

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

**Present : Shri. Preman Dinaraj, Chairman**  
**Adv. A.J Wilson, Member (Law)**

**OP No 78/2021**

In the matter of : Petition for inclusion of KINFRA Petrochemical Park as additional license area to 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

Date of hearing : 10.03.2022.

**Order dated 10.05.2022**

**Background**

1. KINESCO Power and Utilities Pvt Ltd (hereinafter referred to as the petitioner or 'KPUPL') has filed a petition on 27.07.2020 for inclusion of KINFRA Petrochemical Park as additional license area to KINESCO Power and Utilities Pvt Ltd (KPUPL). The Commission vide the Order dated 26.05.2021 in OP 23/2020 disposed the petition with the following orders:
  - (1) *If KPUPL desires to obtain the electricity distribution license within the KINFRA Petrochemical Park, they shall get the 311.79 Acres of land at Ambalamugal, Kochi, notified as 'Industrial Area' under Section 2(f) and Section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999 by the State Government.*
  - (2) *Once the State Government Notification is issued, KPUPL, if it so desires can file a separate petition with all relevant details for inclusion of the KINFRA Petrochemical Park either as an additional license area to KPUPL license area or as a fresh license area.*

- (3) *The petitioner KPUGL is exempted from remitting the petition fee of Rs 1,00,000/- along with such petition, if any.*
- (4) *KSEB Ltd as the incumbent licensee shall provide electricity to the KINFRA Petrochemical Park and its beneficiaries as per the provisions of the Electricity Act, 2003 and Rules and Regulations in force, till alternate arrangement, if any, is ordered in this regard by this Commission*
2. In compliance of the above Order, KPUGL has filed a petition on 22.12.2021 for inclusion of additional license area with land area of 311.79 Acres after obtaining State Government notification declaring the proposed land as industrial area and constituted a Single Window Clearance Board. The Commission admitted the petition as OP 78/2021.
3. The summary of the petition filed by KPUGL is given below:
- (i) Government of Kerala vide G.O.(p) No. 18/2003/PD dated 8<sup>th</sup> May 2003 had granted a license to M/s. KINFRA Export Promotion Industrial Park (hereinafter called KEPIP) for supplying electricity to various establishments within the KEPIP campus at Kakkanad, Kochi exercising the power conferred under section 19 of the Indian Electricity Rules 1956. Thereafter the Commission ordered to transfer the license to KINESCO Power and Utilities Pvt Ltd (KPUGL). KPUGL is a subsidiary of the Kerala Industrial Infrastructure Corporation Ltd (KINFRA). KPUGL is presently holding license for electricity distribution in the following parks developed by KINFRA.
- (1) KINFRA Export Promotion Industrial Park, Kakkanad (180.126 Acres), commenced operation on 01.02.2010
  - (2) KINFRA Hi-Tech Park, Kalamassery (240 Acres), commenced operation on 06.02.2011
  - (3) KINFRA Integrated Industrial and Textile Park, Palakkad (350 Acres), commenced operation 05.08.2016
  - (4) KINFRA Mega Food Park, Palakkad, commenced operation on 11.09.2018
- (ii) Based on the GO dated 11/10/2019, 481.79 acres (194.9812 Hectares) of land possessed by FACT at Ambalamugal, Kochi was transferred to KINFRA vide Sale Deed No, 5920/1/2019 of Puthencruz Village Sub registrar Office. Thereafter, based on the request of M/s. Bharat Petroleum Corporation Limited (BPCL), KINFRA leased 170 acres of land, which was transferred from FACT to KINFRA to BPCL for establishing and running Petro Chemical and Allied Refinery Units for 30 years. The details of land are as follows:

