

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

**Present : Shri T K Jose, Chairman**  
**Shri B Pradeep, Member**

**OP No 02/2024**

In the matter of : Petition seeking approval for short term power procurement through DEEP Portal with M/s Adani Enterprises Ltd, M/s PTC India Ltd and M/s Tata Power Trading Company Ltd for the procurement of 250MW RTC power during April and May 2024.

Petitioner : Kerala State Electricity Board Limited (KSEB Ltd)

Respondents : 1. Adani Enterprises Ltd, Ahemadabad  
2. PTC India Ltd, New Delhi. 110066  
3. Tata Power Trading Co. Ltd, Noida, UP

Petitioner represented by : Shri M.P Rajan, Dy. Chief Engineer  
Smt Latha S.V, Executive Engineer  
Shri Shine Raj, Asst: Executive Engineer

Respondents represented by : Shri Ankit Rabadia, Adani Enterprises Ltd  
Shri Savanth, PTC India Ltd  
Shri Tanya Bhutani, Tata Power Trading Co. Ltd

**Order dated 19.01.2024**

1. M/s Kerala State Electricity Board Limited (hereinafter referred as KSEB Ltd or petitioner) filed a petition on 08.01.2024, with the following prayer;  
“
  - 1) *To approve the deviations made from the Model Bidding Document for tendering the power procurement under short term*
  - 2) *To adopt the tariff discovered in the short term power procurement tender and approval for entering into short term power procurement arrangement for the months April and May 2024 with M/s. Adani Enterprises Ltd, M/s PTC India Limited and M/s Tata Power Trading Company Limited.”*
2. The summary of the petition filed by KSEB Ltd is given below;
  - (1) The electricity demand of the State is being met through the following sources;
    - (a) own hydro with availability in the range of 1500MW to 1600MW,
    - (b) CGS with availability in the range of 1200MW to 1400MW,
    - (c) Long term contract with availability of 550MW to 600MW,

(d) Medium term contract for 270MW from January to June 2024 (ends on June 2024) and  
(e) Short term through SWAP/DEEP/PX.

- (2) The reservoir storage as on 25.12.2023 is 2856.41 MU only. The availability of power in the short term market including exchanges is very limited and the clearing prices in the exchanges is excessively high. Hence KSEBL could not depend on the power exchanges for meeting the power demand of the coming summer months. Aggravating the situation, the forthcoming Lok Sabha elections during April and May 2024 is likely to increase the demand further.
- (3) The anticipated Load Generation Balance (LGB) of April and May 2024 is given below.

LGB for the month of April 2024

Time block (hrs)	Power (MW)			Energy (MU)		
	Demand	Availability	Shortage	Demand	Availability	Shortage
	(MW)	(MW)	(MW)	(MU)	(MU)	(MU)
00:00 to 05:00	4631	4016	-615	21.53	18.67	2.86
05:00 to 08:30	4062	3771	-291	13.22	12.27	0.95
08:30 to 14:00	4119	3916	-203	21.07	20.03	1.04
14:00 to 17:00	4554	4106	-448	12.71	11.46	1.25
17:00 to 18:30	4546	4081	-465	6.34	5.69	0.65
18:30 to 22:30	5371	4566	-805	19.98	16.99	2.99
22:30 to 24:00	5309	4166	-1143	7.41	5.81	1.59
Total				102.26	90.93	11.33

LGB for the month of May-2024

Time block (hrs)	Power (MW)			Energy (MU)		
	Demand	Availability	Shortage	Demand	Availability	Shortage
	(MW)	(MW)	(MW)	(MU)	(MU)	(MU)
00:00 to 05:00	4326	3744	-582	20.12	17.41	2.71
05:00 to 08:30	4054	3599	-455	13.20	11.71	1.48
08:30 to 14:00	4095	3744	-351	20.95	19.15	1.80
14:00 to 17:00	4451	3834	-617	12.42	10.70	1.72
17:00 to 18:30	4431	3879	-552	6.18	5.41	0.77
18:30 to 22:30	5281	4394	-887	19.65	16.35	3.30
22:30 to 24:00	5175	3944	-1231	7.22	5.50	1.72
Total				99.72	86.23	13.49

- (4) In order to meet the anticipated power shortage and ensure 24x7 power supply to its consumers, KSEBL has floated tender for banking of 300MW RTC power for the period from January 2024 to May 2024 with return of banked power from mid-June 2024 to September 2024 to offset

a part of the deficit. However, no offers were received within the time period specified in the tender.

- (5) Considering the huge power shortage anticipated in April and May 2024 as above, KSEBL has decided to enter into short-term power procurement of 250MW RTC power during April and May 2024. Accordingly, short-term tender was floated on 17.11.2023, for the quantum as shown below with financial bid opening on 02.12.2023.

