

KERALA STATE ELECTRICITY REGULATORY COMMISSION

THIRUVANANTHAPURAM

Petition No: OP 35/ 2021

- Present** : **Shri. Preman Dinaraj, Chairman**
: **Adv. A. J. Wilson, Member (Law)**
- In the matter of** : Petition filed by Kerala State Electricity Board Limited in compliance with the direction of the Commission in OP 12/14 in the matter of Construction of Transmission Line with sufficient capacity for Pallivasal Generating Station to Munnar
- Petitioner** : Kerala State Electricity Board Limited (KSEB Ltd)
- Petitioner Represented by** : Sri Manoj.G, Assistant Executive Engineer, TRAC, KSEB Ltd.
- Respondent** : Kanan Devan Hills Plantations Company Private Limited (KDHPCL)
- Respondent Represented by** : Sri. P.M.Srikrishnan, Executive Director, KDHPCL
Adv.Joseph Kodianthra, Senior Counsel
Sri.Raju.U.Warrier, Manager, KDHPCL
Sri.Jayaraman, Executive, KDHPCL
- Hearing** : **11-10-2021 at the Panchayath Hall, Munnar**

Daily Order Dated 29.10.2021

1. M/s Kerala State Electricity Board Limited (hereinafter referred to as KSEB Ltd) have filed a petition before the Commission in compliance with the direction of the Commission in OP 12/14, in the matter of Construction of Transmission Line with sufficient capacity from Pallivasal Generating Station to Munnar. M/s Kanan Devan Hills Plantations Company Private Limited (hereinafter referred to as KDHPCL), the respondent is the distribution licensee at Munnar, vide the Notification Nos 1/2007 dated 9th January 2007 and 2/2007 dated 23rd March 2007 issued by the Commission.
2. The Commission in OP 17/2014 filed by Kannan Devan Hills Plantations Company Private Limited (KDHPCL) in the matter of transmission charges for drawing the 66kV line from Pallivasal Power House of

KSEB Ltd to the proposed 66kV substation of M/s KDHPCL at Munnar issued the Order dated 18.8.2015, wherein it was directed that:

“both the petitioner namely KDHPCL and respondent namely KSEB Ltd are directed to discuss various techno economic options relating to construction of transmission line with sufficient capacity from Pallivasal generating station to Munnar and the construction of substation at Munnar in view of the relevant facts. The discussion shall be completed on or before 31.10.2015 and a report on various options with detailed techno economic aspects shall be submitted to the Commission on or before 16.11.2015. After considering such proposals the Commission will take appropriate decision on the project cost as well on the sharing of cost. The OP NO. 17/2014 is therefore found to be premature and disposed of with the above directions.”

3. Hearing on the petition was held on 11.10.2021 at the Panchayat Hall, Munnar. KSEB Ltd was represented by Shri. Manoj G, Assistant Executive Engineer, TRAC. M/s KDHPCL was represented by Shri. P.M Srikrishnan, Executive Engineer KDHPCL, Adv. Joseph Kodianthra, Senior Counsel, Shri Raju. U. Warriar, Manager KDHPCL and Sri Jayaraman, Executive KDHPCL and other officers of KDHPCL..
4. Sri Manoj, Assistant Executive Engineer, KSEB Ltd presented the petition filed in compliance of the above Order of the Commission and replied to the clarifications sought by the Commission in the matter. He stated that in compliance to the direction in OP No. 17/2014, several rounds of discussions were held between M/s KSEB Ltd and M/s KDHPCL during which they arrived at a conclusion on the techno economic aspects of developing the transmission network for meeting the load at Munnar and nearby areas. But, there was no convergence on the matter of sharing the cost of the project between KSEB Ltd and KDHPCL.
5. The gist of the original proposal was to construct two 66 kV feeder bays at Pallivasal Power House and construct a 6 km 66 kV DC line from Pallivasal to Munnar, construct a 66kV substation at Munnar with 2 nos 66kV incoming feeder bays and 2 nos 66/33 kV transformer bays. The proposal proposed to provide 33kV outgoing to M/s KDHPCL and constructing 33kV DC line from Munnar to the proposed 33kV substation at Marayoor. Accordingly, KSEB Ltd had on 01.04.2016 submitted the proposal at an estimated cost of Rs.2213.00 lakhs. As per the proposal, the land for construction of substation at Munnar is to be provided by KDHPCL. However, due to litigations in the Hon'ble Supreme Court and

issues related to the suitability of various land locations proposed by KDHPCL and uncertainty in handing over of the land, construction of the substation at Munnar was delayed.