Sl. No.	Particulars	Land Area (in Acres)	Land Area (in Acres)
1.	Land purchased from FACT by KINFRA		
	Taluk – Kunnathunadu, Village – Puthencruz Block No. - 37	194.1051	479.63
	Taluk – Kunnathunadu, Village – Thiruvankulam Block No. – 10, Survey No. 33	0.875	2.16
	<b>TOTAL</b>	<b>194.9801</b>	<b>481.79</b>
2.	Land transferred to BPCL on Lease		
	Taluk – Kunnathunadu, Village – Puthencruz Block No. - 37	68.79889	170.00
3.	Balance Land set up for KINFRA Petrochemical Park	<b>126.18121</b>	<b>311.79</b>

(iii) Government of Kerala vide GO (P) No. 25/2021/IND dated 18.11.2021, in exercise of the powers conferred by Clause (f) of Section (2) of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 declared 194.9812 Hectares (481.79 Acres) of land owned and possessed by KINFRA to be an 'Industrial Area' of the State and in exercise of the powers conferred by Section 5 of the said Act constituted a Single Window Clearance Board for the said area to be known as "KINFRA Petrochemical Park, Ambalamugal, Kochi Single Window Clearance Board" for the purpose of speedy issue of various licenses, clearance or certificates required under the various State enactments for setting up and running of enterprises.

4. The Commission admitted the petition as OP 78/2021. KPUPL published the notice in dailies as required under 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 Petro Chemical Park	Schedule A Puthencruz/37	205 pt	North:Panchayath road&Thodu South:Brahmapuram gate to FACT plant Road(R1road) East:FACT property and Kakkanad Karimugal road West:Land leased to BPCL	Nil	Puthencruz	Kunnathunadu /Ernakulam

		Schedule B Puthencruz/37	205	North:Brahmapuram gate to FACT Plant Plant Road(R1 road) South:Thrippunithura- Karimugal Road East:Karimugal- Kakkanad road West:FACT Property (Lake)	Nil	Puthencruz	Kunnathunadu /Ernakulam
		Schedule C Puthencruz/37	205 pt 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.	North:River Chitrapuzha & Kozhichira Thodu South:KEIL & FACT property East:Property leased to BPCL West: River Chitrapuzha	Nil	Puthencruz	Kunnathunadu /Ernakulam
		Schedule D Puthencruz/37	205 pt	North:Property of BPCL South:FACT Plant East:Property of FACT West:Chitrapuzha River & Puramboke land	Nil	Puthencruz	Kunnathunadu /Ernakulam
		Schedule E Thiruvankulam/10	33/1 pt	North:River Puramboke land South:River, Puraamboke land East:Puramboke land West:Chitrapuzha River	Nil	Thiruvankulam	Kanayannur / Ernakulam
		Schedule F Puthencruz/37	205 pt	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	Nil	Puthencruz	Kunnathunadu /Ernakulam

5. The Commission issued notices to Government of Kerala, Thripunithura Municipality and Vadavukodu Puthencruz Panchayath and also to the incumbent distribution licensee, KSEB Ltd. Publicity on hearing was given through dailies also.
6. The Respondent, M/s KSEB Ltd, vide submission dated 07.03.2022 submitted the following
  - (i) KSEB Ltd submitted that proviso (6) of Section 14 of the EA 2003 stipulate that, the appropriate Commission may grant a license to two or more persons for distribution of electricity thorough their own distribution system within the same area, subject to the conditions that the applicant comply with the additional requirements as may be prescribed by the

Central Government. Accordingly, the central government in exercise of the powers conferred by sub-section (1) of, and clause (b) of sub-section (2) of Section 176 of the EA2003, made the Distribution of Electricity License (additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. In the said Rules it has been explained that for the grant of a license for distribution of electricity within the area in terms of sixth proviso to section 14 of the Act, the area falling within Municipal Council or a Municipal Corporation as defined in the Article 243(Q) Constitution of India or a revenue district shall be the minimum area of supply.