Requisition No	Period		Required quantity (MW)	Duration (hrs)	Minimum Bid quantity MW
	From	To			
1	01.04.2024	30.04.2024	250	RTC	25
2	01.05.2024	31.05.2024	250	RTC	25

- (6) KSEBL further submitted that, as per the Guidelines for short-term procurement of Power by Distribution Licensees through Tariff based bidding process issued by MoP on 30.03.2016, “*Generally, no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the Appropriate Commission*”.
- (7) As per the new General Network Access (GNA) regime, interconnection point is the CTU connection point of the generator and the transmission charges for availing the power beyond the CTU interconnection point is to be borne by the utility. The tender documents were updated accordingly after incorporating the required changes due to the implementation of the GNA. The modifications made in the bidding documents is given below.

Clause No.	Existing Clause	Modification suggested
1. Introduction and Background	The bidder should be capable for providing power at the delivery point (as defined in the revised guidelines notified by the Ministry of Power (MoP) on 30.03.2016) i.e at Kerala Periphery.	The bidder should be capable for providing power at the delivery point i.e at CTU interconnection point of the generator.  <b>The modifications suggested in view of the change in definition of interconnection point as per the CERC GNA Regulations.</b>
3.1 Tariff Structure	KSEBL interconnection with CTU in Southern Region, ie. Kerala Periphery shall be taken as Delivery Point.....	CTU interconnection point of the generator shall be taken as the delivery point.  <b>The modifications suggested in view of the change in definition of interconnection point as per the CERC GNA Regulations.</b>
3.2	The Bidder shall quote the all inclusive single tariff at the Delivery Point i.e at	The Bidder shall quote the all-inclusive single tariff at the Delivery Point upto

	<p>Kerala Periphery, upto three (3) decimals which shall include all applicable charges like capacity charge, energy charge, trading margin (in case of Bidder being a Trader), intra-state open access charges, transmission (inter &amp; intra state) losses, SLDC/RLDC Fees and Charges, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt./ Local bodies upto and including the Delivery Point.</p>	<p>three (3) decimals which shall include all applicable charges like capacity charge, energy charge, trading margin (in case of Bidder being a Trader), intra state open access charges and losses up to delivery point of utility/generator, losses, SLDC/RLDC Fees and Charges as applicable, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt./ Local bodies upto and including the Delivery Point.</p> <p><b>The modifications suggested in view of the change in definition of interconnection point as per the CERC GNA Regulations.</b></p>
3.3	<p>While quoting the tariff at Kerala Periphery bidders may note, all charges payable to SLDC, RLDC, by the open access applicant shall be borne by the successful bidder himself.</p> <p>In case the successful bidder is a trader or DISCOM with LTA then the application for open access shall be punched by the successful bidder on behalf of KSEBL. If the successful bidder is a Generator/DISCOM without LTA/ embedded intrastate entity Generator, then KSEBL will apply for open access/Temporary GNA as the case may be. In such cases all charges payable to SLDC/RLDC charges including open access charges shall be reimbursed to KSEBL without any rebate within 3 working days on receipt of the bill from KSEBL, beyond which Late Payment Surcharge @ 15% (Fifteen Percent) per annum shall be applicable</p>	<p>All GNA/ T-GNA charges for drawing power beyond the delivery point shall be on account on KSEBL, even in case the selected applicant is a trader. Punching GNA application for drawing power shall be carried out by the KSEBL.</p> <p><b>The modifications suggested in view of the change in definition of interconnection point as per the CERC Regulation. All charges and losses beyond the delivery point shall be borne by KSEBL.</b></p>
General Terms and Condition 2. <b>Delivery Point</b>	Delivery Point	<p>CTU interconnection point of the utility / generator shall be taken as the delivery point.</p> <p><b>The modifications suggested in view of the change in definition of interconnection point as per the CERC GNA Regulations.</b></p>
General Terms and Condition 3. <b>Transmission Charges &amp; Losses:</b>	<p>While quoting the tariff at Kerala Periphery bidders may note that all charges payable to SLDC, RLDC, by the open access applicant, shall be borne by the successful bidder himself.</p> <p>All intra-state open access charges/transmission (inter &amp; intra state) losses, SLDC /RLDC Fees and Charges, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt./ Local bodies upto and including delivery point i.e. Kerala periphery shall be borne by Seller.</p> <p>In case the successful bidder is a trader or DISCOM with LTA then the application for open access shall be punched by the successful bidder on behalf of KSEBL. If the successful</p>	<p>While quoting the tariff at delivery point, bidders may note that all charges payable to SLDC, RLDC, if applicable, shall be borne by the successful bidder himself.</p> <p>All intra-state open access charges/transmission and &amp; intra state losses up to the delivery point, SLDC /RLDC Fees and Charges if applicable, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt./ Local bodies upto and including delivery point shall be borne by Seller.</p>

