

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri T K Jose, Chairman
Shri B Pradeep, Member
Adv. A.J Wilson, Member

OP No 73/2022

In the matter of : Petition for inclusion of additional license area at KINFRA mega food park of KINESCO Power and Utilities Pvt. Ltd (KPUPL) under Section 18 of the Electricity Act, 2003– amendment of license area and under Section 19 of Kerala State Electricity (Licensing) Regulations, 2006

Petitioner : KINESCO Power and Utilities Pvt. Ltd (KPUPL)

Respondent : Kerala State Electricity Board Ltd (KSEB Ltd)

Date of Hearing : 19.01.2023, 11:30 AM

Venue : e-hearing through video conferencing

Order dated 12.04.2023

Background

1. KINESCO Power and Utilities Pvt Ltd ('KPUPL') filed a petition dated 30.08.2022 for inclusion of additional license area at KINFRA mega food park of KINESCO Power and Utilities Pvt Ltd (KPUPL) under Section 18 of the Electricity Act, 2003 and under Regulation 19 of Kerala State Electricity (Licensing) Regulations, 2006.
2. The summary of the petition filed by KPUPL is given below:
 - (i) KPUPL is a subsidiary of the Kerala Industrial Infrastructure Corporation Ltd (KINFRA). KPUPL hold license for electricity distribution in the following parks developed by KINFRA.
 - (1) KINFRA Export Promotion Industrial Park, Kakkanad (180.126 Acres).
 - (2) Land of Kinfra for KEPIP Expansion, Kakkanad (100 Acres)
 - (3) KINFRA Hi-Tech Park, Kalamassery (240 Acres).
 - (4) KINFRA Integrated Industrial and Textile Park, Palakkad (350 Acres).

- (5) KINFRA Mega Food Park, Palakkad (79.42 acres of land)
- (6) KINFRA Petrochemical Park, Ambalamugal, Kochi (311.79 Acres)

In other parks of KINFRA, KSEB Ltd has been directly providing electricity to the park.

- (ii) KINFRA proposes to develop second phase of KINFRA Mega Food Park project at Kozhippara, Kanjikode, Palakkad District. The park is proposed to be established in approximately 18.10 Acres of land, which is transferred to KINFRA by surrendering the lease agreements from M/s. Parsvnath Sez Limited. The Park is sharing boundaries with KINFRA Mega Food Park phase- 1 Kozhippara, Kanjikode, Palakkad, Kairali Heritage Centre Pvt. Ltd – Anthropology Museum & Rural Tech Park (India) Pvt. Ltd., Rural Tech Park (India) Pvt. Ltd. and a Private Land.
- (iii) KPUPL prayed before the Commission for inclusion of additional license area at KINFRA mega food park of KINESCO Power and Utilities Ltd (KPUPL) under Section 18 of the Electricity Act, 2003 and under Regulation 19 of Kerala State Electricity (Licensing) Regulations, 2006.

3. M/s KPUPL further submitted the following;

- (i) KINFRA is a body corporate with perpetual succession established by the Government vide the notification dated 27th February 1993, with Chief Secretary to Government as the Chairman of the KINFRA. Further, Chairman KSEB Ltd is one of the Director of KINFRA.
- (ii) KINFRA submitted that the Government vide GO (Rt) No 905/98/ID dated 03/10/1998, issued Administrative Sanction to acquire land (including the proposed land for second phase development of Mega Food Park) for KINFRA for setting up of Industrial Development Zone in a total area of about 471 acres. Out of the 471 acres of land identified for acquisition, an area of 339.15 acres was actually acquired and handed over to KINFRA by the Government.
- (iii) KPUPL further submitted that the Commission vide the Order dated 11.09.2018 in petition OP No. 04/2017 approved the licensee area of KPUPL be extended to include 79.42 acres of land in Pudussery East Village and Elappully village in Palakkad Taluk, which forms the license area of KINFRA Mega Food Park, Palakkad.
- (iv) KINFRA had allotted 37.22 acres of its land at Palakkad (near to existing Mega Food Park) to M/s Parsvnath Sez Limited under lease. Due to the non-commencement of activities and for non-compliance of the terms and conditions of the lease deed, KINFRA had taken back the land from M/s Parsvnath Sez Limited. Out of 37.22 acres, KINFRA had allotted 18.50 acres to M/s Rural Tec Park (India) Private Limited and 0.62 acres to

Anthropology Museum on lease. The details of the land are extracted below;

| Sl. No. | Particulars | Land Area | Land Area |
|---------|--|---------------|--------------------------|
| | | (in Hectares) | (in Acres) |
| 1 | Land surrendered by M/s. Parsvnath Sez Limited to KINFRA | | |
| | Taluk – Palakkad, Village – Elappully I Block No. – 41 | 15.063 | 37.22 |
| 2 | Land transferred to M/s. Rural Tecpark (India) Pvt. Ltd on Lease | | |
| | Taluk – Palakkad, Village – Elappully I,Block No. – 41 | 7.487 | 18.50 |
| 3 | Land transferred to M/s. Kairali Heritage Centre Pvt. Ltd - Anthropology Museum on Lease | | |
| | Taluk – Palakkad, Village – Elappully I, Block No – 41 | 0.251 | 0.62 |
| 4 | Balance Area to be developed for KINFRA Mega Food Park | | Sl. No. (1) – (2)-(3) |
| | Taluk – Palakkad, Village – Elappully I, Block No – 41 | 7.323 | 18.10 |

- (v) KINFRA proposes to develop the balance area of 18.10 Acres as second phase development of KINFRA Mega Food Park project at Palakkad.
- (vi) The petitioner further submitted that the industrial area notification under Section (2)(f) and 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act, 1999 for the extended 18.10 acres of additional land is under process from State Government.