- (ii) KSEB Ltd further submitted that the Commission had issued the KSERC (Licensing) Regulations, 2006 deviating the provisions as contained in the Central Rules. Since the Rules issued by the Central Government, have overriding effect on the Regulations issued by the KSERC, the present applications is legally not sustainable as it is not fulfilling the required conditions as prescribed in the Central Rules. The area indicated for inclusion of license area is coming under the Panchayath area also and hence the same will not come under the provisions contained as per the Central Rules.
- (iii) KSEB Ltd further submitted that the Government of India under Special Economic Zone Act, issued orders 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 Sec14 of Electricity Act 2003. The Special Economic Zones are exempted from the minimum area condition as well as other conditions prescribed for grant of License. However, this relaxation is presently not applicable to the petitioner for grant of license for distribution of power to KINFRA Petrochemical Park as the area under the park is yet be notified as Special Economic Zone.

KSEB Ltd, therefore, submitted that the petition may be disposed of considering non-compliance of the stipulations in Central rules and SEZ Act.

### **Hearing of the petition**

7. The hearing of the petition was conducted on 10.03.2022 at KPUPL Conference Hall at Kochi. Sri. Sajeev M.S, Resident Engineer, KINESCO presented the petition on behalf of the petitioner and Sri Manoj G, KSEB Ltd presented the matter on behalf of the Respondent KSEB Ltd. The list of participants is attached as Annexure 1 to this Order. The summary of discussions is given below:

- (i) M/s KPUPL submitted that, KPUPL is incorporated on 17.09.2008. Initially it was formed as a joint venture between KINFRA and NESCL. Later on, 2015 the JV was terminated and now the company is fully owned by KINFRA. The Board of KPUPL comprises of representatives from Government of Kerala and KINFRA. KPUPL is managed by CEO and the registered office is at Sasthamangalam, Thiruvananthapuram.
- (ii) KPUPL had obtained distribution license from 2009 onwards and its electricity distribution business started from 2010 onwards. The existing licensee area are:
- (a) Kakkanad: comprise of two parks - first is Infopark Phase – I, comprising of 150 acres of land, and is combined with industrial park with 100 acres, totalling to 280 acres. Area is fed from 110 kV substation with capacity of 25 MVA, consisting of two 12.5 MVA transformers and one 20 MVA and the present contract demand with KSEB Ltd as per the PPA is 18 MVA.
  - (b) KINFRA Hi Tech park, Kalamassery: with 240 acres of land and the present demand is 1500 kVA at 11 kV brought through UG cable form 220kV substation, Kalamasery. The present contract demand is 1 MVA.
  - (c) KINFRA Industrial and Textiles Park (KIITP) Kanjikode, Palakkad: with a distribution area of 35 acres having 22/11 kV substation with 6.3 MVA capacity having two number of 3.5 MVA transformer. The present contract demand with KSEB Ltd as per the PPA is 1 MVA.
  - (d) KINFRA Mega Food Park Kozhipara, Kanjikode, Palakkad : Additional license area of 79.42 acres granted in 2018. The area having a 22 kV dedicated feeders from 110kV substation, Walayar of KSEB Ltd. The present demand is 0.3 MVA only.
- (iii) M/s KPUPL further submitted that their consumer strength is showing a continuous growth. The total consumers as on 2020-21 is 441 and is expected to be 474 by 2021-22. As per 2021 data, 77.40% of the consumption is for HT, 12.14% by Deemed HT and 10.46% by LT consumers. HT category consumption comprises of 32.13% from HT-1A industries and 41.14% from HT-1B.
- (iv) The proposed park is sharing boundaries with BPCL and FACT Kochi. In this area, rehabilitation of people are not required because it is already under the possession of industrial sector. The total land area is 311.79 acres. The park can accommodate small, large and medium petrochemical parks. The products expected in the petrochemical park are plastic, paint, dies, textiles, pharmaceuticals etc. There are two zones, viz, zone 1 and zone 2, the area in between was transferred to BPCL on lease.

