

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

CORAM

Shri M.K. Goel, Chairperson

Petition No. 48/2021
Date of Hearing : 08.06.2021
Date of Order : 12.07.2021

In the matter of:

Petition of approval of agreement for "Purchase of Power at Mayabunder - Supply of round the clock Electric Power through containerized DG Sets at Panighat (Mayabunder) in the existing 33 KV T&D system having existing Average evening Peak load of 1.6 MW (05.00 PM to 10.00 PM) Average day & night load to the tune of 1.2 MW"

And in the matter of:

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

.....Petitioner

Vs

M/s Mona Generator Services (P) Ltd.,
1-A, Basement, 30-31,
Raja House, New Delhi.

.....Respondent

Present

For the Petitioner

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

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 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 Mayabunder, the District Headquarter of North & Middle Andaman District geographically situated in the tail end from the source of supply i.e. at a distance of 75 Kms away from the Centralized Power House at Rangat Bay and about 73 Kms away from the Kalpong Hydro Electric Power Station, Diglipur. The Power supply to whole Middle Andaman from Baratang to Mayabunder was supplied from Rangat Bay Power House. Due to this it is prone to frequent interruptions allied with longer duration of disruptions of Power supply. The matter was taken up in the coordination & Monitoring meeting held under the Chairmanship of Chief Secretary A&N Administration on 30.04.2019. After discussion it was deliberated that Solar Power installation may take considerable time, therefore Electricity Department was directed to relocate DG sets from other location and install in the existing shed at Mayabunder (Panighat) expeditiously, as an interim arrangement.
- b) That the Petitioner further submitted that in the circumstances leading to non-availability of spare DG sets with the Department, it was proposed to outsource Purchase of Power through containerized DG Sets at Panighat (Mayabunder) as:
- I. No Power House is available.
 - II. No Canopy based DG set is available with Department.
 - III. Departmental DG sets are very old and outlived & thus are not fuel efficient to render SFC @ 0.270 lit/unit.
 - IV. If Power is outsourced through new containerised DG set then for generation of around 0.80 MU per month the HSD consumption will be to the tune of 216 KL, whereas generation from old Departmental DG sets may need around 240 KL, thus its clear saving of 24 KL HSD.
- c) That a tender notice for Purchase of Power at Mayabunder for the period of 02 years was uploaded on the e-procurement website of Andaman & Nicobar Administration on 29.05.2019 vide ADOE-60 with due date on 24.06.2019. 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 a pre-bid meeting was held in the office of Superintending Engineer, Electricity Department, Port Blair on 07.06.2019 at 14:00 hours. After detailed discussion it was decided to amend the clauses as per Annexure B (2) and Annexure B (21) of the tender document and handover of the site, therefore a corrigendum (Tender No. EL/PR/124A/T-07/2019/2379 dated 15.06.2019) was uploaded on the website of the Andaman & Nicobar Administration. The following officials of the Department & Bidders were present in the meeting.

| SL. No. | Name of the officer | Designation | Department/ Representative |
|----------------|----------------------------|-------------------------|------------------------------------|
| 1 | Shri Karuna Jaydhar | In-charge – S.E.(Ele) | Electricity Department, Port Blair |
| 2 | Shri B. Ajit Kumar | EE (HQ) | Electricity Department, Port Blair |
| 3 | Shri Karuna Jaydhar | EE (PG) | Electricity Department, Port Blair |
| 4 | Shri Sankar Rao | HOD (Ele) | Electricity Department, Port Blair |
| 5 | Shri Deepak Behari Lall | Sr. Account Officer (c) | Electricity Department, Port Blair |

| SL. No. | Name of the officer | Designation | Department/ Representative |
|---------|--------------------------|-------------|--|
| 6 | Shri Pran Krishna Mistry | AE (PR) | Electricity Department, Port Blair |
| 7 | Shri V. Thiagarajan | - | M/S SPTL, Port Blair |
| 8 | Shri N.K. Gupta | - | M/S Sudhir Ready Genset, New Delhi |
| 9 | Shri N.K. Gupta | - | M/S Express Engineering |
| 10 | Shri Ashok Kumar | - | M/S Perennial Technology Pvt. Ltd. Pune, Maharashtra |

e) That in response to the above tender notice the following 06 firms submitted their offer: -