4. The Commission admitted the petition as OP 73/2022, and directed the petitioner to publish the notice for inclusion of additional license area as per Regulation 8 of the KSERC (Licensing) Regulations, 2006. KPUPL published the details of land proposed to be included in the license area as follows:

| Sl No. | Name of Park | Village / Block No | Survey No | Boundaries | Consumers of other Distribution Licensee | Village/ Panchayath/ Municipality | Taluk/ District |
|--------|-----------------------|--------------------|--|---|--|-----------------------------------|-----------------|
| 1 | KINFRA Mega Food Park | Elappully I/41 | 230/1 part, 231/1,2,3, 232/1 part, 235/1,2,3,4, 5,6, 236/2 part, 236/3 part, 236/4 part, 236/5, 237 part | North: KINFRA Mega Food Park South: Kairali Heritage Centre Pvt. Ltd ,Anthropology Museum, Rural Tech Park (India) Pvt. Ltd. East: Rural Tech Park (India) Pvt. Ltd. West: Private Land | Nil | Elappully | Palakkad |

5. The Commission issued notices to Government of Kerala, Elappully Grama Panchayath and Puthussery Grama Panchayath and also to the incumbent distribution licensee, KSEB Ltd for comments. Publicity on hearing was given through dailies also.
6. The Respondent, M/s KSEB Ltd, vide submission dated 18.01.2023 submitted the following;

- (1) KSEBL is the deemed distribution licensee for the entire State of Kerala. The area proposed to be included as additional distribution license area in Mega food park, Palakkad also falls in the license area of KSEBL.
- (2) As per Clause 14 and 131 of Electricity Act 2003, KSEBL is the successor entity of the erstwhile Kerala State Electricity Board (KSEB). KSEB was formed as per Section-5 of the Electricity (Supply) Act 1948, and being the successor entity inherits the deemed license for the entire State of Kerala as statutorily available under provisions of the Act 2003. Section 26 of the Electricity (Supply) Act 1948 lays down the obligations of a Deemed licensee in a State.

Therefore the application of M/s KPUPL for extending the license area for Mega food park can be treated only as a subsequent license in accordance with the 6th proviso to Section 14 of Electricity Act 2003, in the area where KSEBL is already a deemed licensee.

- (3) KSEB Ltd submitted that, as per 6th proviso to Section 14 of the EA 2003, the appropriate Commission may grant a license to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the condition that the applicant comply with the additional requirements as may be prescribed by the Central Government.
- (4) Government of India, vide notification dated 23.03.2005 has prescribed additional requirements as per "Distribution of Electricity licence Rules 2005" wherein the following are prescribed
 - (i) The Appropriate Commission shall decide the requirement of capital investment in the area
 - (ii) The Applicant for grant of licence shall be required to satisfy that 30% of the cost of investment is available.
 - (iii) In case of a second licensee the minimum of area of supply shall be a municipality, corporation or a revenue district.
 - (iv) The applicant has not been found guilty under provisions of Companies Act, IT Act, SEBI Act, Excise and Customs Act.

- (5) KSEB Ltd further submitted that the Government of India under Special Economic Zone Act notified that a Developer or authority of a special Economic Zone shall be deemed to be a licensee for distribution of Electricity for the purpose of Sec14 of Electricity Act 2003.
- (6) KSEB Ltd submitted relevant portion of APTEL Order in Appeal No.07 of 2010 as below;

"45.....In case the parallel licence is granted to the Applicant (PVVNL), the State Government will consider to provide financial help for establishing and strengthening the distribution network. It does not indicate that the sovereign guarantee has been given by the State Government for providing the entire funds to the Applicant "Will Consider" can not be construed to be a "Sovereign Guarantee". So the conclusion arrived at by the State Commission to the effect that the above letter shall be considered to be a Sovereign Guarantee and as more than an assurance by the Government for the development and strengthening the distribution network, is totally wrong as the same is contrary to the contents of the letter dated 22.4.2009. On the other hand, as referred to above, the said letter only expresses that the State Government may consider providing funds to the Respondent No.1. This letter does not show that the State Government has made any budgetary allocation for providing equity capital to Respondent No.1 to the extent of 30% of the capital investment".

The Hon'ble APTEL in the above order has further stated that

"46. Merely because the Respondent No.1 and UPPCL happened to be the Government Companies, it cannot be concluded that it has satisfied the capital adequacy norms. In order words, the fact that the Company is a Government Company would not be construed to be sufficient to fulfil the mandatory requirements of capital adequacy and creditworthiness. The Respondent No.1 or its promoter is a mere Company which is like any other company promoted by a large Company in the country. No exception can be carved out for the Respondent No. 1 or its promoter merely because the Company is owned by the State Government. Neither, the Electricity Act, 2003, nor the Regulations framed by the State Commission make any exception for the Companies owned by the Government."

Thus it is clear that the satisfaction of capital adequacy and credit worthiness has to be established by the petitioner.

- (7) The minimum area of supply as per the "Distribution of Electricity Licence Rules 2005" and its amendment has to be either a municipal corporation or three adjoining revenue district or a smaller area as may be notified by the Appropriate Government. The intention behind envisaging a minimum area

condition is to avoid cherry picking. Here also the area requested for grant of license in the petition, consists only of industrial consumers. This can also be considered as cherry picking as there is only subsidizing category of consumers in the proposed area of supply.