- (v) M/s KPUPL further submitted that, the area where Petrochemical industry is proposed by KINFRA, Ambalamugal Kochi, is coming under Puthencruz and Thiruvankulam villages near Kochi. The land purchased from FACT is of 481.79 acres and comprise of 479.63 acres under Kunnathunadu taluk, Puthencruz village and 2.16 acres under Kunnathunadu taluk, Thiruvankulam village. Out of this, the land transferred to BPCL on lease is under Kunnathunadu taluk, Puthencruz village is 170 acres and the remaining land for setup of KINFRA petrochemical park is 311.79 acres.
- (vi) The constitution of KINFRA Single Window Clearance Board and Industrial Township vide GO dated 18.11.2021 declared 194.98 hectares (481.79 Acre) of the total area of land under the Industrial Town ship. Out of this 170 Acres transferred to BPCL. KPUPL seeks license for distribution in the balance area of 311.79 Acres.
- (vii) The power requirement estimated as per design is 32 MVA when full-fledged operation comes up, which requires 110 kV supply. The main receiving substation will be a 110 kV substation (MRSS), ZONE -1 AND ZONE -2 WILL HAVE 33 kV substation according to the demand. Supply to consumer will be available through dedicated 33 kV feeder also. M/s KPUPL further submitted that, the source of bulk power is from Brahmapuram 220 kV substation of KSEB Ltd. M/s KPUPL is planning the distribution system in a phased manner as follows:
- Phase 1 – upto 3 MVA  
11KV line / ABC is proposed from KSEB Ltd 220 KV Brahmapuram Substation
  - Phase 2 – Above 3 MVA & upto 12 MVA  
33KV line / UG Cable is proposed from KSEB Ltd 220 KV Brahmapuram Substation
  - Phase 3 – Above 12 MVA  
Double circuit 110KV line / UG Cable is proposed from KSEB Ltd 220KV Brahmapuram Substation
- (viii) Smt. Ambili. T.B Zonal Head KINFRA, further submitted that the petrochemical park needs the clearance from the Ministry of Environment and Forest. Petrochemical park got the clearance in July 2021. As per the classification of industries there are certain categories, which are green red and orange. As per the classification the Zone 1 comes under red category industries and Zone 2 comes under green and orange category industries. The works will be carried out in both zones simultaneously. In the 1 st phase 11 kV supply will be given and if the demand raises higher voltage levels will be availed.

- (ix) KPUPL prayed that KPUPL filed a petition before the Commission on 27.02.2020 for the inclusion of KINFRA petrochemical park as additional license area to KPUPL. The Commission vide Order dated 26.05.2021 directed to submit the industrial declaration by the GoK and formation of Single Window Clearance Board. KPUPL obtained the same and submitted the GO. KPUPL further requested for the approval for the inclusion of KINFRA Petrochemical Park as additional license area to KINESCO Power and Utilities Pvt. Ltd (KPUPL)
- (x) M/s KPUPL further submitted the total approximate cost for the electrical distribution works is Rs 55.73 Crore and the Source of funding for infrastructure development is from Kerala Government and KINFRA. The details as given below:

Sl. No.	Description	Amount
		(Rs. Lakhs)
<b>A</b>	<b>Construction Power Supply</b>	
1	Supply, Installation, Testing & Commissioning of 1.5 Km, 11 KV Overhead ABC Cable line including all other works	20.49
2	11KV UG distribution system within the Park	74.72
	<b>Sub Total – A (Rs.Lakhs)</b>	<b>95.21</b>
<b>B</b>	<b>Infrastructure Development – 33 KV</b>	
1	11KV UG distribution system	1219.36
2	33KV UG distribution system	695.29
3	33/11KV Indoor Substations – 2 Nos	889.58
4	Supply, Installation, Testing & Commissioning of 1.5 km, 33 KV line including all other works	18.3
5	Provision for additional 33kv Bay at Brahmapuram Substation	324.49
	<b>Sub Total - B (Rs. Lakhs)</b>	<b>3147.02</b>
<b>C</b>	<b>Infrastructure Development – 110 KV</b>	
1	110 KV Bay Extension at KSEBL Substation	47.7
2	110/33KV MRSS with 110KV Incomer Feeder, 3 nos 25 MVA transformers, 6 nos 33kv feeders	1649.56
3	Supply, erection, testing and commissioning of 110KV OH double circuit line	68.93
	<b>Sub Total – C (Rs. Lakhs)</b>	<b>1766.19</b>
<b>D</b>	<b>External Illumination and Telecommunication</b>	
1	Street Lighting / External Illumination works	539.56
2	Telecommunication / Data Networking	24.95
	<b>Sub Total – D (Rs. Lakhs)</b>	<b>564.51</b>
	<b>Grand TOTAL (A+B+C+D) (Rs. Lakhs)</b>	<b>5572.92</b>
	<b>(55.73 Crores)</b>	