6. In the meantime, in order to resolve the voltage issues at Marayoor area, KSEB Ltd had continued with the construction of the 33kV substation at Marayoor, drawing the 33kV line directly from Pallivasal Power House. KSEB Ltd submitted that the construction of 17 kms 33 kV Single Circuit (SC) line from Rajamala to Vaguvarai, construction of 17 kms 33 kV SC line from Vaguvarai to Marayoor and the construction of 14 kms 33 kV SC line from Munnar to Rajamala and construction of 7 kms 33 kV DC line from Pallivasal to Munnar, has already been completed. It was also submitted that construction of 33 kV Sub Station at Marayoor, has been completed and commissioned. Out of the proposed installation of 2 X 20 MVA, 66/33 kV transformers at Pallivasal Power House, one 20 MVA transformer has already been commissioned.
7. Considering the fact that the construction of 66kV substation at Munnar and 66kV line from Pallivasal to Munnar would take more than 2 years and the urgency to address the issue in supply to Munnar area, a 33kV substation may be constructed at Munnar at the cost of KDHPCL, utilizing the new 33kV line from Pallivasal. This substation can be completed within a short period of six months. Accordingly, only the 33kV line from Pallivasal to Marayoor has been drawn as Double Circuit in the Pallivasal Munnar stretch as agreed by both the parties.
8. KSEB Ltd has revised the administrative sanction for installation of 2 nos 20 MVA, 66/33 kV transformers at Pallivasal, 7km 33kV DC line from Pallivasal to Munnar, 31 km 33kV Single Circuit (SC) line from Munnar to Marayoor and 33kV substation at Marayoor. It may be seen that the line from Munnar to Marayoor and to Marayoor substation is exclusively for the purpose of serving consumers of KSEB Ltd whereas the 33kV DC line from Pallivasal to Munnar is for the use of both KDHPCL and KSEB Ltd. Hence KSEB Ltd proposes that the cost of common transmission system upto Munnar be shared between KDHPCL and KSEBL as per the load sharing. Accordingly, the transmission system from Munnar to Marayoor is included in the capital expenditure plan of KSEB Ltd and the submitted revised proposal is for Rs. 1925.00 lakhs as shown below.

Description of work	Estimate amount Rs lakhs	Remarks
Construction of 2 nos 20 MVA 66/33kV transformer bay at Pallivasal	685.00	To be shared by KSEB Ltd and KDHPCL
Construction of 7km 33kV DC line from Pallivasal to Munnar	310.00	To be shared by KSEB Ltd and KDHPCL
Construction of 14km 33kV SC line from Munnar to Rajamala	220.00	KSEB Ltd
Construction of 17km 33kV SC line from Vaguvara to Marayoor	270.00	KSEB Ltd
Construction of 33kV substation at Marayoor	440.00	KSEB Ltd
Total	1925.00	

9. KSEB Ltd also submitted that cost escalation is to be considered to the estimated cost of Rs.1925.00 lakh, as it was estimated as on 01.04.2016.

10. Adv. Joseph Kodianthra, Senior Counsel of the respondent KDHPCL presented their counter argument in the matter and pointed out that as per Section 40 read with Section 39 of the Electricity Act, it shall be the duty of the transmission licensee to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system.

“Section 39. State Transmission Utility and functions.- (1) *The State Government may notify the Board or a Government company as the State Transmission Utility:*

Provided that the State Transmission Utility shall not engage in the business of trading in electricity:

Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 (1 of 1956) to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) *The functions of the State Transmission Utility shall be –*

(a) to undertake transmission of electricity through intra-State transmission system;

(b) to discharge all functions of planning and co-ordination relating to intra-State transmission system with –

(i) Central Transmission Utility;

(ii) State Governments;

- (iii) *generating companies;*
- (iv) *Regional Power Committees;*
- (v) *Authority;*
- (vi) *licensees;*
- (vii) *any other person notified by the State Government in this behalf;*

(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;

(d) to provide non-discriminatory open access to its transmission system for use by-

- (i) any licensee or generating company on payment of the transmission charges ; or*
- (ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:*

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

Section 40. Duties of transmission licensees: *It shall be the duty of a transmission licensee –*

(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;

(b) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;

(c) to provide non-discriminatory open access to its transmission system for use by-

- (i) any licensee or generating company on payment of the transmission charges; or*
- (ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:*

Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.”

- 11.**The above sections clearly puts the responsibility on KSEB Ltd, being the state transmission utility, and therefore the cost should be borne by KSEB Ltd only and not to be shared. He also submitted that the said investments are those which the state transmission utility is obliged to incur. Further, as per Section 2 (67) – Definitions, the State Transmission Utility means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39. He stressed on the point that the cost on such investments cannot be shared as it was the duty of the Strategic Business Unit – Transmission of KSEB Ltd to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system.
- 12.**KDHPCL has also mentioned that KSEB Ltd has not mentioned the cost for setting up the sub station at Sevenmalai (Munnar) for receipt of 33 KV power by the licensee for its onward distribution in the territory of KDHPCL. They further submitted that the cost of this infrastructure is also to be borne by the KSEB Ltd, the state transmission utility.
- 13.**The Commission observed that even though the development of the transmission system is the duty of the STU, KDHPCL being a Bulk consumer has to avail the power from KSEB Ltd at the voltage level, depending upon the contracted demand of Power and carryout the necessary transformation and distribution in the licensed area. KDHPCL having a contract demand of 9 MVA need to avail the supply at a voltage level of 33kV or above. Accordingly, the 33kV Distribution substation is to be established by the licensee itself. It is only based on a special permission, the present connectivity is provided through the 3 Nos of 11kV feeders. Commission also pointed out that the licensee had an accumulated surplus of Rs.9 Crores as per its Regulated accounts.
- 14.**KDHPCL mentioned that this surplus amount is actually not available with the licensee, and the matter is pending in the Hon'ble Supreme Court of India. Further the counsel of KDHPCL mentioned that they intend to have another bilateral meeting with the management of KSEB Ltd to sort out

the issue pertaining to establishment of the 33kV substation at Munnar and requested the Commission one more month time. Based on the outcome of the meeting, KDHPCL shall file an affidavit before the Commission

- 15.**The Commission, has duly considered the arguments of the parties and directed both the parties, M/s KSEB Ltd and M/s KDHPCL to have a detailed bilateral discussion in the matter so as to reach a consensus, and to report to the Commission before 30th November 2021. The Commission shall consider the petition based on the submission made.

Sd/-
Adv. A. J. Wilson
Member (Law)

Sd/-
Preman Dinaraj
Chairman

Approved for Issue

Sd/-
Secretary