

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

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

OP No 71/2023

In the matter of : Petition for the approval of Power Purchase Agreement (PPA) with KSEB Ltd for a contract demand of 1000 kVA at KINFRA Petrochemical Park at Ambalamugal, Kochi.

Petitioner : KINESCO Power and Utilities Pvt Ltd (KPUPL)

Order dated 17.01.2024

1. The KINESCO Power and Utilities Pvt Ltd (hereinafter referred as M/s KPUPL or petitioner), on 17.10.2023, filed a petition before the Commission with the following prayers;

“The draft power purchase agreement mutually initialed by Chief Executive Officer, KPUPL and Chief Engineer (Commercial & Tariff), KSEBL in respect of KPUPL Licensee area at Petrochemical Park, Ambalamugal, Kochi for a contract demand 1000 kVA at 11 kV, is submitted before the Hon'ble Commission for kind perusal. Hon'ble Commission may be kind enough to approve the petition and grant permission for executing final PPA for a contract demand of 1000 kVA at 11 kV at KPUPL licensee area at KINFRA Petrochemical Park, Ambalamugal, Kochi.”

2. The summary of the petition filed by Petitioner is given below;

- (1) Kerala Industrial Infrastructure Development Corporation (KINFRA) is a statutory body formed by the Kerala Government to develop, promote and maintain industrial infrastructure in the State of Kerala as per the provisions of the Kerala Industrial Infrastructure Development Act, 1993. KPUPL is a subsidiary company of KINFRA, established for conducting the electricity distribution business within the industrial parks and special economic zone developed by KINFRA.
- (2) M/s KPUPL is one of the small distribution licensee in the State, authorised to distribute electricity in the areas of Infopark Phase-1, KINFRA Export Promotion Industrial Parks (KEPIP) at Kakkanad, Kochi and KINFRA Hi Tech Park at Kalamassery, KINFRA Integrated Industrial

& Textiles Park at Kanjikode, KINFRA Mega Food Park at Kozhippara, Palakkad and KINFRA Petrochemical Park, Ambalamugal, Kochi.

- (3) The Commission vide Order dated 10.05.2022 in petition OP No. 78/2021, has included 311.79 Acres of land in Puthencruz village, Kunnathunadu Thaluk, Ernakulam District, to the existing license area of KINFRA Petrochemical Park, by amending Order No. 01/2009 dated 30.11.2009.
- (4) M/s KPUPL further submitted that, the licensee desires to meet the entire power requirements of the new licensed area at KINFRA Petrochemical park at Ambalamugal by purchasing power from KSEBL at the Bulk Supply Tariff approved by the Commission from time to time. For meeting the initial power requirement, M/s KPUPL has initialed a draft power purchase agreement (PPA) with KSEBL for a contract demand of 1000kVA at 11kV voltage level at KINFRA Petrochemical Park at Ambalamugal. The initialed PPA is also submitted along with the petition for approval.

Analysis and Decision

3. The Commission have examined the petition filed by M/s KPUPL for the approval of the PPA with the KSEB Ltd for a Contract Demand of 1000 kVA at 11 kV voltage level at KINFRA Petrochemical Park at Ambalamugal, Kochi as per the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021.
4. M/s KINESCO Power and Utilities Pvt Ltd is one of the small distribution licensees in the State of Kerala. At present M/s KPUPL have the license to distribute electricity in the following areas in the State of Kerala.
 - (i) Kinfra Export Promotion Industrial Park, Kakkanad. (180.126 acres)
 - (ii) Kinfra Hi-Tech Park, Kalamassery (240 acres)
 - (iii) Kinfra Integrated Textile Park, Palakkad (350 acres)
 - (iv) KINFRA Mega Food Park, Palakkad (79.42 acres)
 - (v) KINFRA Petrochemical Park, Ambalamugal, Kochi (311.79 acres)

The entire power requirement of the KPUPL is being met by purchasing power from KSEBL at the BST approved by the Commission from time to time.

5. The Commission further noted that, except the KINFRA Petrochemical Park at Ambalamugal, Kochi, KPUPL has valid PPA with KSEBL for procuring power at the BST approved by the Commission.
6. The present petition filed by M/s KPUPL is for getting approval of the draft initialed PPA between KPUPL and KSEBL for procuring 1 MVA power for meeting the electricity requirement of its additional licensed area at KINFRA Petrochemical Park at Ambalamugal Kochi. The Commission has examined the petition in detail and noted the following;

- (1) Provisions in the Electricity Act, 2003.
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 relevant Section is extracted below.
“86. (1) *The State Commission shall discharge the following functions, namely:*
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(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 46 agreements for purchase of power for distribution and supply within the State;*

- (2) Provisions in the Tariff Regulations, 2021.
Regulation 77 of the Tariff Regulations, 2021 provide as follows;

77. Approval of Power Purchase Agreement. –

- (1) *The distribution licensee shall not enter into any long term or medium term power purchase without the formal approval of the Commission, based on a petition filed by the distribution licensee.*
- (2) *Every agreement for procurement of power by the distribution business/ licensee from the generating business/ company or licensee or from other sources of supply entered into after the date of commencement of these Regulations shall come into effect only with the approval of the Commission:*

Provided that the prior approval of the Commission shall also be required in accordance with this Regulation, for any change to an existing agreement for power procurement; whether or not, such existing agreement was approved by the Commission.

