

**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.: 129/2025

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 the Indoor Bus of Swaraj Dweep Power House with 2 MW Power during evening Peak Hours (05:00 PM to 10:00 PM) and average 900 KW during Non-peak hours for a period of three years for smooth handling of rapid growing demand of Swaraj Dweep, Andaman & Nicobar Island".

And in the matter of:

The Electricity Department, A&N Administration,
Vidyut Bhawan Sri Vijaya Puram - 744101.

.....Petitioner

And in the matter of:

Express Gensets Consortium Private Limited, 94. I P
Extension Rajdhani Nikunj Patparganj, Delhi, India,
110092

.....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. Naresh Gupta, Director

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 the Indoor Bus of Swaraj Dweep Power House with 2 MW Power during evening Peak Hours (05:00 PM to 10:00 PM) and average 900 KW during Non-peak hours for a period of three years for smooth handling of rapid growing demand of Swaraj Dweep, Andaman & Nicobar Island as submitted in the petition.
2. The Petitioner's submissions in brief are as under:
 - a. The proposal for augmenting 2 MW DG capacity at Swaraj Dweep (formerly known as "Havelock") is driven by the critical need to stabilize and enhance the power supply infrastructure to support tourism growth and new developments on the island. The government and stakeholders are actively involved in addressing this issue to ensure sustainable development and meet the increasing power demands effectively.
 - b. The issue of improving power supply in Swaraj Dweep was discussed at a meeting dated 04.02.2023 convened by the Chief Secretary of A&N Administration. The meeting emphasized the importance of addressing the power supply challenges to support the tourism sector and make Andaman & Nicobar Islands a global tourist destination.
 - c. Following the meeting, it was decided that the Electricity Department should expedite the installation of additional DG sets not only at Swaraj Dweep but also at Shaheed Dweep (another island), indicating a broader effort to enhance power infrastructure across the islands.
 - d. The Executive Engineer has proposed increasing the DG capacity by 2 MW through a Power Purchase Agreement (PPA) to meet the growing demand of Swaraj Dweep Island (formerly known as "Havelock"). This proposal aims to ensure sufficient and reliable power supply for Swaraj Dweep, considering its significance as a tourist destination and in the absence of alternative power sources on the island.
 - e. Andaman & Nicobar Administration vetted draft tender document and accorded approval for purchase of power through DG Sets Based Power Plants to deliver 2 MW Power to the existing grid of Electricity Department of A&N Administration at Departmental Power House Complex at Swaraj Dweep, South Andaman with targeted generation of 7.56 lakh Units per month and minimum guaranteed generation at 6.8 Lakh Units per month for a period of three years at an estimated contractual cost of Rs 2,53,11,000/- (Rupees Two Crore Fifty three Lakh Eleven Thousand only).

- f. Tender was floated in the CPP Portal on 06.09.2023 vide Tender Id NO. 2023 ED_11484_1 with Pre-Bid meeting & Bid opening scheduled on 15.09.2023 & 09.10.2023 respectively.
- g. Pre-Bid meeting of this Tender was held on 15.09.2023. In accordance with the record note of the Pre-Bid meeting, and recommendation of the Committee, proposal was taken-up with Administration for authorizing Pre-Bid corrigendum. The competent authority at A&N Administration has accorded approval to authorize pre-Bid corrigendum on 14.11.2023.
- h. Taking Note of the time taken process involving approving Pre-Bid Corrigendum at various levels viz. Finance Department, Law department & the competent authority, the Bid was kept alive by extending the Bid submission dates. In this context, the Bid submission date(s) extended till 14.11.2023 (date Corrigendum).
- i. The competent authority A&N Administration has accorded approval to authorize Pre-Bid corrigendum on 15.11.2023. An attempt was made on 14.11.2023 to extend the bid due date, however, for technical glitch in the Portal, the extension could not be accommodated by the CPP portal. As a result of the bid due date not being extended and the CPP portal froze the tender process. This action prevented further submissions and corrigendum to the Tender Id No 2023_ED_11484_1.
- j. With the tender process frozen, the portal likely prompts for a retendering process with a revised schedule and updated terms to allow new bids to be submitted.
- k. Retender floated on 01.12.2023 vide Tender Id No. 2023_ED_11484_2 by accommodating modifications based on the pre-bid phase of the previous tender with Pre-Bid & Bid Submission date(s) scheduled on 04.12.2023 & 22.12.2023 respectively.
- l. Technical Bid was opened on 22.12.2023 and found 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 Aggreko Energy Rental India Private Limited, Viman Nagar, Pune Maharashtra
 - iii. M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana.
- m. The Tender Evaluation Committee meeting was held on 29.12.2023 for evaluation of the Bids of the three participant bidders. The Committee in the meeting decided to seek shortfall documents from the participant bidders.
- n. The Tender Re-Evaluation Committee meeting on 19.01.2024, affirmed the technical qualifications of all bidders and recommended proceeding to open their financial bids.

