



**ARUNACHAL PRADESH STATE ELECTRICITY REGULATORY COMMISSION
ITANAGAR**

MP 04 of 2026.

IN THE MATTER OF: Miscellaneous Petition under the provisions of the Electricity Act, 2003 seeking approval of the Draft Tripartite Agreement proposed to be executed between the Department of Power, Government of Arunachal Pradesh with M/s Arunachal Pradesh Power Corporation Pvt. Ltd. and M/s NEFA Power Trading Pvt. Ltd. for sale of power through Power Exchange and Bilateral Mode, purchase of power through Power Exchange and Banking of Power.

Coram: Shri R K Joshi Hon'ble Chairperson
Shri Nich Rika Hon'ble Member (Law)

Parties:

1. The Chief Engineer (Commercial) cum CEI,
Department of Power, Government of Arunachal Pradesh, Vidyut Bhawan,
Itanagar, Papum Pare District, Arunachal Pradesh.

.... Petitioner

with

2. M/s Arunachal Pradesh Power Corporation Pvt. Ltd. (APPCPL)
A Sector, Legi Complex, Naharlagun, Papum Pare District
Arunachal Pradesh.
3. M/s NEFA Power Trading Private Limited. (NPTPL)
R-6, Erki and Senia Apartments, A Sector, Naharlagun, Papum Pare District
Arunachal Pradesh.

..... Parties.

Apperance: 1. Er. Zomba Nasho SE (Comm).

2. Er. N.K Jha EE (Comm)

3. Shri Anand Shankar Roy, AGM, APPCPL.

4. Shri Balo Taki, Director, NPTPL.

Date of Hearing : 11.08.2026

Date of Order : 12.08.2026.

ORDER

1. In this present miscellaneous petition, the Petitioner seeks approval of the Draft Tripartite Agreement proposed to be executed between the Department of Power, Government of Arunachal Pradesh with M/s Arunachal Pradesh Power Corporation Pvt. Ltd. and M/s NEFA Power Trading Pvt. Ltd. for sale of power through Power Exchange and Bilateral Mode, purchase of power through Power Exchange and Banking of Power.

2. The petitioner prayed for following in its petition:

“ (a) Accord approval to the Draft Tripartite Agreement proposed to be executed between the Department of Power, Government of Arunachal Pradesh with M/s Arunachal Pradesh Power Corporation Pvt. Ltd. and M/s NEFA Power Trading Pvt. Ltd. for sale of power through Power Exchange and Bilateral Mode, purchase of power through Power Exchange and Banking of Power.

(b) Pass such further order(s) or direction(s) as this Hon’ble Commission may deem fit and proper in the facts and circumstances of the case.”

GIST OF THE CASE:

3. The petitioner, initially on 28.10.2025 had filed a miscellaneous petition entered as MP 06 of 2025 for approval of the Draft Tripartite Agreement for sale of the surplus power of the Arunachal Pradesh in power exchange and in bilateral mode through the traders.

4. The Commission observed that draft tripartite agreement, placed for consideration had elements of opaqueness and lacked transparency. No competitive bidding process was initiated as to prevent monopolistic practices and encourage efficiency. A conducive, competitive and transparent environment contribute to the long-term sustainability and resilience of the power sector ultimately ensure benefit to the end user as of lower cost, improved service quality and wider option.

5. With regulatory responsibility as entrusted under provisions of the Electricity Act, 2003 the Commission cannot overlook acts that are against the reasons and objects of the very Act. Appropriate steps have to be initiated to prevent unwarranted deviations and ensure compliance with established norms and enforce them consistently to maintain fairness.

6. After much deliberation and assessment, the Commission solely in the public interest and to prevent financial detriment to the State exchequer, by Order dated 11.12.2025 in MP-06 of 2025, had granted interim approval of the Draft Tripartite Agreement for a period of 4 (four) months which was to be ceased on 31.03.2026. The petitioner was directed to initiate the bidding process in transparent and competitive manner and further ensure that selected trader is fully operational with effect from 01.04.2026. The matter was disposed of by Order dated 11.12.2025 in MP-06 of 2025 with the direction which reads as:

“DIRECTION:

In light of the foregoing analysis, and exercising its powers under the Electricity Act, 2003, the Commission hereby issues the following Order:

16. The draft Tripartite Agreement for the sale of surplus power in the Power Exchange and Bilateral mode through the identified Traders is hereby granted Interim Approval for a period of four (4) months only, commencing

from the date of this Order. This interim arrangement shall stand automatically terminated on 31.03.2026.

17. No extension whatsoever shall be considered or granted to the parties under the present interim arrangement under any circumstances.