- (8) KSEB Ltd further submitted that the area of supply requested by the petitioner has not been notified by the State as a minimum area of supply. Accordingly, the minimum area of supply conditions is not satisfied by the petitioner in the above case.
 - (9) KSEB Ltd further requested before the Commission as follows;
 - (a) The license application can only be treated as application for second license for distribution of power in KINFRA Mega Food Park area since KSEBL already possess license for distribution of electricity in that area.
 - (b) KSEBL as the incumbent licensee is ready to supply electricity within the area without any difficulty.
 - (c) As per the existing rules and notifications, the petitioner is presently not eligible to get second distribution license in the KINFRA Mega Food Park, Palakkad
 - (10) Considering the above reasons, KSEB Ltd requested before the Commission to reject the petition filed by M/s KPUPL to include the additional area of 18.10 acres to KINFRA Mega Food Park at Kozhipara, Palakkad.
7. The petitioner M/s KPUPL vide the letter dated 18.01.2023 submitted the following;
- (i) A copy of the notice published in Malayalam dailies Mangalam and Madhyamam and English daily the Times of India, for the inclusion of the additional area of 18.10 Acres land in the KINFRA Mega Food Park, at Palakkad.
 - (ii) A copy of the GO (P) No. 20/2022/ID dated 31st October 2022, declaring the additional area of 18.09 acres of land owned and possessed by KINFRA Mega Food Park as an Industrial area.

Hearing of the petition

8. The hearing of the petition was conducted on 19.01.2023 through video conference. Sri. Sajeev M.S, Resident Engineer, KINESCO presented the petition on behalf of the petitioner and Shri Rajesh, Asst: Executive Engineer, presented the counter argument on behalf of the respondent KSEB Ltd. The summary of the deliberations during the hearing is given below.

- (1) M/s KPUPL submitted the following during the hearing;
- (i) An area of 339.15 acres was acquired and handed over to KINFRA by the Government, vide Order No. GO (Rt) No 905/98/ID dated 03/10/1998 in Pudukkottai East Village and Elappully I Village of Palakkad Taluk, Palakkad District. Out of this, 79.42 acres of land was utilised for KINFRA Mega Food Park.
 - (ii) KINFRA had earlier allotted 37.22 acres of land to M/s Parsvnath Sez Limited for the purpose of setting up a knowledge hub (IT/ITES) after executing a lease deed. Due to the non-commencement of activities and non-compliance of the terms and conditions of the lease deed, KINFRA has taken back the 37.22 acres of land after surrendering of Lease deed on 17/06/2020. Out of 37.22 acres, KINFRA had allotted 18.50 acres to M/s Rural Tec Park (India) Private Limited and 0.62 acres to Anthropology Museum. The balance area of 18.10 was added to KINFRA Mega Food Park.
 - (iii) The additional land of 18.10 acres is contiguous of KINFRA Mega Food Park (lying south side of Mega Food Park). It was further submitted that dislocation and rehabilitation of people / property were not involved in the development of the additional land. KINFRA has authorised M/s KPUPL to seek approval for including the proposed additional development area (18.10 acres) in KINFRA Mega Food Park under the licensee area of KPUPL.
 - (iv) As per G.O(P) No. 20/2022/ID dated 31st October 2022, the additional area of 18.09 acres of land owned and possessed by KINFRA Mega Food Park was declared as an Industrial area and included the above said area within the “KINFRA Mega Food Park, Kozhippara, Palakkad by Single Window Clearance Board”.
 - (v) M/s KPUPL, requested before the Commission for inclusion of additional area of 18.10 acres of land at KINFRA Mega Food Park of KINESCO Power and Utilities Pvt. Ltd. (KPUPL) under Section 18 of the Electricity Act, 2003 – amendment of license area and under Section 19 of Kerala State Electricity (Licensing) Regulations, 2006.
- (2) The respondent KSEBL submitted the following during the hearing;
- (i) KSEB Ltd is the deemed distribution licensee for the entire State of Kerala and the area specified in Mega food park for distribution license by M/s KPUPL also falls in the license area of KSEBL as per Clause 14 and 131 of Electricity Act 2003.

- (ii) The application of M/s KPUPL, for extending the licensee area for Mega food park can be treated only as a subsequent license in accordance with Proviso 6 to Section 14 of Electricity Act 2003, in the area where KSEBL is already a deemed licensee.
- (iii) M/s KPUPL has not submitted the documents relating to capital adequacy, credit worthiness or code of conduct for satisfying the conditions laid out for granting of licence as per Proviso 6 to Section 14 of Electricity Act 2003.
- (iv) Government of India also issued under Special Economic Zone Act to the effect that a Developer or authority of a Special Economic Zone shall be deemed to be a licensee for distribution of Electricity for the purpose of Sec 14 of Electricity Act 2003. However, the above relaxation is presently not applicable to the petitioner for grant of license for distribution of power to KINFRA Mega Food Park as the area as per the petition is yet to be notified as Special Economic Zone.
- (v) KSEB Ltd further submitted that the matter of assessing the Capital adequacy and credit conditions has been clearly mentioned in the Order issued by the Hon'ble APTEL in Appeal No 7 of 2010 stating that the guarantee to the availability of Capital requirement for the project is not enough. It is further submitted that, the Government Company would not be construed to have fulfilled all the mandatory requirements of capital adequacy and creditworthiness.

KSEB Ltd requested before the Commission to reject the petition.