- o. The Corrigendum vide No. EL/PR/58A(3)T-04(2023)/2024/278 dated 26.01.2024 for opening of price bid of the technically qualified bidders was uploaded and were opened on 29.01.2024. 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 72,21,600 Units for period of three years in (Rs.)	
1	M/s. Express Genset Consortium Private Limited. Patparganj Delhi.	1.16/-	3,15,70,560/-	L1
2	M/s. Aggreko Energy Rental India Private Limited, Viman Nagar, Pune Maharashtra	3.80/-	10,34,20,800/-	L3
3	M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana	1.70/-	4,62,67,200/-	L2

- p. M/s. Express Gensets Consortium Private Limited, Patparganj Delhi is the lowest bidder offered at rate per unit (inclusive of taxes) Rs. 1.16/- (One Rupee & Sixteen Paise Only) and total contract price Rs. 3,15,70,560/- (Rupees Three Crore Fifteen Lakh Seventy Thousand Five Hundred Sixty Only) as per estimated 2,72,16,000 Units for period of three years to be delivered to the 11 KV indoor Bus of Swaraj Dweep Power House and minimum specific fuel consumption of 3.7 units/litre (0.270 litre/Unit). The Andaman& Nicobar Administration accorded administrative approval & Expenditure sanction for acceptance of L1 rate & awarding the contract to M/s. Express Genset Consortium Pvt. Ltd., Delhi.
- q. The copy of draft Power Purchase Agreement to be executed between the Electricity Department, A&N Administration and M/s Express Gensets Consortium Private Limited, Patparganj Delhi, duly approved by Law and Finance wing of A&N Administration is submitted for kind 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 02.04.2025 against 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 the parties to submit their written submission within a week. The Petitioner's submission dated 16.04.2025 is here under:

Present peak load demand of Swaraj Dweep, has reached around 4.4 MW, which is a stiff challenge for the department to cater with the existing generation capacity available at this outlying station. The standalone mode of operation, logistic challenges and non-availability

of alternate source of power supply, augmentation in generation capacity of Swaraj Dweep for maintaining seamless power supply to all consumers.

In light of the power growth in this island due to development in tourism sector and govt. infrastructure, a 3.2 MW capacity departmental owned DG power plant was conceived at Swaraj Dweep way back in 2011 and a MoU was executed with NTPC for establishment of this power plant on turnkey basis. Due to various administrative, technical and logistic challenges the project was commissioned after an inordinate delay of eight years, and started its operation in full from November, 2019.

During pendency of inception of this project, a leap frog rise in power demand witnessed at Swaraj Dweep, which was around 2.8 to 3.0 MW during the peak tourist influx, making hand to mouth power situation with available generation capacity. Thus, essentiality of augmentation in generation capacity was envisaged and a requirement for additional 2 MW capacity was raised in the year 2019, to comfortably accommodate growing power demand of this premier destination.