- (3) *Every proposal for procurement of power on medium term or long term basis shall be filed as petition complete in all respects before the Commission, at least 120/180 days respectively before the date of commencement of the proposed supply.*
- (4) *The Commission shall examine such petition for approval of the Power Purchase Agreement having regard to, the approved Power Procurement Plan of the distribution business/ licensee and after considering the following factors:-*
- (i) requirement of power under the approved Power Procurement Plan;*
 - (ii) adherence to a transparent process of bidding in accordance with the guidelines issued by the Central Government under Section 63 of the Act, if applicable;*
 - (iii) adherence to the terms and conditions for determination of tariff specified under Regulation 39 of Chapter V of these Regulations, where the process specified in clause (ii) above has not been adopted;*
 - (iv) Deviations to (ii) and (iii) above and whether such deviations have the prior approval of the competent authority;*
 - (v) availability (or expected availability) of capacity in the Intra-State transmission system for evacuation and supply of power procured under the agreement; and*
 - (vi) Need to promote co-generation and generation of electricity from*

renewable sources of energy.

(5) *Where the terms and conditions specified under Chapter V of these Regulations are proposed to be adopted, the petition for a power purchase agreement between the generating business/ company and the distribution business/ licensee for supply of electricity from a new generating station whose tariff is yet to be finalized under Section 62 of the Electricity Act 2003 shall comprise of the following two steps:-*

- (i) *Approval of a provisional tariff, if required and approval of the Power Purchase Agreement under Section 86(1)(b) of the Electricity Act 2003, on the basis of a petition made to the Commission by the distribution licensee/ generating company, at least 6 months prior to the drawal of power from the new Generating Station;*
- (ii) *Approval of the final tariff, on the basis of a petition made not later than one hundred and eighty days from the date of commercial operation, by the generating company/ distribution licensee.*

7. As above, as per the provisions of the EA-2003 and Tariff Regulations, 2021, the approval of this Commission is mandatory for the Power Purchase Agreement (PPA) of the petitioner M/s KPUGL with KSEBL for meeting the electricity requirement of the license area of Petrochemical Park at Ambalamugal.
8. The Commission has also noted that, the articles in the draft initialed PPA dated 27.09.2023 between the KPUGL and KSEBL is similar to the PPA already signed between the M/s KPUGL and KSEBL for the purchase of power from KSEBL for meeting the power requirement of other license areas of KPUGL including Kakkanad (13 MVA), Kalamassery (3MVA), Kinfra Integrated Industrial and Textile Park, Kanjikode (1MVA) and Mega Food Park, Kanjikode (1 MVA).
9. The Commission after appraising the draft initialed PPA in detail, proposes the minor changes in the following articles of the draft initialed PPA to get more clarity and interpretation on the articles of the signed PPA between KPUGL and KSEBL.
 - (1) Article 2.1 of the draft initialed PPA.
The first line “*This agreement shall come into effect from the date of energization of the licence area,*” shall be modified as “*This agreement shall come into effect from the date of signing the Agreement*”
 - (2) Article 3.2 of the draft initialed PPA.
In the first line, the word ‘Kakkanad’ may be replaced with the word ‘Ambalamugal, Kochi’.
 - (3) Article 7.1 of the PPA.
The Article 7.1 “*The tariff for supply of power under the agreement shall be the Bulk supply tariff applicable to KPUGL as determined by the Commission considering the ARR&ERC filings of KSEBL and KPUGL.*”, Article- 7.1, shall be modified as given below;

“The tariff for supply of power under the agreement shall be the Bulk supply tariff applicable to KPUGL as determined by the Commission vide the orders on tariff notified from time to time”.

(4) Article 13.1 of the PPA

The Article 13.1 *“The rights and liabilities, obligations and duties as between KSEBL and KPUGL shall be as provided for by this agreement only”.* Article 13.1, shall be modified as given below;

“The rights and liabilities, obligations and duties as between KSEBL and KPUGL for procuring power from KSEBL for supplying electricity within the license area of KINFRA Petrochemical Park, Ambalamugal shall be as provided by this agreement only”.

10. Based on the discussions above, the Commission has decided to approve the draft initialed PPA between KSEBL and KPUGL for procuring 1000 kVA power from KSEBL for meeting the power requirement of the KINFRA Petrochemical Park, Ambalamugal, Kochi.

Order of the Commission

11. The Commission, after examining the petition filed by M/s KPUGL for the approval of the draft initialed PPA between M/s KPUGL and KSEB Ltd for the purchase of 1000 kVA power from KSEB Ltd for meeting the electricity demand of KINFRA Petrochemical Park, Ambalamugal, Kochi as per the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions of determination of Tariff) Regulations, 2021, hereby orders the following;
- (i) Approve the draft initialed PPA between M/s KPUGL and KSEB Ltd for procuring 1000 kVA power from KSEB Ltd for meeting the electricity demand of KINFRA Petrochemical Park, Ambalamugal, Kochi, with the modifications proposed in the paragraph-9 above.
- (ii) M/s KPUGL shall submit a copy of the signed PPA before the Commission for information and records.

The petition disposed of and ordered accordingly.

**Sd/-
T K Jose
Chairman**

**Sd/-
Adv. A J Wilson
Member**

**Sd/-
B Pradeep
Member**

Approved for issue

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