- (3) The Secretary of Elappully panchayat and Pudukkottai panchayat did not raise any objections.
- (4) KPUPL during hearing clarified that, the State Government vide the GO (P) No. 20/2022/ID dated 31st October 2022, declared the additional area of 18.09 acres of land owned and possessed by KINFRA Mega Food Park as an Industrial area.
- (5) The Commission during the hearing clarified that, being an existing small distribution licensee within the State of Kerala, Commission had understanding of the capital adequacy of M/s KPUPL. The Commission had directed the petitioner to submit the details of the allocation and power demand in the additional license at KINFRA Mega Food Park, Kozhippara, Palakkad.

9. In compliance of the directions of the Commission, M/s KPUPL vide letter dated 14.02.2023 submitted the following details of allocation and power demand in the additional licensee area.

| Sl No | Item | Details |
|-------|---|----------------------------|
| 1 | Panchayath | Elapully |
| 2 | Additional license area | 18.10 Acres |
| 3 | Types of industries expressed interest | Food processing Industries |
| | | Extraction units |
| | | Curry Powder Units |
| | | Coconut Processing units |
| | | Baker units |
| 4 | Expected units for allotments | 8 units |
| 5 | Kerala Rice Technology Park under Kerala Rice Ltd | 1 unit |
| 6 | Expected units as HT consumer | 3 units@200 KVA |
| 7 | Expected units as LT consumer | 5 units @80 KVA |
| 8 | Approximate power demand for the units | 1000KVA |
| 9 | Approximate Power demand for rice Technology Park | 600 KVA |
| 10 | Approximate Power demand for Utility area | 10KVA |
| 11 | Approximate amount(in Rs Lakhs) for the development of Adll. Land(excluding Rice Technology Park) | 120 Lakhs |

Analysis and Decision

10. The Commission having examined in detail the petition filed by M/s KPUPL, the comments of KSEB Ltd, other details, documents and oral submissions made during the hearings of the subject petition, the provisions of the Electricity Act, 2003, KSERC (Licensing) Regulations, 2006 and all other Rules and Regulations in force and decides as follows:
11. The subject petition filed by M/s KPUPL is for inclusion of additional area of 18.10 Acres of land at KINFRA Mega Food Park at Kozhippara, Kanjikode, Palakkad as part of the proposal to develop second phase of KINFRA Mega Food Park.
12. The Commission has examined the petition in detail and noted the following.
- (1) Kerala Industrial Infrastructure Development Corporation (KINFRA) is a statutory body formed by the Kerala Government to develop, promote and maintain industrial infrastructure in the State of Kerala as per the provisions of the Kerala Industrial Infrastructure Development Act, 1993. Among others, the Chairman and Managing Director of KSEB Ltd is also one of the Director of KINFRA.

- (2) KSEB Ltd as the successor to the erstwhile Kerala State Electricity Board (KSEB), is the State Government owned incumbent distribution licensee of the State. KSEB Ltd is also the State Transmission Utility (STU) and owns generation assets as well.
- (3) KPUPL is a subsidiary company of KINFRA, established for conducting the electricity distribution business within the industrial parks and special economic zones developed by KINFRA. At present, KPUPL, has license for distributing electricity in the following industrial parks of KINFRA.
 - (a) Kinfra Export Promotion Industrial Park, Kakkanad. (180.126 acres)
 - (b) Land of Kinfra for KEPIP expansion, Kakkanad (100 acres)
 - (c) Kinfra Hi-Tech Park, Kalamassery (240 acres)
 - (d) Kinfra Integrated Textile Park, Palakkad (350 acres)
 - (e) KINFRA Mega Food Park, Palakkad (79.42 acres)
 - (f) KINFRA Petrochemical Park, Ambalamugal, Kochi (311.79 acres)

The source of power for the entire license area of KPUPL is from KSEB Ltd at the Bulk Supply Tariff (BST) approved by the Commission from time to time.

13. The Commission vide the Order dated 11.09.2018 in petition No. OP 04/2017 has ordered to extend the distribution license area of KPUPL by including 79.42 acres of land in Kozhipara, Kanjikode, Palakkad, proposed for the development of the KINFRA Mega Food Park. At present the park is operational.

In the instant petition, KPUPL submitted that, KINFRA proposes to develop second phase of KINFRA Mega Food Park in approximately 18.10 Acres of land in possession of KINFRA at Kozhippara, Kanjikode, Palakkad. The boundaries of the proposed additional area as detailed below,

North- KINFRA Mega Food Park,
 South- Kairali Heritage Centre Pvt. Ltd – Anthropology Museum & Rural Tech Park (India) Pvt. Ltd.
 East- Rural Tech Park (India) Pvt. Ltd
 West- Private land.

Accordingly, KPUPL requested to amend the area of the license granted to the KINFRA Mega Food Park at Kanjikode, Palakkad by including the additional 18.10 Acres of adjacent land in possession of KINFRA.

14. The Commission has carefully examined the provisions of the Electricity Act, 2003 and the Rules and Regulations in force for the amendment of the existing area of

distribution of a licensee. The details are discussed below.

(1) Provisions of the Electricity Act, 2003

“ Section 18 of the EA-2003.

18. Amendment of Licence (1) Where in its opinion the public interest so permits, the Appropriate Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of a licence as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Appropriate Commission, been unreasonably withheld.

(2) Before any alterations or amendments in the licence are made under this section, the following provisions shall have effect, namely: -

(a) where the licensee has made an application under sub-section (1) proposing any alteration or modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified;

(b) in the case of an application proposing alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission shall not make any alterations or modifications except with the consent of the Central Government;

(c) where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Appropriate Commission shall publish the proposed alterations or modifications with such particulars and in such manner as may be specified;

(d) the Appropriate Commission shall not make any alterations or modification unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered.”