18. The Petitioner, APDOP, shall immediately initiate and complete a transparent and competitive bidding process by publishing a Notice Inviting Tender (NIT) for the selection of a Power Trader within the aforementioned period of four (4) months, ensuring that the selected trader is fully operational with effect from 01.04.2026.

19. The Petitioner, APDOP, shall submit a Compliance Affidavit to the Commission detailing the action taken towards initiating the bidding process within fifteen (15) days of this Order.

20. The Petitioner shall further submit a Monthly Progress Report (MPR) to the Commission on the status of the tender process (NIT publication, pre-bid meetings, bid submission, and final selection).

21. Failure to adhere to the submission timelines for the Compliance Affidavit and Monthly Progress Reports, or failure to conclude the competitive bidding process within the stipulated four (4) month period, shall compel the Commission to initiate Suo-Motu proceedings for regulatory non-compliance under the relevant provisions of the Act and associated Regulations.

22. With the aforesaid directions, the Petition (MP-06 of 2025) is hereby disposed of.;"

7. Placed on record a letter No. CE(COM)/P-Sale (IEX)36/2025-26/6105-10 dated 31st March 2026 submitted by the Chief Engineer (Commercial) cum CEI, Department of Power, Government of Arunachal Pradesh requesting the continuation of the existing Tripartite Agreement for a limited period till finalisation of new trader.

8. The Commission by its Order dated 06.04.2026 had accorded extension of the interim tripartite agreement as approved in the Order dated 11.12.2025 in MP-06 of 2025 to additional 45 days. Further it was directed that compliance report was to be submitted every 15 days.



9. Again, through a representation No. CE(COM)/P-Sale (IEX)36/2026-27/540-41 dated Itanagar, the 12th May 2026. The petitioner prayed for additional time for completion of entire process, which include the necessary approval on the part of Government of Arunachal Pradesh. The petitioner seeks an extension of the existing interim Tripartite Agreement for further 90 days or till finalisation of the new Tripartite Agreement.

10. Taking into account the grid discipline, system reliability, financial implications on the State and out most the interest of the end user consumer, the Commission being empowered under Clause 47 of the “Arunachal Pradesh State Electricity Regulatory Commission (Conduct of Business) Regulations, 2011” on dated 02.06.2026 had extended the interim tripartite agreement approved in the Order dated 11.12.2025 in MP-06 of 2025 to another 90 [Ninety] days effective from 15.05.2026. As approval was awaited from the Government of Arunachal Pradesh, the Order was also communicated to the Commissioner (Power) Govt. of Arunachal Pradesh for necessary action on its part. Further in the Order itself, it was made clear that no time extension will be allowed after the expiry of granted 90 days period.

SUBMISSIONS OF THE PETITIONER:

11. By this present miscellaneous petition, the petitioner, herein being the Department of Power, Government of Arunachal Pradesh submitted that they are responsible for procurement of power for the State, manage the surplus power, power market operations, scheduling of power, purchase of power, power banking and related commercial activities in accordance with the provision of the Electricity Act, 2003, the Regulations framed thereunder and the directions issued by the Hon'ble Commission.

12. The petitioner submitted that in pursuant to the direction, the Department invited competitive bids through Notice Inviting Quotation (NIQ) for selection of power traders for (i) Sale of power through power exchange and bilateral mode; (ii) purchase of power through power exchange; and (iii) Banking of power. Only two bidders namely M/s Arunachal Pradesh Power Corporation Private Limited (APPCPL) and M/s NEFA Power Trading Pvt. Ltd (NPTPL) submitted their bids within stipulated time.

13. Further it has been submitted that upon evaluation of technical bid and financial bid, both bidders were found to have quoted identical rates, its terms and condition in all respect are same. As such the matter has been submitted to the State Government for obtaining necessary approval/finalisation of the matter.

14. Considering the identical bids submitted by bidders, the competent authority approved award of the work equally to both APPCPL and NPTPL on 50:50 basis.

15. The petitioner thus prays to accord approval to the proposed draft tripartite agreement as it is essential for enabling the Department to undertake sale of surplus power, purchase of power during deficit periods and banking of power ultimately facilitate efficient power market operations, maintenance of grid discipline, avoidance of DSM liabilities and optimal utilization of surplus power available with the State.

OBSERVATION OF THE COMMISSION:

16. After having gone through the petition, pleadings and terms and conditions as set in the Draft Tripartite Agreement, the Commission observation is sum up in the preceding paragraph below.