- (xi) To a query by the commission, KPUPL submitted that the source of fund is expected from Government of Kerala / KINFRA.



- (xii) KPUPL submitted that the consumers are benefitted by way of:
- (a) HT power supply distribution is at 33 KV & 11KV level which will ensure low system losses.
  - (b) Since distribution is in a limited area, reliability in power supply can be ensured.
  - (c) Maintenance staff will be available round the clock to ensure uninterrupted power supply to consumers.
  - (d) KINESCO is following pre-paid energy meter billing system.
  - (e) Minimum initial investment for electrical works
  - (f) Maximum power quality

KSEB Ltd submitted that, the Commission vide Order dated 26.05.2021 in OP No:23/2020 directed the petitioner to submit the Government notification regarding to the industrial area and the constitution of Single Window Clearance Board. As on now, KSEB Ltd is questioning the legal sanctity of the project as per Section 14(6) of EA-2003. When the license is granted to two or more persons for distribution of electricity through their own distribution system with in the same area, the same shall be given as per the requirements notified by the Government of India. The Central Government already issued certain rules regarding this issue as per Section 176(2(b)) of the EA-2003. The petitioner not complied with the requirement. KSEB Ltd as the incumbent licensee ready to supply electricity within the area without any difficulty and without any inconvenience to the consumers.

As per the above explanation for the grant of a license within the same area in terms of sixth proviso to Section 14 of the EA 2003, the area of supply should be falling within a Municipal Council or a Municipal Corporation or a revenue district as a whole. However, the State Commission had issued the KSERC (Licensing) Regulations, 2006 deviating the provisions as contained in the Central Rules. Since the Rules issued by the Central have overriding effect on the Regulations issued by the KSERC the present applications is legally not sustainable as it is not fulfilling the required conditions as prescribed in the Central Rules.

The area indicated for inclusion of license area is coming under the Panchayath area also and hence the same will not come under the provisions contained as per the Central Rules.

### **Analysis and Decision**

8. The Commission has examined in detail the petition filed by M/s KPUPL, the counter affidavit of KSEB Ltd, other details, documents and oral submissions made during the hearings of the subject petition, as per the provisions of the Electricity Act, 2003, KSERC (Licensing) Regulations, 2006 and all other Rules and Regulations in force and decides as follows:

9. The subject petition filed by M/s KPUPL is for inclusion of KINFRA Petrochemical Park as an additional license area to KPUPL, under Section 18 of the Electricity Act 2003 and under Regulation 19 of the KSERC (Licensing) Regulations, 2006.
10. 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.
11. 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.
12. 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. One of the Director of KSEB Ltd, is the Director of the KPUPL as well. At present, KPUPL, has license for distributing electricity in the following industrial parks of KINFRA.
  - (a) Kinfra Export Promotion Industrial Park, Kakkanad.
  - (b) Land of Kinfra for KEPIP expansion, Kakkanad
  - (c) Kinfra Hi-Tech Park, Kalamassery
  - (d) Kinfra Integrated Textile Park, Palakkad
13. KINFRA is developing a Petrochemical Park in the 311.79 Acres of land, out of it, 481.79 Acres of land procured from FACT at Ambalamugal, Kochi. The sale deed between the FACT and KINFRA was signed on 18.12.2019. KPUPL has submitted the survey numbers and area of the land received from FACT and the 170 mAcres of land transferred to BPCL as Annexure IV to the petition.