- I. M/s Express Genset Consortium Pvt. Ltd, New Delhi
- II. M/s Modern Hiring Service, Mumbai
- III. M/s. Ready Genset Solutions Pvt. Ltd, New Delhi.
- IV. M/s Aggreko Energy Rental India Pvt. Ltd, Pune
- V. M/s Mona Generator Services (P) Ltd., New Delhi
- VI. M/s Sunny Diesel Sales and Services, Garacharma, Port Blair

f) That the Bids were analysed on 27.06.2019 at 04:30 PM under the chairmanship of Superintending Engineer (Elect). Out of six, four firms were qualified technically and 2 firms namely M/s Express Genset Consortium Pvt. Ltd, New Delhi and M/s. Ready Genset Solutions Pvt. Ltd, New Delhi were disqualified. The detailed comparative technical statement was prepared and the same was placed before the Technical Evaluation Committee.

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 Mona Generator Services (P) Ltd., New Delhi emerged as the lowest bidder. Details of L1 bidder is submitted below:

| Name of the Firm | Description | Rate per unit inclusive of taxes (Rs.) |
|---|---|--|
| M/s Mona Generator Services (P) Ltd., New Delhi | Cost of per unit energy (KWh) to be delivered to the 33 KV T&D System of Mayabunder (inclusive of operation & maintenance charges, lub oil, taxes & duties excluding the cost of HSD oil) | 1.24/- |

h) That the A&N Administration vide letter under file ref No. EL/PR/124A/T-07/2019 dated 01.08.2019 conveyed the approval of the competent authority for acceptance

of L1 rate i.e., @Rs.1.24/- per unit through M/s Mona Generator Services (P) Ltd., New Delhi. Further the PPA was signed and executed on 27.08.2019.

- 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: -*
 - 1) *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 the electricity department of Andaman and Nicobar Islands has conveyed approval of the L1 bidder on 01.08.2019. Further the PPA was signed and executed on 27.08.2019. The COD of this project started at 1400 hours on 10.01.2020 and the PPA is valid for a period of 2 years from the date of COD that is 10.01.2020
- 10) From the above it is crystal clear that approval was conveyed to the successful bidder on 01.08.2019 and the electricity department of Andaman and Nicobar Islands started getting the power from this project from the date of COD that is 10.01.2020. Though the Petitioner has provided some reasons for exorbitant 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 because there was sufficient time from 01.08.2019 to file the Petition for seeking the approval of the Commission of the power purchase agreement much before the COD of this plant.
- 11) 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. Since the validity of the contract period is only 2 years that is up to 09.01.2022. this indicates that now only 6 months are left in the total contract period.
- 12) The Commission has also noted certain irregularities/lapses in the process of bidding. In response to the specific queries raised by the Commission pertaining to these lapses the reasons advanced for such lapses are again not at all convincing and therefore Commission is not inclined to accept them.
- 13) In view of the above the Commission sees no merit in approving this power purchase agreement now, which has already been signed by ED A&N on 28th August 2019 and power being procured since January, 2020. However, the Commission has observed that the electricity department of Andaman and Nicobar Islands has already taken the power generated by this plant and supplied this power to the consumers. The petitioner has also considered this power in their respective tariff petitions for FY 2020-21 and FY 2021-22. The Commission has also considered this power for determination of tariff in the above-mentioned tariff petitions. The tariff orders for the above-mentioned years have attained finality. If at this belated stage the Commission takes a decision to disapprove this power, then suddenly many complications with respect to tariff for the above-mentioned years will arise. Keeping the above in view and in the larger public interest the Commission has taken this on record.
- 14) In the light of above discussion, the Commission takes a serious view on such grave lapse on the part of petitioner and hereby directs the Petitioner that in future if they file more petitions for approval of power purchase agreement where approval to the successful

bidder has already been conveyed and they have started procuring power from such plants then Commission is certainly not going to approve such power purchase agreements and would-be constraint to take appropriate legal action against the Petitioner.

Ordered accordingly.

Sd/-
(M.K. GOEL)
CHAIRPERSON

CERTIFIED COPY



(RAKESH KUMAR)
SECRETARY