17. The Commission as discharge of its functions under Section 86 (1) (b) of the Electricity Act, 2003 has responsibility 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. The relevant extracts of Section 86 (1) (b) of the Electricity Act 2003 which reads as:

“Section 86. (Functions of State Commission): --- (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”

18. Reading of Section 86(1)(b) makes it clear that this is a provision of regulating purchase of electricity and the procurement process of distribution licensee. Section 86(1)(b) not only provides to regulate electricity purchase and procurement process of distribution licensees but also the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements. The power under Section 86(1)(b) is vested with State Commission for protection of public interest at large since the power purchase cost is ultimately passed on to the consumers for the entire period of agreement. The State Commission has an obligation to look into various aspects and decide whether to be approved or not to be approved.

19. We may place our reliance in the decision of Supreme Court in **“Tata Power vs. Maharashtra Electricity Regulatory Commission” (2009 (16) SCC 659)** to contend that the duty of the Regulatory Commission is to regulate purchase and procurement of electricity made by the licensee and so far as generation, function



of the Commission is to determine the tariff and in relation to supply of transmission and wheeling of electricity. Thus, it can be concluded that in the absence of any prior consent of the State Commission, such agreement cannot be enforceable.

20. The Commission in its earlier Order has repeatedly emphasized the necessity of a transparent bidding system. The sale of State assets, including surplus power has to be realized through transparent and competitive mechanisms ensuring optimum revenue for the State exchequer.

21. Seen that the present bidding process initiated by the petitioner is in contravention to the direction as issued in Order dated 11.12.2025 in MP-06 of 2025. Instead of the clear-cut direction to float bids by process of Notice Inviting Tender (NIT), the petitioner came out with Notice Inviting Quotation (NIQ). There is apprehension that NIQ process initiated by the petitioner may not be as transparent and competitive as called for as no specified date is shown on the documents of the NIQ and further the period less than a week for submission of bids by eligible traders is not justified as it restricts eligible bidder out of the State. We have no hesitation to say that the entire NIQ process was never transparent nor competitive.

22. It is even hard to digest the submission of the petitioner that upon evaluation of technical bid and financial bid, both bidders were found to have quoted identical rates, its terms and condition in all respect were the same. We raised our doubt to the entire bidding process and not at all convince with the petitioner.

23. We express our serious reservation to the Clause III Sub Clause (7) sub heading "Special Condition of Contract" of Draft Tripartite Agreement. The Relevant extracts read as:



“III Special Condition of Contract:

7. Validity of Contract: This Agreement shall be valid for a period of 3 (Three) Years from the date of issue of LOA (Which will be form a part of Agreement) and can be extended further on satisfactory performance of the Traders at mutually agreed terms & conditions between the Traders and Owner.”

24. As the power sector is inherently volatile, with rapid shifts in demand, regulatory frameworks, and market prices. That volatility makes short-term agreements far more practical than locking into long-duration contracts. Flexibility to renegotiate or sell surplus power at higher rates when market prices rise. Minimizes exposure to long-term uncertainties such as policy changes, transmission charges, or trader defaults. Short-term agreements strike the right balance as they provide revenue assurance while preserving flexibility to respond to market shifts. Long-run contracts, though stable, can become a liability in such a volatile environment. Thus, a three [3]-year validity of the contract is not at all feasible as it may have adverse implications to the State and end user consumer.

25. Considering all aspects of State and consumer interest it would be appropriated that the contract period must be fixed for one [1] year duration, to be extended only after prior approval accorded by the Commission on submission of due application sighting records, reasons and pressing circumstances for such extension by the petitioner. Thus, we direct that Clause III Sub Clause (7) sub heading “Special Condition of Contract” of Draft Tripartite Agreement must be substitute and read as :

“III Special Condition of Contract:

7. Validity of Contract: This Agreement shall be valid for a period of 1 (one) Years from the date of issue of LOA (Which will be form a part of Agreement) and can be extended further on the prior approval accorded by the Hon'ble Commission (APSERC) on submission of due application sighting records, reasons and pressing circumstances for such extension."

26. In the light of the above observation and direction, we are of the opinion the miscellaneous petition praying to accord approval of the Draft Tripartite Agreement can be considered and allowed.

27. At this juncture, the Commission approves the present Draft Tripartite Agreement to be entered and signed between the Department of Power, Government of Arunachal Pradesh with M/s Arunachal Pradesh Power Corporation Pvt. Ltd. and M/s NEFA Power Trading Pvt. Ltd. for sale of power through Power Exchange and Bilateral Mode, purchase of power through Power Exchange and Banking of Power for one [1] year duration which can be extended further on the prior approval accorded by the Hon'ble Commission (APSERC) on submission of due application sighting records, reasons and pressing circumstances for such extension by the petitioner.

28. With aforesaid observations and directions, the miscellaneous petition, MP 04 of 2026 stand disposed of.

BY ORDER OF THE COMMISSION


**Secretary
APSERC**