(2) Regulation 3 of the KSERC (Licensing) Regulations,2006 deals with the 'Eligibility Conditions of persons requiring a License'. The relevant portions of the Regulation are extracted below;

3. Eligibility Conditions of persons requiring a Licence.- (1) Any person requiring licence shall meet the respective qualifying requirements mentioned hereunder and shall be required to submit necessary evidence in support of its claim of meeting the qualifying requirements

(2) **Distribution Licence** (a) The Area of Supply for distribution licence shall not be less than a Panchayath, Municipality or Corporation. Exemption may be granted by the Commission in the case of service providers such as Technoparks, Industrial Parks, Special Economic Zones, Export Zones, etc.

(b) Technical Requirement: The person requiring distribution licence shall have fifteen years experience in case of graduate electrical engineer or twenty years for diploma holders in electrical engineering in development, design, construction, operation and maintenance of distribution system. Provided that the above said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.

(c) Capital Adequacy: Net worth of the applicant shall not be less than the estimated annual charges of the assets in respect of which the application for grant of licence has been made.

(d) Multiple licence : Persons requiring distribution License pursuant to 6th proviso to Section 14 shall also satisfy the conditions prescribed under the Government of India Notification G.S.R.188(E).

(3) Transmission Licence: *(a) Technical Requirement: The person requiring transmission licence shall have 15 years experience in case of graduate electrical engineer or twenty years for diploma holders in electrical engineering in development, design, construction, operation and maintenance of transmission lines. Provided that the above said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.*

(b) Capital Adequacy: Net worth of the applicant shall not be less than the estimated annual charges of the assets in respect of which the application for grant of licence has been made.

(4) Trading Licence: *(a) Technical requirement: Person requiring trading licence shall have ten years experience in power system operations and commercial aspects of power supply industry. Provided that the said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.*

(b) Capital Adequacy: Person requiring trading licence shall have net worth not be less than 5% of the total annual value of proposed business.

(c) Creditworthiness: Person requiring trading licence shall not be a defaulter as notified by RBI or other similar entities.

- (3) Regulation 4 of the KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006 deals with the 'Amendment of License'. The relevant portions of the Regulations are extracted below.

“4. Amendment of Licence.- (1) Where in its opinion the public interest so permits, the Commission may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of licence as given in Form-I; provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.

(2) Where a licensee has made an application proposing any alteration or modifications in his licence under Section 18 of the Act, the licensee shall, within seven days of making such application, publish a notice of such application in two English dailies and two Malayalam dailies circulating in the territory where the licence sought to be amended operates, giving the following particulars:

- a) Brief details of existing licence
- b) Proposed amendments for existing licence and brief reasons for seeking the amendment.

(3) All objections to an application for amendment pursuant to publication of notice as above, received within 30 days of the date of publication of the notice, shall be considered by the Commission.

(4) Where an amendment to a licence is proposed by the Commission suo motu, the Commission shall publish a notice of the same in two English dailies and two Malayalam dailies circulating in the area in which the licence proposed to be amended operates, giving such particulars as the Commission deems necessary. All objections to the proposed amendment shall be considered by the Commission if received within 30 days of the publication of the notice.

(5) Provisions relating to grant of licence shall, as far as may be practicable and necessary apply to consideration and disposal of application for amendment of licence.

(6) In the case of an application proposing alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for Defence purposes, the Commission shall not make any alterations or modifications except with the consent of the Central Government.”

- (4) The State Government vide the Gazette Ex. No. 770 dated 27.04.2000 notified the Kerala Industrial Single Window Clearance Board & Industrial Townships Area Development Act, 1999. Section 2(f) of the said Act defines an ‘industrial area’ as follows.

*(a) "Industrial Area" means any area in the State declared to be an industrial area by the Government **by notification in the Gazette** from time to time and includes industrial estates; development area, development plots, mini industrial estates, industrial parks and growth centres;*

Section 5 of the Kerala Industrial Single Window Clearance Board & Industrial Townships Area Development Act, 1999 is extracted below:.

Section 5 - Industrial Area Boards

(1) For the purpose of speedy issue of various licenses, clearances or certificates required under the various State enactments for setting up of smallscale industrial undertakings or industrial undertakings in the Various Industrial areas of the State, the Government may, by notification constitute Single Window Clearance Boards for every industrial areas in the State to be called Industrial Area Single Window Clearance Board.

(2) Every Industrial area Single Window Clearance Board shall be a body corporate by name of the Industrial Area for which it is constituted, having perpetual succession and a common seal.

(3) Every Industrial Area Single Window Clearance Board shall consist of the following members, namely:-

(a) Principal Secretary to Government, Industries Department or his nominee;

(b) Collector of the District;

(c) Chief Executive of the Agency owning or managing the industrial area;

(d) Designated Authority of industrial area concerned;

(e) District Officer of the State Pollution Control Board;

(f) District Officer of the Electrical Inspectorate;

(g) District Officer of the Town Planning Department;

(h) District Medical Officer;

(i) Executive Engineer of the Kerala State Electricity Board;

(j) District Officer, Factories and Boilers

Inspectorate; (k) Divisional Fire Force Officer;

(l) Divisional Forest Officer;

(m) District Labor Officer;

(n) Deputy Commissioner, Sales Tax and Agricultural Income Tax; (o) Executive Engineer, Kerala Water Authority;

(4) The Government may appoint one of the members of an Industrial Area Board not below the rank of District Collector to be its chairman and the

Designated Authority of the Industrial Area shall be the Convener of the Industrial Area Board.

