reason to grant approval beyond the year 2027.
18. The Commission has further noted that the procurement of power by the Petitioner was conducted through transparent tariff based competitive bidding process as envisaged u/s 63 of the Electricity Act 2003. The Petitioner is seeking adoption of tariff u/s 63 of the Electricity Act, 2003 and approval of the Power purchase Agreement u/s 86 (1)(b) of the Electricity Act, 2003.
19. It is relevant to highlight relevant legal Provisions:

The Section 63 of 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."

Section 86 (1)(b) of Electricity Act, 20003 provides that-

“Section 86 (1)-The State Commission shall discharge the following functions, namely: b) 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.”

20. However, it is observed that the Central Government have 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.”

21. 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 u/s 86 (1) (b) along with Section 63 for approval/adoption of tariff and procurement process of distribution licensee.
22. In the present Petition, the Commission has noted that the Central Government has not issued any guidelines for procurement of power from the DG Sets under Section 63. In the light of the principle enunciated in Energy Watchdog judgment and Jaipur Vidyut Vitran Nigam Ltd. judgement, the Commission adopts the tariff discovered through the tariff based transparent bidding process u/s 63 and approves the revised Power Purchase Agreement u/s 86 (1)(b) of the Electricity Act, 2003.
23. In view of the above, the Commission accords approval of revised PPA with contract period for 3 (three) years (from COD) or till augmentation of new same or more capacity DG sets at Departmental Power Plant at Sri Vijaya Puram, whichever is earlier. The Commission directs the Petitioner and the Respondent to execute the Power Purchase Agreement as per terms & conditions duly approved by the Commission and place a duly notarized copy of the said PPA before the Commission within a week after execution of the said PPA. In case any extension of the PPA is required, the Petitioner may approach the Commission at least 6 (six) months before the expiry of existing PPA for approval of extension of contract period. The Petitioner is also directed to make efforts for addition of the RE projects to meet out the demand.
24. Further, the Petitioner is directed to submit the copy of Letter of Award (LoA) and copy of Performance Bond/Security to the Commission after execution of the said PPA. Also, the Petitioner is directed to submit the copy of COD letter and the details & specification of DG sets such as no. of DG sets, make, model, capacity, year of manufacturing, efficiency etc. to the Commission within a week after the COD.
25. Ordered accordingly.

Sd/-
(Jyoti Prasad)
Member (Law)

Sd/-
(Alok Tandon)
Chairperson

(Certified Copy)



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

Place: Gurugram, Haryana
Date: 6th May, 2025