	bidder is a Generator/DISCOM without LTA/ embedded intrastate entity Generator, then KSEBL will apply for open access/ Temporary GNA as the case may be. In such cases all charges payable to SLDC/RLDC charges including open access charges shall be reimbursed to KSEBL without any rebate within 3 working days on receipt of the bill from KSEBL, beyond which Late Payment Surcharge @ 15% (Fifteen Percent) per annum shall be applicable.	All GNA/ T-GNA charges shall be on account on KSEBL, even in case the selected applicant is a trader.  <b>The modifications suggested in view of the change in definition of interconnection point as per the CERC Regulation. All charges and losses beyond the delivery point shall be borne by KSEBL.</b>
General Terms and Condition 4. <b>Scheduling:</b>	The seller shall be responsible to seek open access approval from the competent authority, up to delivery point i.e. Kerala periphery. Successful bidders must utilize all opportunities/windows (excluding transmission corridor e-bidding)available for applying for Short Term Open Access until the same is granted for the entire contracted quantum (Seller shall apply for open access based on change in availability of transmission corridor and / or as directed by the buyer from time to time). Any subsequent application for change in approved Open Access quantum or supply from alternate source shall be only with prior written consent of KSEBL. Any consequences towards delay in application shall also be made to the account of bidder. All applicable charge in above cases shall be to the account of bidder. If the power is being supplied through alternate source, any additional charges and losses, if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.	The seller shall be responsible to avail necessary approval from the competent authority for delivering of power up to delivery point.  <b>The modifications suggested in view of the change in definition of interconnection point as per the CERC Regulation. All charges and losses beyond the delivery point shall be borne by KSEBL.</b>
General Terms and Condition 5. <b>Tariff</b>	The Bidder shall quote the single tariff at the Delivery Point i.e at Kerala Periphery, upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), intra-state open access charges/ transmission (inter & intra state) losses, SLDC Fees and Charges, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies upto and including the Delivery Point. Tariffs shall be designated in Indian Rupees only.	The Bidder shall quote the all-inclusive single tariff at the Delivery Point upto three (3) decimals which shall include all applicable charges like capacity charge, energy charge, trading margin (in case of Bidder being a Trader), intra state transmission charges and losses up to the delivery point, SLDC/RLDC Fees and Charges as applicable, and all application fees, taxes, duties, cess etc. imposed by Central Govt. / State Govt./ Local bodies upto and including the Delivery Point. Tariffs shall be designated in Indian Rupees only.  <b>The modifications suggested in view of the change in definition of interconnection point as per the CERC Regulation. All charges and losses beyond the delivery point shall be borne by KSEBL.</b>

General Terms and Condition <b>11. Compensation Clause</b>	In case deviation from Procurer side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Procurer shall pay compensation at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay open access charges as per the contract.	In case deviation from Procurer side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Procurer shall pay compensation at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15%
	In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to Procurer at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied and pay for the open access charges to the extent not availed by the Procurer.	In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to Procurer at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15%
	In case seller fails to apply for Open Access in stipulated time as per RLDC's guidelines in force, then compensation shall be levied at the rate mentioned in compensation clause and for the entire contracted quantum. Open access once approved cannot be cancelled or revised without mutual consent.	May be deleted.
General Terms and Condition <b>13. Termination &amp; Risk Allocation</b>	The Seller shall have to apply for open access for the contracted power up to delivery point i.e Kerala periphery, failing which the Contract Performance Guarantee (CPG) on pro rata basis shall be forfeited.	The seller shall have to ensure contracted power up to delivery point, failing which the Contract Performance Guarantee (CPG) on pro rata basis shall be forfeited.
General Terms and Condition <b>15. Change of Law</b>	Change in Law shall include Any change in transmission charges and open access charges Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable for supply of power by the Seller	Any change in transmission charges and GNA/TGNA charges  Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable for supply of power by the Seller

- (8) Based on the timelines in the bid documents, the technical bids were opened on 02.12.2023. The details of the bids received is given below.

Month/Period	Time Period (Hrs)	Required Quantum (MW)	Adani Enterprises Ltd	PTC India Limited	Tata Power Trading Company Limited
01.04.2024 to 30.04.2024	RTC	250	25 MW	25 MW	25 MW
01.05.2024 to 31.05.2024	RTC	250	25 MW		25 MW

Total EMD details Rs.	91,50,000	7,50,000	15,25,000
EMD Valid upto	11.01.2024	31.01.2024	11.01.2024
Sufficient BG as per MoP guidelines	yes	yes	yes
Sufficient E bidding fee to PFCCCL	yes	yes	yes
Sufficient Tender Fee	yes	yes	yes
Valid trading license	Yes	Yes	Yes
Acceptance of terms & conditions of RfP	Yes	Yes	Yes
Whether Lol of generator attached	yes	Yes	yes
Interconnection status	CTU-WR	CTU-NER	Connected to STU network of UP.
Name of the source	Mahan Energen Limited,	ONGC TRIPURA POWER COMPANY (OTPC)	Prayagraj Power Generation Company Limited (PPGCL)
Name of the State in which source located	Madhya Pradesh	Tripura	Uttar Pradesh
Type of fuel	Coal	Natural Gas	Coal

- (9) The price bids are opened on 02.12.2023, followed by e-Reverse Auction (e-RA) on the same day. The following rates were discovered through bucket filling in DEEP portal. The details are given below.