To tide over the grave power situation and to mitigate the demand & supply gap of around 1.5 to 1.8 MW, one number old 1500 KVA DG set was shifted from Diglipur as a stop gap measure to Swaraj Dweep on 10.12.2023. The DG set was commissioned and put into operation on war footing on 19.12.2023. Taking cognizance of the growing demand of the station, the present 2 MW tender was also expedited for mitigating the power demand for the station in a seamless manner.

Table below illustrate the current peak load demand of Swaraj Dweep, which explicitly depicts a paucity of around **1.0 MW** power prevailing at the station, with all five DG sets in operation.

S. No.	UNIT NO.	INSTALLED CAPACITY (KW)	PROPOSED LOADING (KW)	AVAILABLE CAPACITY (KW)
1.	I	1010	80 %	650
2.	II	1010	80 %	650
3.	III	1010	80 %	650
4.	IV	1010	80 %	650
5.	V	1500	70%	800
TOTAL POWER AVAILABILITY (KW)				3400
STATION AUXILLARY DEMAND (KW)				120
PEAK DEMAND (KW)				4400
DEFICIT (KW)				1120

It is imperative to put before the Hon'ble Commission for its kind consideration that all five DG sets are scheduled for its preventive maintenance, as per OEM recommendation. The incessant running of these DG sets, due to hand to mouth power situation of Swaraj Dweep are making them susceptible and more prone to failure.

It is also noteworthy to mention that due to power paucity situation at Swaraj Dweep, the demand of upcoming ALHW Port Terminal (690 KW), Hotels & Resorts (500 KW), residential (30-40 KW) etc, are kept in abeyance. Hoteliers are being sensitized on regular bases to install solar roof top in their premises. Now, with sincere efforts hotels viz. Sea-Shells & TSG are in process of installation of around 100 KW and 60 KW Solar Roof top plants for meeting their in-house load demand.

Other RE projects envisaged for this island includes 554 roof top in residential buildings in Swaraj Dweep identified for installation of 1.108 MW Rooftop Solar and 3.45 MW Grid Connected Roof Top Solar Power Project at Govt buildings through NVVN (NTPC).

The Petitioner has submitted that the PPA be allowed by the Commission for a period of three years with 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 RE Projects of adequate capacity in Swaraj Dweep. Considering the timelines and current status of RE Projects, the inception is 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 02.04.2025, along with additional information submitted by the Petitioner.
6. It is noted that as per the Executive Engineer (South Andaman) vide letter dated 21.12.2022 has proposed increasing the DG capacity by 2 MW through a Power Purchase Agreement (PPA) to meet the growing demand of Swaraj Dweep Island. The demand and supply status at Swaraj Dweep is as under:-

DG Capacity (MW)			Load profile (MW)	
Sl. No.	Installed Capacity	Available Capacity	10.00-12.30 Hrs	17.00-23.00 Hrs
A	Departmental DG Set		Tourist Season	
1	0.808	out of grid since 16.12.2022	2.8	3.8
2	0.808	0.65	Non-Tourist Season	
3	0.808	out of grid since 24.04.2022	2	3
4	0.808	0.65	Average load	2.8
B	Hiring		Peak Demand	3.8
1	1.0	0.70	Shortfall (Non-Peak hour)	0.8
Total	4.232	2.0	Shortfall (Peak hour)	1.8

It is apparent from the table above that generation capacity was insufficient to cater the load requirement of Swaraj Dweep smoothly. There is need of early augmentation of 2MW generation capacity in addition to the existing departmental capacity of 3.2 MW.