(5) The Industrial Area Board shall meet at such time and place to be fixed by the chairman of the industrial Area Board and shall observe such procedure in regard to its trisection of business as may be made in the bye-laws.

(6) The Industrial Area Board may associate itself, in such manner and for such purposes as may be prescribed, with any person whose assistance or advice it may desire to have in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the Industrial Area Board relating to that purpose as a special invitee and shall not be considered as a member of

the Industrial Area Board.

- (5) The State Government, in exercise of the powers conferred on it by the clause (f) of section 2 and section 5 of the Kerala Industrial Single Window Clearance Board & Industrial Townships Area Development Act, 1999, vide the GO (P) No. 20/2022/ID dated 31.10.2022 notified that the 732.30 Ares (18.09 Acres) of land in possession of KINFRA, adjacent to its Mega food park at Kanjikode, Palakkad as part of the Industrial Area of KINFRA. The relevant portion of the Government notification is extracted below.

“NOW, THEREFORE, in exercise of the powers conferred by the clause (f) of section 2 and section 5 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000), the Government of Kerala hereby declare and include 732.30 Ares (18.09 Acres) of land owned and possessed by KINFRA Mega Food Park, Kozhippara, Palakkad as specified below as part of Industrial Area, and make the following amendment to the notification issued under G. O. (P) No. 16/2018/ID dated 10th July, 2018, published as S. R. O. No. 502/2018, in the Kerala Gazette Extraordinary No. 1975 dated 24th July, 2018, namely:—”

15. As discussed in the preceding paragraphs, the present petition filed by M/s KPUPL is for extending the distribution license area of the KINFRA Mega Food Park, at Kozhippara, Kanjikode, Palakkad, by including the 18.10 Acres of adjacent land in possession of KINFRA. As mandated in the EA-2003, Regulations and Government notifications in force as discussed in paragraph-14 above, the procedures and other formalities required for amending the existing license by including an additional area of 18.10 Acres of land in possession of KINFRA to the existing license area of KINFRA Mega Food Park at Palakkad are followed by M/s KPUPL. The details are given below.

- (1) As per the Section 18 of the EA-2003 and Section 5 of the KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006, M/s KPUPL had filed the present petition for inclusion of the 18.10 Acres of adjacent land in possession of KINFRA to the existing license area of KINFRA Mega Food Park.
- (2) As mandated in the KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006, on 18.01.2023, KPUPL had published the notice of the petition for amending the existing distribution license granted to the KINFRA Mega Food Park in two Malayalam and one English dailies having wide circulation in the State of Kerala.
- (3) The Commission had also served notice of the petition to the Puthussery Grama Panchayat and Elappully Grama Panchayat where in the proposed additional area belongs, to offer their comments on the proposal of amending the license area of KINFRA Mega Food Park at Kanjikode,

Palakkad by including additional area of 18.10 Acres of adjacent land in possession of KINFRA.

- (4) The Commission had conducted the public hearing on the petition on 19.01.2023. During the hearing, the representatives of the Puthussery Grama Panchayat and Elappully Grama Panchayat submitted that, they had no objection in the proposal. It was also clarified during the hearing that, rehabilitation of people and dislocation of property etc are not involved in the proposed 18.10 Acres of land in possession of KINFRA.
- (5) The State Government, in exercise of the powers conferred on it by the clause (f) of section 2 and section 5 of the Kerala Industrial Single Window Clearance Board & Industrial Townships Area Development Act, 1999, vide the GO (P) No. 20/2022/ID dated 31.10.2022 had notified that the 732.30 Ares (18.09 Acres) of land in possession of KINFRA, adjacent to its Mega food park at Kanjikode, Palakkad as Industrial Area.

As above, M/s KPUPL had complied with all the procedures and the State Government vide the Order dated 31.10.2022 had notified the proposed area as 'Industrial area'.

16. The Commission has also noted the objections raised by the KSEB Ltd, which is the incumbent licensee in the State of Kerala. The observation of the Commission on these are discussed below.

- (1) As discussed earlier, KINFRA is a body corporate established by the State Government as per the Clause-4 of the Kerala Industrial Infrastructure Development Act, 1993 for setting up of infrastructure facilities for the development of industries in the State of Kerala. The Chief Secretary of the State is the Chairman of the Board of Directors of KINFRA, and CMD KSEB Ltd is one of the Directors of KINFRA.

KPUPL is the fully owned subsidiary of KINFRA, established for the purpose of distribution of electricity within the Industrial Parks developed by KINFRA. It is clarified by KINFRA and KPUPL that, the source of power for KPUPL is from KSEB Ltd through PPAs at the Bulk Supply Tariff (BST) approved by this Commission from time to time.

- (2) The Commission has been following uniform retail supply tariff in the State, irrespective of whether the consumers are availing power from KSEB Ltd or from other licensees. The retail supply tariff determined by the Commission for the incumbent distribution licensee KSEB Ltd has been made applicable to all the consumers of the State including the consumers of the small distribution licensee and service providers.

The BST applicable to each small licensee, is being determined in such a

way that, the total revenue from sale of power after meeting the allowable expenditure of the small licensees, as approved by the Commission, is being passed on to the KSEB Ltd as BST.

By this methodology, the cross subsidy of the subsidizing categories of consumers with the small licensees and service providers is being transferred to KSEB Ltd for subsidizing the subsidized categories with KSEB Ltd.