Period	Duration (hrs)	Bid Qtm (MW)	IPO results		eRA Result		Trader/Generator
			Quantum (MW)	Unit price (Rs/kWh)	Revised offered Qtm (MW)	Price discovered (Rs/Kwh)	
01.04.2024 to 30.04.2024	RTC	250	25	8.69	150	8.69	Adani Enterprises Ltd
			25	9.50	25	8.69	PTC India Limited
			25	9.00	25	8.69	Tata Power Trading Company Limited
01.05.2024 to 31.05.2024	RTC	250	150	8.69	150	8.69	Adani Enterprises Ltd
			25	9.00	25	8.69	Tata Power Trading Company Limited

- (10) KSEBL further submitted that, since the availability of power in the market is less and the demand is high during the months of April and May, the electricity prices may further increase in April and May 2024. Also, due to the forthcoming election, the demand may further increase and may result in escalation of prices in the market. Considering these

reasons and also to meet the power and energy shortages anticipated in the months of April and May 2024, KSEBL has considered the following quantum of power received through e-RA through DEEP portal.

Period	Duration (hrs)	offered Qtm (MW)	Price discovered (Rs/ kWh)	Trader/Generator
01.04.2024 to 30.04.2024	RTC	150	8.69	Adani Enterprises Ltd
		25	8.69	PTC India Limited
		25	8.69	Tata Power Trading Company Limited
01.05.2024 to 31.05.2024	RTC	150	8.69	Adani Enterprises Ltd
		25	8.69	Tata Power Trading Company Limited

- (11) KSEBL further submitted that, the rate derived in the bid is less compared to the IEX rate in the S3 region during April 2022 @Rs 10.068/unit. Further, the rate derived in the DEEP portal during that period also in the range of Rs 8.11/unit and Rs 9.00 per unit.
- (12) KSEB Ltd further submitted that, the bid validity of the tender is 30 days from the date of e-RA, i.e., upto 01.01.2024. However, M/s Adani Enterprises Ltd has extended the bid validity upto 20.01.2024. M/s Tata Power Trading Company Limited and M/s PTC India Limited extended the bid validity till 31.01.2024. Within the time limit, KSEBL has to issue LoA to the successful bidders subject to the approval of the Commission.

3. The Commission admitted the petition as OP No. 02/2024. Considering the urgency of the matter, the hearing on the petition was conducted on 17.01.2024. Shri. M.P. Rajan, Deputy Chief Engineer, Smt. Latha S.V, Executive Engineer and Shri. Shine Raj, Asst: Executive Engineer, appeared in person before the Commission on behalf of the petitioner KSEBL.

On behalf of the bid evaluation committee, the Deputy Chief Engineer, Commercial and Executive Engineer Commercial appeared through on line. The SLDC represented by the Deputy Chief Engineer, Executive Engineer and Asst: Executive Engineers also appeared through online mode. The summary of the deliberations during the hearing is given below.

- (1) KSEBL briefly explained the circumstances necessitated for floating the tender for procurement of 250 MW RTC power on short term basis for meeting the demand and supply gap of April and May 2024.

KSEBL expected to have a peak power shortages up to 1143 MW and energy shortage up to 11.33 MU/day during the month of April 2024. Similarly, the peak power shortage anticipated is about 1231MW and energy shortage of 13.49MU/day in the month of May-2024.



Considering the huge power and energy shortages anticipated in April and May 2024, KSEBL proposes to meet a part of the shortages, i.e., up to 250MW through firm basis by procuring power through DEEP portal on short term basis for the months of April and May-2024.

KSEBL had floated the tender on 17.11.2023. In the tender documents, KSEBL has incorporated certain deviations, mainly incorporating the definition of the interconnection point, delivery point and related issues in line with the CERC (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022.

KSEBL further submitted that, as per the bidding guidelines notified by the Ministry of Power dated 30.03.2016, the delivery point for inter-State transmission of power is the State/regional periphery of the procurer. The bidder has to quote the tariff upto the delivery point.

However, as per the CERC (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2023, the delivery point is the CTU interconnection point of the generator. The transmission charges and losses beyond the CTU interconnection point is to be borne by the drawing utility.

