

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

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

OP No 26/2023

In the matter of : Petition for the approval of Draft supplementary Power Purchase Agreement between KSEB Ltd and Rubber Park India (P) Ltd for enhancement of Contract Demand from 6700 kVA to 8000 kVA.

Petitioner : Rubber Park India Private Ltd (RPIPL)

Order dated 08.06.2023

1. M/s. Rubber Park India Private Ltd (hereinafter referred as M/s RPIPL or petitioner) on 07.03.2023, filed a petition for the approval of the draft Supplementary Power Purchase Agreement between Kerala State Electricity Board Limited (KSEBL) and Rubber Park India Private Ltd (RPIPL) for “enhancing the Contract Demand from 6700 kVA to 8000 KVA”.
2. Summary of the petition filed by M/s RPIPL is given below;
 - (1) M/s RPIPL is a joint venture of KINFRA and Rubber Board, for establishing Rubber and Rubber wood based industries in the State. M/s RPIPL hold distribution license to distribute electricity at Rubber park, Iravipuram.
 - (2) M/s RPIPL has been meeting the entire power requirement by procuring power from KSEB Ltd at Bulk Supply Tariff (BST) approved by the Commission from time to time.
 - (3) RPIPL had entered into a Power Purchase Agreement (PPA) with KSEBL on 23.08.2003 for a contract demand of 250 kVA at 110 kV voltage level for a period of 20 years from the date of license issued to RPIPL by Government of Kerala i.e., with effect from 17-06-2003 up to 16.06.2023.
 - (4) RPIPL had renewed the said PPA in 14.03.2005 for a contract demand of 450 kVA, in 31.03.2009 for a contract demand of 3000 kVA, in 24.03.2015 for a contract demand of 4500 kVA. RPIPL further enhanced the contract demand to 6700 kVA vide the PPA dated 18.07.2016 for a period of one year and the validity was subsequently enhanced to 16.06.2023.

- (5) Subsequently, based on the increased demand from the consumers, RPIPL had requested KSEBL to enhance the contract demand from 6700 kVA to 8000 kVA. KSEB Ltd had agreed to enhance the contract demand from 6700 kVA to 8000 kVA and RPIPL had executed the connectivity agreement with KSEBL on 23.02.2017 for enhancing the contract demand. Later due to lower demand RPIPL decided to postpone the execution of the PPA with KSEBL.
- (6) RPIPL further submitted that based on the increased demand from the consumers they had expressed their willingness to execute the PPA for the enhanced contract demand of 8000 kVA with KSEBL.
- (7) The validity of the existing PPA's of RPIPL with KSEBL will expire by 17.06.2023, RPIPL also requested to extend the validity of PPA for a further period of 20 years, ie., up to 16.06.2043 along with the enhancement in contract demand from 6700 kVA to 8000 kVA.
- (8) KSEBL is willing to enhance the contract demand of RPIPL from 6700 kVA to 8000 kVA with an extended validity up to 16.06.2043. RPIL also submitted along with the petition the initialled draft supplementary PPA for approval.
- (9) RPIPL also submitted that, there was no termination/exit clauses, allowing to decrease/reduce the contract demand due to the decrease in contract demand of the consumers in future in the draft PPA forwarded by KSEBL. Hence, RPIPL had requested KSEBL to incorporate the termination clause in Paragraph 1 of the supplementary agreement and modification in Article 3.4 of the PPA to incorporate clauses allowing to decrease/reduce the contract demand in future.
- (10) KSEB Ltd vide letter dated 23.02.2023 has conveyed their inability to modify the terms of the draft PPA, citing the absence of termination/exit clauses in the PPA dated 18.07.2016, and the fact that the draft PPA has already been initialled.
- (11) Hence M/s RPIPL requested to approve the draft initialled supplementary PPA between KSEB Ltd and M/s RPIL for enhancing the contract demand from 6700 KVA to 8000 KVA with extended validity up to 16.06.2043.

Analysis and Decision of the Commission:

3. The Commission having examined in detail the petition filed by M/s RPIPL as per the provisions of the Electricity Act,2003 and KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006, decides as follows;
4. M/s RPIPL is one of the small distribution licensees in the State of Kerala having distribution licence for supplying electricity at Rubber Park, Iravipuram. M/s

RPIPL has been procuring the entire power requirement from KSEB Ltd at the Bulk Supply Tariff (BST) approved by the Commission from time to time.