KINFRA is proposing to distribute electricity within the park through its subsidiary KPUPL. The total power requirement of the park is estimated at 32.07MVA. KPUPL proposes to source the power from KSEB Ltd through the nearest 220kV substation of KSEB Ltd at Brahmapuram. The total cost of creating the necessary distribution infrastructure within the park is estimated at Rs 55.73 crore with the funds being provided by KIIFB/GoK.

KINFRA submitted that, out of the 311.79 Acres of land of the proposed Petrochemical Park, 266.42 Acres of land falls in Resurvey No. 205, Block No.37 of Vaduvakode, Puthencruze Village, Kunnathunadu Taluk. This land earlier owned by FACT, is declared as an Industrial area by the State Government vide the GO (Ms) No. 48/2006/ID dated 28.04.2006.

14. KSEB Ltd, the incumbent distribution licensee has objected to KPUPL's petition to include the area of the proposed Petrochemical park as an additional license area and agreed to supply power directly within the area.
15. The Commission after careful examination of the details submitted by KPUPL, KINFRA and KSEB Ltd on the subject matter noted the following provisions in the Electricity Act, 2003 and the Regulations notified by the Commission in exercise of the powers conferred on it as per the provisions of the Electricity Act 2003.

(1) Section 14 of the Electricity Act, 2003 is extracted below.

**Section 14. (Grant of licence):**

*The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -*

- (a) to transmit electricity as a transmission licensee; or*
- (b) to distribute electricity as a distribution licensee; or*
- (c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:*

*Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:*

*Provided further that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:*

*Provided also that in case an Appropriate Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:*

*Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee*

*under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:*

*Provided also that the Government company or the company referred to in sub-section (2) of section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule, shall be deemed to be a licensee under this Act:*

*Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements <sup>1</sup>[relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:*

*Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:*

*Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures which may be specified by the Authority under section 53:*

*Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.*

- (2) The Central Government vide the notification GSR No. 188(E) dated 23.03.2005 notified the Distribution of Electricity License (additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. The relevant provisions in the said Rules is extracted below.

3. *Requirements of capital adequacy and creditworthiness.*- (1) *The Appropriate Commission shall, upon receipt of an application for grant of*

licence for distribution of electricity under sub-section (1) of section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of section 43.

(2) The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of net worth and generation of internal resources of his

business including of promoters in the preceding three years after excluding his other committed investments.

*Explanation :- For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.*

4. Requirement of Code of Conduct.- The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of the application for the grant of licence:

(a) section 203, section 274, section 388B or section 397 of the Companies Act, 1956;

(b) section 276, section 276B, section 276BB, section 276C, section 277 or section 278 of the Income tax Act, 1961;

(c) section 15C, section 15G, section 15H or section 15HA of the Securities and Exchange Board of India Act 1992;

(d) clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act 1944;

(e) section 132 or section 135 of the Customs Act 1962,

and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:

*Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443 (e) of the Companies Act, 1956 on the ground of its being unable to pay its debts.*

- (3) Regulation 3 of the Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2006, stipulate as follows:

### **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.

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- (4) Further, Regulation 19 of the Kerala State Electricity Regulatory Commission(Licensing) Regulations, 2006, stipulate as follows:

**19. 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 his 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 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 area 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.*

- (5) 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.