- (2) Deputy Chief Engineer (Commercial) on behalf of the bid evaluation committee submitted that, the bid evaluation had been done as per the RfP document and in paragraph 7.4 of the MoP guidelines issued on 30.03.2016. The financial bid was opened on 02.12.2023. The bid evaluation committee has submitted its recommendation on 04.12.2023.
- (3) The officials of SLDC submitted that, this year shows an increase in power demand by 7 to 8% over previous years, whereas the increase in energy consumption is in the range of 9 to 10% over last year. In the months of April and May-2024, KSEBL is expecting an increase of 8% in power and energy requirement over previous year.

Since KSEBL is expected to have a power shortage of more than 1000MW, SLDC recommended to tie-up at least 250MW power on firm basis.

After the enactment of the GNA Regulations, there may be constraints in getting the T-GNA from Day Ahead Markets especially Tamilnadu may also aggressively go for procurement of power on short term basis.

- (4) The Commission noted that, there is inordinate delay of about 35 days for filing the instant petition, after finalisation of the bids. The rate derived through the present bidding for RTC power is very much on the higher side. The Commission noted with concern that, KSEBL is not taking keen interest on meeting the power shortage at least cost.

The Commission has directed KSEBL to clarify whether the licensee had done any sensitivity studies and optimisation, with portfolio mix with (a) Solar/ RE power to meet the demand during day time, (b) short-term power purchase through DEEP portal for meeting the peak demand, (c) a part of the energy demand may met through power exchanges etc.

The Commission has also directed the petitioner to submit the actions so far taken to ensure the scheduling of power from the DBFOO contracts as per the Order dated 29.12.2023.

- (5) The respondents appeared during the hearing has not offered any specific comments on the petition filed by KSEBL.

### **Analysis and Decision of the Commission**

4. The Commission having examined in detail the petition filed by KSEB Ltd for seeking approval for the deviations made in the Model Bidding Document for short term power purchase and entering into short term power procurement through DEEP portal for procurement of 250 MW RTC power during April and May 2024, as per the provisions of the Electricity Act, 2003, and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, decide as follows.

5. As per the Section 86(1)(b) of the Electricity Act, 2003 (Central Act 36 of 2003), regulating power purchase and procurement process of distribution licensees including the price at which electricity shall be procured through agreements and supply within the State, is one of the statutory functions of the State Electricity Regulatory Commissions. The relevant Section of the Electricity Act, 2003 is extracted below.

*“86 Functions of the State Commission. - (1) The State Commission shall discharge the following functions, namely: -*

*.....*

*(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;”*

6. The Commission, in exercise of the powers conferred on it under Section 61 read with Section 181 of the Electricity Act, 2003, notified the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 (hereinafter referred as Tariff Regulations 2021). The Regulation 78 of the Tariff Regulations 2021, deals with ‘Short-term power procurement’. The relevant Regulation is extracted below.

*“78. Short-term power procurement. –*

- (1) The distribution business/ licensee may, if it considers necessary undertake additional shortterm power procurement to overcome any short term*

*deficiency in power requirement during the financial year, as per the short term power procurement plan approved by the Commission, in accordance with this Regulation.*

- (2) Where there has been an anticipated shortfall or failure in the supply of electricity from any approved source of supply during the financial year, the distribution business/ licensee may enter into an agreement for additional short-term procurement of power: Provided that, if the total power purchase cost for any quarter including such shortterm power procurement exceeds by five percent the power purchase cost approved by the Commission for the respective quarter, the distribution business/ licensee shall have to obtain approval of the Commission by filing a petition.*
- (3) The distribution business/ licensee may enter into a short-term power procurement agreement or arrangement under the following circumstances subject to the ceiling tariff approved by the Commission for this purpose: -*

  - (i) where the distribution business/ licensee is able to source new short-term source of supply from which power can be procured at a tariff that reduces its approved total power procurement cost;*
  - (ii) when faced with emergency conditions that threaten the stability of the distribution system or when formally directed to do so by the State Load Despatch Centre to prevent grid failure;*
  - (iii) where the tariff for power procured under such agreement or arrangement is in accordance with the guidelines for short-term procurement of power by distribution licensees through tariff-based bidding process issued by the Central Government;*
  - (iv) when there is a contingency situation and power purchase price is within the ceiling price as prescribed by the Commission in the distribution licensee's ARR&ERC;*
  - (v) procurement of short-term power through power-exchange; and*
  - (vi) Procurement by way of exchange of energy under 'banking' transactions:  
Provided that prior approval of the Commission and the ceiling rate; shall not be applicable to the short term purchases under clause (ii).*
  - (vii) Provided further that prior approval of the Commission is not required for short term purchases under clause (v) above, so long as the average rate is within the ceiling rate.*
- (4) The Commission may stipulate the ceiling quantum and ceiling rate for purchase of power from short-term sources.*
- (5) As far as practicable, approval for all power purchases must be sought in advance. Where it is not practicable due to any contingency situation, the distribution licensee shall within fifteen days from the date of entering into an agreement or arrangement for short-term power procurement shall file a petition for approval of the Commission by filing full details of such agreement or arrangement, including quantum, tariff calculations, duration, supplier details, method for supplier selection, circumstances necessitating such a purchase and such other details as the Commission may require to*