7. That a meeting was held on 04.02.2023 under the Chairmanship of Chief Secretary to discuss various issues raised by Hotelier Association related to Tourism Sector in A&N Island. A key decision was made for improvement of power generation and supply at Swaraj Dweep and Shaheed Dweep is being closely monitored and adequate steps are being taken to resolve the power crisis. Electricity Department was to expedite installation of additional DG sets at Swaraj Dweep.
8. That as per additional submissions of the Petitioner dated 02.04.2025, present demand and supply status at Swaraj Dweep is as under: -

S. No.	Unit No.	Installed Capacity	Available Capacity
1.	I	808 KW	650 KW
2.	II	808 KW	650 KW
3.	III	808 KW	650 KW
4.	IV	808 KW	650 KW
5.	V	1500 KVA	800 KW
Total Power Availability			3400 KW
Station Auxiliary Demand			120 KW
Peak Demand			4400 KW
Deficit			1120 KW

DG No. I & DG No. III was repaired on 11.04.2024 & 02.03.2024 respectively and the same were put in operation. The 1500 KVA DG sets shifted to Swaraj Dweep to mitigate the demand and supply gap is only a short-term solution. This 1500 KVA DG is in continuous operation w.e.f 19.12.2023. Being decayed old model, the electrical spares of these DG Sets, has got obsolete, posing challenges to maintain its operational status. In the event of major breakdown of this DG set, the demand and supply gap shall be around 2MW.

9. That Andaman & Nicobar Administration vetted draft tender document and accorded approval for purchase of power through DG Sets Based Power Plants to deliver 2 MW Power to the existing grid of Electricity Department of A&N Administration at Departmental Power House Complex at Swaraj Dweep, South Andaman with targeted generation of 7.56 lakh Units per month and minimum guaranteed generation at 6.8 Lakh Units per month for a period of three years at an estimated contractual cost of Rs 2,53,11,000/- (Rupees Two Crore Fifty three Lakh Eleven Thousand only). The tender floated in the CPP Portal on 06.09.2023 vide Tender Id. 2023 ED_11484_1 with Pre-bid meeting & bid opening scheduled on 15.09.2023 & 09.10.2023 respectively.
10. That Pre-Bid meeting was held on 15.09.2023, prospective bidders raised queries mainly on clauses in respect of Standard Fuel Consumption (SFC), and Delivery Period. In accordance with the record note of the Pre-Bid meeting, and recommendation of the Committee, proposal was taken-up with Administration for authorizing Pre-Bid corrigendum. Consequent to the Pre-Bid meeting, the bid due date extended upto 14.11.2023 with following corrigendum's:
Corrigendum:1 published on 28.09.2023 for the bid due date extended to 16.10.2023
Corrigendum:2 published on 10.10.2023 for the bid due date extended to 23.10.2023

Corrigendum:3 published on 21.10.2023 for the bid due date extended to 30.10.2023
Corrigendum:4 published on 30.10.2023 for the bid due date extended to 14.11.2023.

Further, an attempt was made on 14.11.2023 for the bid due date extension to 24.11.2023. However, due to technical glitch in the Portal, the extension could not be accommodated by the CPP portal. As a result, the bid due date could not be extended and the CPP portal froze the tender process. The Commissioner-cum-Secretary (Power) A&N Administration has accorded approval to authorize Pre-Bid corrigendum on 15.11.2023.

11. That retender floated in the CPP portal on 01.12.2023 vide Tender Id. 2023_ED_11484_2 by accommodating modifications based on the pre-bid phase of the previous tender with Pre-bid meeting & bid opening scheduled on 04.12.2023 & 22.12.2023 respectively.
12. That technical bid was opened on 22.12.2023 and found 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 Aggreko Energy Rental India Private Limited, Viman Nagar, Pune Maharashtra
 - iii. M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana.
13. That Tender Evaluation Committee meeting held on 29.12.2023, after evaluating the technical bids, the committee decided to seek shortfall documents from the parties and subsequently placed before the committee for further evaluation. Further, Tender Evaluation Committee meeting was held on 19.01.2024, after reevaluating the technical bids, the committee found that all three bidders participated in the tender have compiled the requisite pre-qualification criteria for qualifying the technical bid. The committee decided to open the price bid on 29.01.2024 of all three bidders. The Corrigendum vide No. EL/PR/58A(3)T-04(2023)/2024/278 dated 26.01.2024 issued for opening of price bid on 29.01.2024 of the technically qualified bidders.
14. That the financial bid was opened on 29.01.2024. 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 72,21,600 Units for period of three years in (Rs.)	
i	M/s. Express Genset Consortium Private Limited. Patparganj Delhi.	1.16/-	3,15,70,560/-	L1
ii	M/s. Aggreko Energy Rental India Private Limited, Viman Nagar, Pune Maharashtra	3.80/-	10,34,20,800/-	L3
iii	M/s. Sudhir Sales & Services Limited, Gurgaon, Haryana	1.70/-	4,62,67,200/-	L2