- (3) The Commission has also noted the minutes of the meetings held by the Additional Chief Secretary (Industries and Power) on 21.08.2017 and on 19.12.2017 with the officials of KSEB Ltd and KINFRA to sort out the issues in providing power to various parks of KINFRA. Director (Distribution & IT) and Director (Transmission and SO) of KSEB Ltd has attended the meetings. In the said meetings, it was decided that, KSEB Ltd will not object to license status for KINESCO to Mega Food Park at Palakkad. Hence, the objections raised by KSEB Ltd against the inclusion of additional area of the existing Mega Food Park at Kanjikode, Palakkad of KPUPL, is a settled issue between them.
17. Considering the entire aspects as discussed in the preceding paragraphs 14,15 and 16 above, the Commission is of the considered view that the request of the petitioner KUPL for the inclusion of the additional area of 18.10 Acres of land in possession of the KINFRA to the existing license area of the KINFRA Mega Food Park at Kanjikode, Palakkad has to be allowed as per the provisions of the EA-2003 and various Rules and Regulations in force, subject to the following conditions,-
- (1) This order is supplement to the Order of the Commission dated 11.09.2018 in petition OP No. 04/2017 in the matter of extending the license area of KPUPL to the KINFRA Mega Food park in the 79.42 Acres of land at Kanjikode, Palakkad.
 - (2) The retail tariff applicable to the electricity usage within the KINFRA Mega Food Park project at Kozhippara, Kanjikode, Palakkad will be the retail tariff approved by the Commission from time to time.
 - (3) The KPUPL shall also follow the provisions in the KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006 and its amendments, other Regulations, orders and directions issued by the Commission, applicable to the distribution licensees from time to time.

Order of the Commission

18. The Commission, after duly examining the application filed by KPUPL for inclusion of the additional 18.10 Acres of land in possession of KINFRA to the area of KINFRA Mega Food Park project at Kozhippara, Kanjikode, Palakkad as part of its second phase of development, the counter arguments of KSEB Ltd, State Government notification declaring the area under Section 2(f) of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999 vide their Gazette notification dated 31.10.2022, hereby orders that the license area of KPUPL be extended to include 732.30 Acres (18.09 Acres) of land in Elappully Village in Palakkad District, subject to the conditions specified under paragraph 17 above.

The notification on extending the license area of KPUPL to second phase of KINFRA Mega Food Park project at Kozhippara, Kanjikode, Palakkad is enclosed as Annexure 'A' to this order.

The application is disposed off accordingly.

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Sd/-
T K Jose
Chairman

Approved for issue

Sd/-
C R Satheeshchandran
Secretary

ANNEXURE 'A'

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

**INCLUSION OF KINFRA MEGA FOOD PARK PROJECT AT KOZHIPPARA,
KANJIKODE, PALAKKAD IN THE AREA OF
LICENCE FOR DISTRIBUTION OF ELECTRICITY BY KPUPL**

No. 2115/Con(T)/2022/KSERC

Dated, Thiruvananthapuram 12.04.2023

Government of Kerala vide G.O.(P) No.18/2003/PD dated 8th May 2003 had granted a licence for supplying electricity to various establishments within the Kinfra Export Promotion Industrial Parks (KEPIP) campus at Kakkanad, Kochi exercising the powers conferred under rule 19 of the Indian Electricity Rules 1956.

In exercise of the powers conferred under Section 14 read with Section 17(3) and Section 181 of the Electricity Act, 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, Kerala State Electricity Regulatory Commission, vide order No.1/2009 dated 30th November 2009 granted transfer of Licence for distribution of electricity from M/s Kinfra Export Promotion Industrial Parks to M/s Kinesco Power and Utilities private Ltd (KPUPL), Kochi.

The Commission vide Order dated 11.09.2018 in OP No 04/2017 has included the Kinfra Mega Food Park, Palakkad (79.42 Acres) to the above license area by amending the notification dated 30.11.2009.

The Commission vide Order dated 10.05.2022 in OP No 78/2021 has included the KINFRA Petrochemical Park, Ambalamugal, Kochi (311.79 Acres) to the above license area by amending the notification dated 30.11.2009

The Chief Executive Officer of KPUPL has submitted an application on 30.08.2022 before the Kerala State Electricity Regulatory Commission for inclusion of KINFRA Mega Food Park project at Kozhippara, Kanjikode, Palakkad in its license area for distribution of electricity.

As directed by the Kerala State Electricity Regulatory Commission, KPUPL published notice inviting objections / comments from various consumers and stake holders in English and Malayalam dailies on 18th January 2023 indicating the boundaries of the proposed area. In the said notice it was made clear that objections if any would have to be submitted within 30 days from the date of the notice.

The Commission forwarded the copy of application to KSEB Ltd, Government of

Kerala, Elappully Grama Panchayath and Puthussery Grama Panchayath for remarks.

A Public hearing on the application was held on 19.01.2023 through video conference.

No comments were furnished by Government of Kerala and Local Authorities. Kerala State Electricity Board Limited had submitted their comments vide letter dated 18.01.2023. No public responded to the Notice.

The objections of the KSEB Ltd was considered by the Commission and the Commission came to the conclusion that KPUPL is holding licensee for distributing electricity in notified areas in the State. The present petition is only to extend the area of distribution. The area sought to be extended is already acquired by KINFRA for establishing the KINFRA Mega Food Park. Gazette notification was issued by Government of Kerala, vide GO (P) No.20/2022/ID dated 31st October 2022 (published in the Kerala Gazette Extraordinary No. 3768 dated 05th November 2022) notifying 732.30 Ares(18.09 Acres) of land owned and possessed by KINFRA, as industrial area in exercise of its powers under Section 2(f) and Section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999.

Considering the facts and circumstances as stated above, and in exercise of the powers conferred under Section 14 of the Electricity Act 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, and satisfying itself that the public interest so permits the Kerala State Electricity Regulatory Commission hereby makes the following further amendments to Order-No.1/2009 Dated 30th November 2009.