*assess that the conditions specified in this Regulation have been complied with:*

*Provided that where the Commission has reasonable grounds to believe that the agreement or arrangement entered into by the distribution business/ licensee does not meet the criteria specified in this Regulation, the Commission may disallow all such transactions from the annual revenue requirements, the net increase in the cost of power on account of such procurement apart from any other action that the Commission may initiate as per law against the distribution licensee.”*

7. The Ministry of Power, Government of India, as per the provisions of Section 63 of the Electricity Act, 2003, notified the ‘Guidelines for Short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process’ vide the notification dated 30.03.2016. The paragraph 5 of the bidding guidelines provide as follows;

*“5. Tariff Structure*

*5.1. The Procurer based on its requirement may invite the bids on round the clock (RTC) basis or for different time slots. Procurer may also provide flexibility to the Bidder(s) to bid for a part of the tendered quantity, subject to a given minimum quantity. Bid capacity offered by the Bidder shall have to be constant for the entire contract period.*

*5.2. The Bidder shall quote the single tariff at the Delivery Point upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable Point of Connection (POC) charges upto Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.*

*5.3. For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.*

*5.4. For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller’s account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer’s account.*

*5.5. The tariff should be constant and there shall be no escalation during the contractual period. If Bids are invited for different time slots then tariff may be different for each time slot.*

*5.6. If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.”*

8. The Commission has examined the Load Generation Balance (LGB) submitted by KSEBL for the period April 2024 and May 2024 and appraised the demand, supply and the anticipated power and energy deficits, and noted the following;

- (1) KSEBL has projected a peak demand of 5371 MW in April-2024 as against the peak demand of 5024MW met in April-2023. Similarly, the peak demand projected for May-2024 is 5281MW as against the actual demand of 4862MW in May 2023.

The energy demand projected is 102.26 MU/day in April 2024 as against the actual energy consumption of 92MU/day in April-2023, with an annual increase of 11.15% over the previous year.

KSEBL also projected an energy demand of 99.72MU/day in May 2024 with a growth of 8.70% over previous year, as against the actual demand of 91.78 MU/day in May 2023.

However, KSEBL could not submit a detailed analysis of the load profile anticipated in April and May 2024 with reference to the demand profile of each days of April and May of previous years, to have a clear idea of the load duration curve and the variation of load in other time blocks, of each days of these months.

**The Commission further noted that, KSEBL has not submitted analysis of any alternatives to the costly short-term power purchase. KSEBL should urgently resort to modern technics of data analysis and including artificial intelligence for an informed decision making. KSEBL can also seek the help of the agencies like Digital University, Kerala in this regard, who had already demonstrated significant capabilities in the emerging areas.**

Since huge additional financial liability is involved in the decision of additional power purchase as proposed above, KSEBL should carry out such detailed appraisal including sensitivity studies before taking a final decision on such additional power purchase.

**The Commission hereby direct that, in future, the petition for approval of additional power purchase over the same approved in ARR shall contain such detailed studies and analysis.**

- (2) ***The Commission vide the Order dated 29.12.2023 has granted the review petition filed RP 03/2023 by KSEBL to review of the Order of the Commission dated 10.05.2023 regarding the DBFOO contracts for the adoption of Tariff and approval of the PSA of the 465MW DBFOO contracts, which was not approved earlier.***

***Though the Commission has denied the approval of these PSAs earlier vide the Order dated 10.05.2023, the Commission has not***

**directed KSEBL to stop the schedule of power from these DBFOO contracts.**

**Hon'ble Supreme Court vide the Order dated 10.02.2023 had granted permission to schedule power under these contracts for a further period of two weeks from 10.05.2023.**

**Subsequently, based on the request of KSEBL, the Commission vide the Order dated 07.06.2023 had granted permission to KSEBL to schedule power from the DBFOO contracts for a further period of 75 days or till alternate arrangements for procuring 500MW RTC power on medium term basis, which ever earlier.**

**Subsequently, as requested by KSEBL, the Commission ordered to extend the interim arrangement for procurement of power from the unapproved DBFOO contracts as per the Order dated 07.06,2023 in petition OP No. 24/2023 for the period upto 31.12.2023 or till KSEB Ltd make alternate arrangements of procuring 500MW RTC power on medium term basis, which ever earlier.**

**In the mean time, as stated earlier, the Commission vide the Order dated 29.12.2023 has granted the review petition filed RP 03/2023 by KSEBL to review of the Order of the Commission dated 10.05.2023 for the adoption of Tariff and approval of the PSA of the 465MW DBFOO contracts, in view of the policy directives of the State Government dated 10.10.2023 by invoking the powers conferred on the State Government under Section 108 of the Electricity Act, 2003.**