15. That M/s. Express Gensets Consortium Private Limited, Patparganj Delhi is the lowest bidder offered at rate per unit (inclusive of taxes) Rs. 1.16/- (One Rupee & Sixteen Paisa Only) and total contract price Rs. 3,15,70,560/- (Rupees Three Crore Fifteen Lakh Seventy Thousand Five Hundred Sixty Only) as per estimated 2,72,16,000 Units for period of three years to be delivered to the 11 KV indoor Bus of Swaraj Dweep Power House and minimum specific fuel consumption of 3.7 units/litre (0.270 litre/Unit).
16. That A&N Administration's letter No. Proc/61/2023-Purchase-ELE-ELE_AN dated 23.08.2024, conveyed the approval of Commissioner-cum-Secretary (Power), A&N Administration for acceptance of L1 rate of Rs. 1.16/- per Unit (One Rupee & Sixteen Paisa Only) and awarding the contract to M/s. Express Gensets Consortium Private Limited, Delhi at total contractual cost of Rs. 3,15,70,560/- (Rupees Three Crore Fifteen Lakh Seventy Thousand Five Hundred & Sixty Only) towards purchase of power at Swaraj Dweep for a period of three years. The draft Power Purchase Agreement and draft petition has been concurred and vetted by the Finance & Law Department of the A&N Administration.
17. That the Respondent is required to supply, install and commission all weather proof DG Sets of suitable capacity so as to provide 2 MW power during evening peak hours (05.00 PM to 10.00 PM) and average 900 KW during non-peak hours with targeted generation of 7.56 lakh Units per month and minimum guaranteed generation at 6.8 Lakh Units per month for a period of three years to the 11 KV indoor Bus of Swaraj Dweep Power House. 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, number of DG set should not be more than four due to space constraints in the target site. 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.
18. 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 70 KL Departmental Storage Tank at Swaraj Power House Complex. 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.
19. 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 2 MW Power is 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.

20. That the Performance Bond/Security amount @10% of the contract in favour of the Assistant Accounts Officer(C), Electricity Department, Port Blair is to be submitted, having validity from the date of execution of Power Purchase Agreement upto sixty days after the date of completion of all contractual obligation.
21. However, the clause 2.0.0 (I) of the draft PPA stipulate contract period of 3 (three) years from COD. The agreement shall be extendable on the same terms & conditions for another 1 (one) year subject to amendment of the contract on mutual consent with the approval of competent authority of the ED A&N. As per the submission 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.
22. 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.
23. 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, 2003 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."

24. However, it is observed that the Central Government have not issued any guideline for the power purchase through tariff based competitive bidding to Deiseal 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."

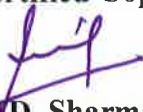
25. It emerges that where there are no guidelines or guidelines issued under Section 63 do not cover a situation, the Commission shall exercise its regulatory powers under Section 86 (1) (b) along with Section 63 for approval/adoption of tariff and procurement process of distribution licensee.
26. In 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 Power Purchase Agreement u/s 86 (1)(b) of the Electricity Act, 2003.

27. In view of the above, the Commission accords approval of revised PPA with contract period for 3 (three) years from COD. 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.
28. 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.
29. 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