*(f) "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 small scale 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 vide the GO (P) No. 25/2021/ID dated 18.11.2021 notified that the Government have decided to declare an extent of 194.9812 Hectares of land owned and possessed by KINFRA and also decided to constitute a Single Window Clearance Board for the above said area. The relevant portion of the GO is extracted below:

*“Now, THEREFORE, in exercise of the powers conferred by the clause (f) of section 2 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000 and in partial modification of Notification issued under No. 30072/J1/2006/ID dated 23rd May, 2006 published as S.R.O. No. 409/2006, in the Kerala Gazette Extraordinary No. 948 dated 31st May 2006, the Government of Kerala hereby declare 194.9812 Hectres (481.79 Acres) of land owned and possessed by KINFRA, as specified in Schedule II below to be an industrial area of the State and in exercise of the powers conferred by section 5 of the said Act and hereby constitute a Single Window Clearance Board for the said area to be known as "KINFRA Petrochemical Park, Ambalamughal, Kochi Single Window Clearance Board for the purpose of speedy issue of various licenses, clearances or certificates requested under the various State enactments for setting up and running of enterprises with the members mentioned in the Schedule I below, namely:...”*

16. The Commission considered the contention of the KSEB Ltd against granting distribution license to the KPUPL for distribution of electricity within the area proposed and observed the following:

- (i) Government of Kerala vide G.O.(P) No.18/2003/PD dated 8<sup>th</sup> 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 section 19 of the Indian Electricity Rules 1956, early before enactment of the EA – 2003.



- (ii) KPUPL is the successor entity to KEPIP. The present application is for inclusion of additional license area to KPUPL for establishing Petro chemical park.
- (iii) The Commission issued licensing Regulations, 2006. The eligibility criteria as per Regulation 3 the licensing Regulations is as follows:

**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.*

- (iv) The Commission, in exercise of powers conferred under Section 14 read with Section 17(3) and Section 181 of Electricity Act 2003, ordered to grant 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, vide its notification No 1/2009 dated 30-11-2009, with the area of Licence are as under:
  - (i) Kinfra Export Promotion Industrial Park, Kakkanad(180.126 Acres)
  - (ii) Land of Kinfra for KEPIP Expansion,Kakkanad (100 Acres)
  - (iii) Kinfra Hi-Tech Park, Kalamassery(240 Acres)
  - (iv) Kinfra Integrated Textile Park,Palakkad( 350 Acres)
- (v) The Commission vide notification dated 11.09.2018 in OP No 04/2017 has included the Kinfra Mega Food Park, Palakkad (79.42 Acres) to the license area of KPUPL by amending the notification dated 30.11.2019.
- (vi) Government of Kerala, vide Gazette notification dated 13<sup>th</sup> December 2013, has declared 194.9812 Hectares (481.79 Acres) of land owned and possessed by KINFRA as Industrial area under the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999.
- (vii) State Government vide the GO (P) No. 25/2021/ID dated 18.11.2021 notified that the Government have decided to declare an extent of 194.9812 Hectares of land owned and possessed by KINFRA as an 'industrial area' of the State and also decided to constitute a Single Window Clearance Board for the above said area
- (viii) KPUPL has leased 170 Acres to BPCL and the remaining 311.79 acres of land is proposed for setting up Petrochemical Park and to include to KPUPL License area.

17. Considering these facts, the Commission is of the considered view that the request of the petitioner is justified as per the Regulations in force and also considering the Order issued by the Government of Kerala vide notification dated 18.11.2021, declaring the area as Industrial Area of the State, where Petro chemical Park is proposed to be established.
18. Hence the Commission decides to include Petrochemical Park at Kakkanadu also to KPUPL, the subsidiary of the KINFRA having license for distributing electricity at the industrial parks at Kakkanad, Kalamassery Integrated Textile Park Palakkad and Mega Food Park Palakkad. The Commission orders that:-
- (1) The operation and maintenance of the distribution assets within the Petrochemical Park is the responsibility of KPUPL/ KINFRA.
  - (2) The retail tariff applicable to the electricity usage within the Petrochemical Park at 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 (Licensing) 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**

19. The Commission, after duly examining the application filed by KPUPL for inclusion of KINFRA Petrochemical Park, Kakkanadu as an additional license area, 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 13.12.2021, hereby orders that the license area of KPUPL be extended to include 311.79 Acres of land in Puthencruz Village Village in Kunnathunadu Taluk in Eranakulam District, subject to the conditions specified under paragraph 18 above.