**As above, this Commission has never directed KSEBL to stop scheduling power from 465 MW of DBFOO contracts till the Order dated 29.12.2023, though the PSAs was earlier not approved vide the Order dated 10.05.2023.**

**However, in the LGB analysis submitted before the Commission, KSEBL has not included the availability of 315MW of power from these approved sources, citing that the generators in these contracts are not willing to supply power. The Commission cannot accept the reasons submitted by KSEBL.**

**The generators in the DBOO contracts approved by the Order dated 29.12.2023 had firm and valid contract with KSEBL as per the guidelines notified by the Central Government. The generators cannot deny/ stop the power supply according to their will and choice, and they are bound to act as per the signed PSA with KSEBL.**

**If the generators are not willing to supply power, KSEBL shall take further course of action to get the power scheduled including legal actions against violating the contracts entered into as per the DBFOO guidelines notified by the Central Government.**

***However, the Commission noted with concern that, KSEBL neither in this petition dated 08.01.2024, nor during the hearing on the petition held on 17.01.2024 has not submitted the efforts taken by the licensee to get the schedule of power from these DBFOO contracts.***

9. Regarding the approval of the deviations proposed by KSEBL in the model bidding documents, the Commission noted the following;

- (1) The Clause-8 of the Guidelines of the short term (for a period of more than one day to one year) procurement of power by Distribution Licensees through Tariff based bidding process provide as follows regarding the deviations, if any, made by the licensee in the bidding documents;

*“8. Deviation from process defined in the Guidelines 8.1. Generally, no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the Appropriate Commission....”*

As extracted above, the bidding guidelines mandates to get the prior approval of this Commission for the deviations made in the bidding documents.

However, in the instant case, KSEBL has completed the bidding process including the selection of bidders after making the deviations in the bidding documents. The approval of the deviations are sought along with the petition for adoption of tariff under Section-63 of the EA-2003. This has to be avoided in future.

**The Commission hereby clarify that, henceforth, the approval for deviations, if any, proposed in the bidding documents for purchase of power including short term power purchases shall be obtained prior to the bidding process.**

- (2) The Commission has also examined the nature of deviations proposed by the licensee in the bidding documents and noted that, the deviations proposed is in alignment with the definition of interconnection point and delivery point, as per the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, which came into effect from 01.10.2023. In this regard, the following may be noted.
- (i) Central Electricity Regulatory Commission (CERC) vide the notification dated 07.06.2022 has notified the ‘CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (hereinafter referred to as “GNA Regulations) were notified on 07.06.2022 and the first

amendment to the GNA Regulations 2022 was notified on 01.04.2023. The provisions of the GNA Regulations were made effective from 05.04.2023, barring a few provisions. The remaining provisions of the GNA Regulations have been notified to come into effective from 01.10.2023.

As per the New GNA regime the interconnection point is the CTU connection point of the generator. The transmission charges for availing the power beyond the CTU interconnection point is to be borne by the purchasing utility.

- (ii) However, as per the Clause 5.3 of the bidding guidelines notified by the Central Government dated 30.03.2016 for the procurement of power on short term basis, the delivery point is defined as follows;

*5.3. For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.*

- (iii) The Commission has noted that, all the deviations proposed in the bidding documents are in connection with the change in the interconnection point as per the GNA Regulations notified by CERC.

The deviations proposed by the KSEBL to clarify that, all the charges and losses upto delivery point, i.e., CTU connection point of the generator shall be borne by the generator. The responsibility of availing open access upto the delivery point is the responsibility of the generator.

However, the transmission charges and loss from the CTU interconnection point of the generator upto the State periphery shall be borne by KSEBL.

The Commission after examining the deviations made in the bidding documents of the instant petition, to align with the GNA Regulations, 2022, hereby ratify the deviations made by the KSEBL in the bidding documents for the procurement of 250 MW RTC power in Short-term basis during April and May 2024.

**However, the Commission hereby clarify that, henceforth, the approval for the deviations, if any, proposed in the bidding documents shall be obtained prior to the bidding and no approval for deviations shall be granted after the bidding.**

10. The Commission has also examined the tariff derived through bidding for the procurement of 250MW RTC power through DEEP portal for the months of April



and May-2024. The rate quoted at the CTU interconnection point of the Generator is Rs 8.69/unit. Further, the average transmission charges in the new GNA regime is in the range of Rs 0.60/unit to Rs 0.65/unit. The inter state transmission loss in the transmission system of CTU is about 4%. Considering the inter-state transmission charges and losses, the average rate of the proposed short term power purchase will be about Rs 9.73/unit, assuming that the additional quantum has to be availed through fresh GNA/ T-GNA.

The rate of power purchase of the proposed short term power purchase seems to be excessively high when compared to the average cost of power purchase approved @ Rs 4.70/unit excluding the cost of internal power purchase, vide the ARR Order dated 25.06.2022 for the MYT period from 2022-23 to 2026-27.