ORDER

At the end of Clause “3 Area of Licence” under part II add the following, namely:-

“3 Area of licence.- The area of licence shall be as under ;

The areas of licence shall be all those pieces or parcels of land acquired by M/s KEPIP in, 1) Kakkanad in Thrikkakara Grama Panchayat of Ernakulam district 2) Thrikkakara North in Kalamassery Municipality of Ernakulam District 3) Puthussery Central village in Puthussery Panchayat and Elapully village in Elapully Grama Panchayat of Palakkad District 4) Pudussery East & Elappully/Pudussery Gramapanchayath & Elappully Gramapanchayath of Palakkad District and 5) Puthencruz village, Thiruvankulam village, Thripunithura Municipality of Ernakulam District . The boundaries of the area of Licence are as under. The sketches showing area of licence are furnished as annexure to this document.

Kinfra Export Promotion Industrial Park, Kakkanad (180.126 Acres)

North : Kakkanad-Edachira PWD Road
East : Chithra Puzha thodu
West : Survey Nos. 628-1,629-3,629-4,631,632,633,682,683
South : Parackamughal Chithrapuzha panchayat Road Survey Nos. 627-1,627- 2,627-4,627-5.

Land of Kinfra for KEPIP Expansion, Kakkanad (100 Acres)

North : Private properties(Sy. Nos. 570/26, 570/28,570/29,580,581).
South : Private properties(Sy. Nos 570/1, 570/17, 570/19 to 22, 570/31).
East : Kadamprayar River.
West : MLA Road,Private properties (Sy. Nos. 573,574/4,574/7,574/8)

Kinfra Hi-Tech Park, Kalamassery (240 Acres)

North : Private properties(Sy. Nos 288 to 293), NAD.
South : Medical College and Kangarapady road.
East : Thavakal Road, Sy. Nos 262,272,274,284.
West : HMT area, Private properties(Sy Nos 272 to 274).

Kinfra Integrated Textile Park,Palakkad(350 Acres)

North : Kanjikode Menon Para PWD road (In Sathyanantham Pallam and PK Challa Localities).
South : Korayar River.
East : By Edappakulam Area Private lands and Edappakulam-Nombikode PWD road in North East corner.
West : Kinfra 200 acres, Panchayat road on South West corner.

Kinfra Mega Food Park, Palakkad (79.42 Acres)

North : Land of Ahalya
South : Private Land, Land of Ahalya, Land of KINFRA
East : Ahalya, Private Land
West : Irrigation canal

Kinfra Petrochemical Park, Ambalamugal, Kochi (126.18 Hectares (311.79 Acres))

(1) Survey No : 205 pt (Schedule A)
North:Panchayath road&Thodu,
South:Brahmapuram gate to FACT plant Road(R1road)
East:FACT property and Kakkanad Karimugal road
West:Land leased to BPCL

(2) Survey No : 205 (Schedule B)

North:Brahmapuram gate to FACT Plant Plant Road(R1 road)
South:Thrippunithura-Karimugal Road
East:Karimugal-Kakkanad road
West:FACT Property (Lake)

(3) Survey No : 205pt 2/1,2,3,3/1, 2,3,4,5/1,2, 3,6/1,2,3,4, 5,6,7,7/1,2, 3,4,5,22/1,2, 3,4,23/1,2, 3,4,5,25/1,2, 3,5,25/4pt., 25/8,48/9pt. (Schedule C)

North:River Chitrapuzha & Kozhichira Thodu
South:KEIL & FACT property
East:Property leased to BPCL
West: River Chitrapuzha

(4) Survey No 205pt (Schedule D)

North:Property of BPCL
South:FACT Plant
East:Property of FACT
West:Chitrapuzha River & Puramboke land

(5) Survey No 33/1pt (Schedule E)

North:River Puramboke land
South:River, Puramboke land
East:Puramboke land
West:Chitrapuzha River

(6) Survey no 205pt (Schedule F)

North:Property described in Schedule -A, BPCL property, Gypsum, KEIL property & FACT Property
South:FACT Property, Property described in Schedule-B
East:Kakkanad – Karimugal road
West:Property described in Schedule D

KINFRA Mega Food Park project, Kozhippara, Kanjicode,Palakkad ((732.30 Ares(18.09 Acres))

Village/ Block No: Elappully I Re Survey Block No 41,

Survey Nos:

230/1 Part, 231/1,231/2, 231/3, 232/1 part, 235/1,235/3, 235/4, 235/5, 235/6, 236/2 part, 236/3 part, 236/4 part, 236/5,237/part

North: KINFRA Mega Food Park

South: Kairali Heritage Centre Pvt. Ltd Anthropology Museum, Rural Tech Park (India) Pvt. Ltd.

East: Rural Tech Park (India) Pvt. Ltd.

West: Private Land

Village/Panchayath/Municipality: Elappullu I Village
Taluk/District :Palakkad

The date of commencement of the order shall be the 12th April 2023.

By Order of the Commission,

Sd/-
C R Satheeshchandran
Secretary

List of stakeholders participated in the public hearing held on 19.01.2023

1. Shri M.P.Rajan, DY CE, KSEB Ltd
2. Shri Rajesh, AEE, TRAC, KSEB Ltd
3. Shri Sajeev, KPUPL
4. Shri T.M.Ajithkumar, CEO,KPUPL
5. Shri Ambujakshan.P.K, Panchayath Secretary, Puthussery
6. Smt Suma, Panchayath Secretary, Elappully