The notification on extending the license area of KPUPL to Petrochemical Park at Kakkanadu is enclosed as Annexure 'A' to this order.

The application is disposed off accordingly.

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

**Sd/-**  
**Preman Dinaraj**  
**Chairman**

Approved for issue

**Sd/-**  
**C R Satheeshchandran**  
**Secretary**

## **ANNEXURE 'A'**

### **KERALA STATE ELECTRICITY REGULATORY COMMISSION**

#### **NOTIFICATION**

#### **INCLUSION OF PETROCHEMICAL PARK, KAKKANAD IN THE AREA OF LICENCE FOR DISTRIBUTION OF ELECTRICITY BY KPUPL**

No. 2553/D(T)/2021/KSERC

Dated, Thiruvananthapuram 10.05.2022

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 30<sup>th</sup> 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 30.11.2019.

The Chief Executive Officer of KPUPL has submitted an application on 22.12.2021 before the Kerala State Electricity Regulatory Commission for inclusion of KINFRA Petrochemical Park, Kakkanadu 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 04<sup>th</sup> March 2022 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, Vadavukodu Puthencruz Grama Panchayath, and Thrippunithura Municipality for remarks.

A Public hearing on the application was held on 10.03.2022 at KPUPL Conference Hall, Kochi.

No comments were furnished by Government of Kerala and Local Authorities. Kerala State Electricity Board Limited had submitted their comments vide letter dated 07.03.2022. 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 holding licensee for distributing electricity 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 setting the Petrochemical Park. Gazette notification was issued by Government of Kerala, vide GO (P) No.25/2021/ID dated 18<sup>th</sup> November 2021 (published in the Kerala Gazette Extraordinary No. 3622 dated 13<sup>th</sup> December 2021) notifying 194.9812 Hectares (481.79 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. KPUPL transferred 170 Acres of land to BPCL on lease. The balance land available for establishing Petrochemical Park is 126.18 Hectares (311.79 Acres).

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 30<sup>th</sup> November 2009.

### **ORDER**

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

“ Kinfra Petrochemical Park (126.18 Hectares (311.79 Acres))”

Village/ Block No : Puthencruze Re Survey Block No 37,  
Thiruvankulam Re Survey Block No 10

Survey Nos:

205pt, 205, 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.  
205pt  
33/1pt 205pt

Boundaries :-

(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

Village/Panchayath/Municipality: Puthencruz, Thiruvankulam  
Thripunithura Municipality  
Taluk/District : Kunnathnadu / Ernakulam

The date of commencement of the order shall be the 10<sup>th</sup> May 2022.

By Order of the Commission,

Sd/-  
C R Satheeshchandran  
Secretary

**List of stakeholders participated in the public hearing held on 10.03.2022**

1. Sri. Sabu George, Chairman, KEPIP
2. Smt. Ambili T.B, KINFRA CZ Head
3. Smt. Divya Philip, KINFRA
4. Smt. Geesha .A.K, KINFRA
5. Smt. Mini N, KPUPL
6. Smt. Mini Vinod, KPUPL
7. Smt. Shailaja V, Junior Manager, KEPIP
8. Smt. Sreedevi.S, KINESCO
9. Sri. Ajith Kumar T.M, KINESCO
10. Sri. Alan Alby, KINESCO
11. Sri. Ashif Karim, MD, Meta-h hydrocarbon
12. Sri. Biju A.T, SE, Electrical section Puthencruz
13. Sri. Joel Joy, KPUPL
14. Sri. Kailash Gupta, Kamal Tiles Pvt Ltd
15. Sri. Manoj G, AEE, TRAC, KSEBL
16. Sri. Natarajan V, KPUPL
17. Sri. Radhakrishna Pillai, KINESCO
18. Sri. Sajeev M.S, KPUPL
19. Sri. Sarath Dileep, KINESCO
20. Sri. Shine A, KINFRA
21. Sri. Siyad. K.A, Director, Meta-h hydrocarbon