5. As per the section 86 (1)(b) of the Electricity Act -2003, all the PPA/ arrangement for power procurement of the distribution licensees shall be regulated by the State Commission. The present petition is filed for granting approval for the draft Supplementary Agreement for enhancing the contract demand of power from KSEB Ltd, for distribution of electricity with in the specified area of Rubber Park, Valayanchirangara.
6. The present petition is for enhancing the contract demand of the petitioner from 6700 kVA to 8000 kVA and also extend the validity of the existing PPA for a period of 20 years from 17.06.2023 to 16.06.2043. M/s RPIPL also submitted the initialled draft PPA along with the petition for approval.
7. In the draft initialled supplementary PPA, KSEB Ltd and M/s RPIPL had mutually agreed to amend the following articles in the PPA dated 18.07.2016
 - (i) Para 2.1. Article 2, the second sentence is proposed to amend as;
"the agreement shall remain valid upto 16.06.2043"
 - (ii) The Article 3.2 of the PPA is proposed to be modified as;
"KSEBL shall supply to RPIPL at the point of supply at RPIPL and RPIPL shall take from KSEBL power up to a total quantity of 8000kVA at 110KV at RPIPL Valayanchirangara for its own use and for the purpose of supply to the consumers within in the area of supply as provided in the license of distribution of electricity"
 - (iii) The Article 3.6 of the PPA dated 04.08.2016 is proposed to be modified as;
"RPIPL agrees to maintain the average power factor of the intake electricity supply at each point of supply at not less than 0.95 lag by suitable power factor correction equipment's at its cost. Should the average power factor drop below 0.9 and so remain for a period of two consecutive months it must be brought to not less than 0.95 within a further period of six months by RPIPL, failing which without prejudice to the right of KSEBL to collect the extra charges and without prejudice to such other rights as having accrued to KSEBL or any other rights, the supply to RPIPL is liable to be discontinued after giving notice and opportunity of being heard and subject to the provisions of applicable regulations notified/to be notified by KSERC"
 - (iv) The Article 8.6 of the PPA dated 04.08.2016 is proposed to be modified as;
"If the power factor drops below 0.95 lag, the following extra charge or charges for the entire reactive energy as determined by the commission shall be payable by RPIPL."

Below 0.95 lag and upto 0.90 lag - 0.50% of the energy charges for every reduction of 0.01 fall in power factor below 0.95 and upto 0.90.

Below 0.90 - 1% of the energy charge for every reduction of 0.01 fall in power factor from 0.90.

Or as notified by the Commission from time to time.

The power factor incentive / disincentive shall be applicable as decided by KSEB in the prevailing tariff order and as amended from time to time."

- (v) In Schedule II, the 3rd row is proposed to amend as;

"Rate for supply shall be at the tariff approved by the Commission from time to time."

- (vi) In Schedule II, the 4th row is proposed to amend as ;

"Maximum output required by RPIPL, Valanchirangara is 8MVA at 110kV"

- (vii) *All the terms and conditions specified in the Articles of the PPA entered by the parties on 18.07.2016 shall hold good in respect of this SUPPLEMENTARY PPA executed for the purpose for change in contract demand from 6700kVA at 110kV to 8000kVA at 110kV also, except for those specified herein above.*

8. The Commission has examined in detail the modifications proposed in the draft initialled supplementary PPA and noted the following.

- (1) The modifications proposed in Article 3.2 of the PPA is regarding to the enhancement quantum of power to be availed from KSEB Ltd and extension of validity for a further period of 20 years.
- (2) The modifications proposed in Article 3.6 of PPA is for maintaining the power factor of M/s RPIPL.
- (3) The changes proposed in Article 8.6 of the PPA is for incorporating the power factor penalty and incentive as per the Tariff Order of the Commission dated 25.06.2022.
- (4) The changes proposed in Schedule II, 3rd row of the supplementary agreement is regarding the rate (tariff) for supply at the tariff approved by the Commission from time to time and the 4th row is for the maximum output required by M/s RPIPL.

The Commission agrees to the modification mutually proposed by both the parties.

9. Subsequent to the initialling of supplementary PPA between M/s RPIPL and KSEB Ltd, M/s RPIPL proposed to include termination and exit clause, and also

a clause for enhancing/ reducing the contract demand. However, KSEB Ltd has not accepted the proposal citing that there is no termination /exit clause in original PPA dated 18.07.2016, and the fact that the draft PPA was already initialled.

The Commission noted the issue and hereby clarify the following.

M/s RPIL is one of the small distribution licensee in the State, has been meeting its entire power demand from the incumbent licensee KSEB Ltd at the Bulk Supply Tariff (BST) approved by the Commission from time to time. There is understanding between the small licensees and KSEB Ltd that, the entire power requirement of the small licensee may be met from KSEB Ltd at the BST approved by the Commission. With the approval of the Commission, KSEB Ltd has also been allowing the small licensees to enhance or reduce the contract demand based on their power requirement. Hence, if the situation warrants in future to terminate/ exist the PPA signed with KSEB Ltd, M/s RPIPL as a distribution licensee can file a proper petition with necessary and sufficient details for termination/ exit the PPA. The Commission may, after hearing both the petitioner M/s RPIL and the respondent KSEB Ltd, take an appropriate decision as per the provisions of the Electricity Act, 2003 and other Rules and Regulations in force at that point of time.

Order of the Commission.

10. The Commission after examining the petition filed by M/s RPIPL for the approval of draft Supplementary Power Purchase Agreement between M/s RPIPL and KSEB Ltd, as per the provisions of the Electricity Act, 2003 and KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006, and other Regulations in force, hereby orders the following;
 - (1) Approve the 'draft supplementary agreement' initialled between M/s RPIPL and KSEB Ltd on 26.12.2022, for enhancing the contract demand from 6700 KVA to 8000 KVA, and also to extend the validity of the agreement from 17.06.2023 to 16.06.2043.
 - (2) M/s RPIPL shall submit a copy of the Supplementary PPA entered between the parties before the Commission for information and records.

The petition disposed of and ordered accordingly.

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Sd/-
T K Jose
Chairman
Approved for issue

Sd/-
C R Satheeshchandran
Secretary