The Commission has also examined the rate of IEX in the months of April and May 2023, and the details are given below.

Time period	Apr-23	May-23
	(Rs/ kWh)	(Rs/ kWh)
RTC	5.65	4.74
Evening	7.15	6.37
Day	3.55	3.24
Night	7.05	5.70
Morning	4.62	3.23

As above, the rate of power purchase for the proposed RTC power purchase is very much on the higher side when comparing with the IEX rates of RTC power in the same months of previous year.

- 11. The Commission further noted that, there is inordinate delay of about 35 days for filing the instant petition, after finalisation of the bids. The financial bid was opened on 02.12.2023 and the bid evaluation committee has recommended the short term power purchase on 04.12.2023. However, KSEBL was filed the instant petition only on 08.01.2024. Considering the critical power situation of the State and huge additional financial liability involved in the case, KSEBL should have acted swiftly for arriving at a conclusive decision on such power purchase. The Commission hereby direct that, such situation should be avoided in future.**

**The Commission is of the considered view that, KSEBL is not taking keen interest on meeting the power shortages which were anticipated much earlier at least cost.**

- 12. The Commission has noted with displeasure that, KSEBL is not carrying out proper planning of the generation and power purchase for meeting the electricity demand of the State at least cost. It is the statutory responsibility of**

KSEBL as the incumbent licensee to tie-up sufficient quantum of power including the short-term purchase with a provision to have market intervention through power exchanges as when the markets rates are favourable.

In this matter, the Commission has been repeatedly directing KSEBL to submit the resource adequacy plan as mandated in the Rule 16 of the Electricity (Amendments) Rules, 2022, and as per the guidelines notified by the Central Government vide the letter dated 28<sup>th</sup> June 2023. But the same is yet to be submitted by KSEBL.

KSEBL as the incumbent licensee shall have a judicious power purchase mix of long term/medium term and short term contracts to ensure security of supply to their consumers at least cost. KSEBL should also avoid its over reliance on the electricity market. Once the resource adequacy plan is firmed up, KSEBL can act according to the plan to meet the projected demand.

As per the clause 1.5 of the guidelines, the State Commissions is duty bound to ensure 'resource adequacy plan' in each State.

**Considering the importance of having 'resource adequacy plan', the Commission hereby direct that, KSEBL shall within one month from date of this Order shall submit a detailed resource adequacy plan to ensure 24x7 reliable power to its consumers at least cost. The resource adequacy plan need to be updated once in every six months. Hence, thereafter, the revised and updated plan shall be submitted on half yearly basis, as on 1<sup>st</sup> January and 1<sup>st</sup> July every year.**

13. However, at this juncture, considering the increase in trend of power and energy demand, limited storage of the reservoirs owned by KSEBL, the power shortage anticipated in April and May 2024, constraints for procuring power through exchanges etc, the Commission has decided to approve the procurement of 250MW power @Rs 8.69/unit in the months of April-2024 and May 2024 tied up under e-RA through DEEP portal, though the rate derived is excessively high.

Short term power purchase approved for April and May 2024

Period	Duration (hrs)	offered Qtm (MW)	Price discovered (Rs/ kWh)	Trader/Generator
01.04.2024 to 30.04.2024	RTC	150	8.69	Adani Enterprises Ltd
		25	8.69	PTC India Limited
		25	8.69	Tata Power Trading Company Limited
01.05.2024 to 31.05.2024	RTC	150	8.69	Adani Enterprises Ltd
		25	8.69	Tata Power Trading Company Limited

## Orders of the Commission

14. The Commission after examining the petition dated 08.01.2024, the deliberations during the hearing held on 17.01.2024, the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, other Rules and Regulations in force, hereby orders the following;
- (1) Approve the short-term power purchase of 250MW RTC power @Rs 8.69/unit, tied up under e-RA through DEEP portal for the months of April-2024 and May-2024, with the observations given under paragraphs 8,9,10,11 and 12 above.
  - (2) Ratify the deviations made in the bidding documents for procurement of short-term power through DEEP portal for the months of April-2024 and May-2024, to align with the 'CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022.
  - (3) KSEBL shall, submit the month wise, generator wise details of the short-term power purchase under this contract including cost at KSEBL periphery, within two weeks after end of each months.
  - (4) KSEBL shall within one month from date of this Order shall submit a detailed resource adequacy plan to ensure 24x7 reliable power to its consumers at least cost. The resource adequacy plan need to be updated once in every six months. Thereafter, the revised and updated plan shall be submitted on half yearly basis, as on 1<sup>st</sup> January and 1<sup>st</sup> July every year.

The petition disposed off. Ordered accordingly.

**Sd/-**  
**T K Jose**  
**Chairman**

**Sd/-**  
**B Pradeep**  
**Member**

Approved for issue

**Sd/-**  
**C R Satheesh Chandran**  
**Secretary**