

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

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

Date of Hearing: 01.02.2021

OP No 23/2020

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)

Daily order dated 03.02.2021

1. KINESCO Power and Utilities Pvt Ltd (hereinafter referred to as the petitioner or 'KPUPL') 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) under Section 18 of the Electricity Act, 2003 and under Section 19 of Kerala State Electricity (Licensing) Regulations, 2006.
2. Summary of the petition filed by KPUPL is given below.
 - (i) KPUPL is a subsidiary of the Kerala Industrial Infrastructure Corporation Ltd (KINFRA). KPUPL hold license for electricity distribution in the following parks developed by KINFRA.
 - (1) KINFRA Export Promotion Industrial Park, Kakkanad (180.126 Acres). Total electricity load- 18 MVA from KSEB Ltd.
 - (2) KINFRA Hi-Tech Park, Kalamassery (240 Acres). 1 MVA load met from KSEB Ltd.
 - (3) KINFRA Integrated Industrial and Textile Park, Palakkad (350 Acres). 1 MVA load from KSEB Ltd.
 - (4) KINFRA Mega Food Park, Palakkad. 0.3 MVA power from KSEB Ltd.

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

- (ii) KINFRA intend to develop a Petrochemical park of International standards at Ambalamukal, in Ernakulam District. The park is proposed to be established in approximately 311.79 acres of land at Ambalamugal in Kochi, which is transferred to KINFRA from FACT. The Park is sharing boundaries with BPCL Kochi Refinery.
 - (iii) KPUPL prayed before the Commission 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 and under Section 19 of Kerala State Electricity (Licensing) Regulations, 2006.
3. The Commission admitted the petition as OP 23/2020, and directed the petitioner to comply the following.
- (1) KPUPL may publish the notice in compliance to Regulation 8 of KSERC (Licensing) Regulations, 2006 in two dailies each having wide circulation, in English and Malayalam. A copy of the notice published in the dailies may be forwarded to the Commission.
 - (2) KPUPL may serve notice and copy of the petition to the State Government, local authority, KSEB Ltd as envisaged in the Regulation.
 - (3) Commission also directed the petitioner to submit the following before the Commission, on or before 5.10.2020:
 - (i) Government notification/order for establishing a petrochemical park in the State of Kerala.
 - (ii) Administrative sanction / orders of the State Government for establishing the proposed petrochemical park through KINFRA
 - (iii) Documents to prove eligibility for including additional license area to the distribution license of KPUPL such as order form State Government under (2)(f) and 5 of the Kerala Industrial Single window clearance board and industrial township area development Act, 1999.
 - (iv) Details of distribution infrastructure proposed to be developed within the park by KINFRA.
 - (v) Authorization of KINFRA to KPUPL to seek distribution license in the proposed petrochemical park .
4. In compliance of the direction of the Commission, KPUPL submitted the following details vide the letter dated 30.10.2020.
- (1) KPUPL, published a notice for inclusion of additional licensee area in compliance to Regulation 8 of KSERC (Licensing) Regulations, 2006 in two Malayalam dailies viz Deshabhimani and Kerala Kaumudi and in two English dailies viz The Time of India and The New Indian Express on 17.09.2020.

- (2) Government Order GO (Rt) No. 1697/2017/ID dated 20.12.2017, authorizing the Additional Chief Secretary to execute MOU on behalf of GoK with FACT.
- (3) Government Order G.O (Ms) No. 119/2016/ID dated 17.10.2016, accorded in principle approval for setting up a Petrochemical park in 600 acres of land to be procured from FACT at Ambalamugal. The said GO also accorded sanction for procuring 600 acres of land from FACT through negotiation, and for meeting the cost of land amounting to Rs 1864.0 crore from KILFB.

It is also ordered in the said GO dated 17.10.2016 that, the project shall be implemented through KINFRA.

- (4) Government Order G.O (Ms) No. 48/2006/ID dated 28.04.2006, orders to notify 442 hectares (1092.18 Acres) of land comprised in Resurvey No. 205, Block No.37 of Vadavucode Puthencruz village, Kunnathunadu Taluk at Ernakulam District owned by FACT as Industrial Area.
- (5) The relevant pages of the DPR of the proposed Petrochemical Park at Ambalamugal, Kochi (pages 227 of 238) deals with the electrical power distribution system proposed to be developed in the proposed Petrochemical Park at Kochi.
- (6) Letter No. KIN/FIN/2020-21/743 dated 27.10.2020 from the Managing Director, KINFRA authorising KPUPL to seek distribution license in the proposed Petrochemical Park as additional license area to KPUPL.

However, the petitioner M/s KPUPL has not submitted the documents to prove eligibility for including additional license area to the distribution license of KPUPL, such as order from State Government under (2)(f) and 5 of the Kerala Industrial Single window clearance board and industrial township area development Act, 1999. Hence the Commission vide the letter dated 07.01.2021, directed the petitioner KPUPL to produce the Government Notification declaring the area of 311.79 acres of land at Ambalamugal proposed for Petrochemical park as Industrial area as per section 2(f) and section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999."

4. KSEB Ltd, vide the letter dated 29.01.2021 submitted the following.

- (1) KSEB Ltd is the deemed distribution licensee for the entire State of Kerala and the area specified in KINFRA Petrochemical Park for is also falls in the license area of KSEB Ltd. As per Section 14 and 131 of the EA-2003, KSEB Ltd being the successor entity of State Electricity Board formed as per Section 5 of the Electricity Supply Act, 1948, inherits the deemed license for the entire State of Kerala as statutorily available under provisions of the Electricity Act, 2003. Therefore, the application of M/s KINESCO for the license in the area of KINFRA Petrochemical Park can be treated only as an application for second license in accordance with Proviso 6 to Section 14 of EA, 2003 in the area where KSEB Ltd is already a deemed licensee.

- (2) Government of India vide the notification dated 23.03.2005 notified the 'Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005, wherein the following are prescribed.
- a. The Commission shall decide the requirement of capital investment in the area.
 - b. The applicant shall be required to satisfy that 30% of the cost of investment is available.
 - c. In case of second licensee, the minimum area of supply shall be a municipality, corporation or a revenue district.
 - d. The applicant has not been found guilty under provisions of Companies Act, IT Act, SEBI Act, Excise and Customs Act.
- (3) Government of India also issued Special Economic Act, to the effect that a Developer or authority of a Special Economic Zone shall be deemed to be a licensee for distribution of electricity for the purpose of Section 14 of the Electricity Act, 2003. Special Economic Zone are exempted from the minimum area condition as well as other conditions prescribed for grant of License. However, the above relaxation is presently not applicable to the petitioner for grant of license for distribution of electricity to KINFRA Petrochemical Park as the area under the park is yet to be notified as Special Economic Zone.
- (4) The Commission has limited the license to SEZ area alone while granting license to M/s Infopark vide the order dated 18th October 2011 and subsequently amended vide the order dated 25th July 2012. In case of Cyber Park, Kozhikode, Commission vide the order dated 7th August 2014 had limited granting of License to the SEZ area alone.
- (5) Sub-section 2(a) of Section 3 of the KSERC (Licensing) Regulations, 2006 specifies the "Eligibility Conditions of Persons requiring a License" which read as under.
- "(2) Distribution Licensee (a) The Area of Supply for distribution licensee shall not be less than a Panchayat, Municipality or Corporation. Exemption may be granted by the Commission in the case of service providers such as Technoparks, Industrial Parks, Special Economic Zones etc".*
- (6) As per the provisions of the EA-2003, only Central Government can prescribe additional requirements for grant of second distribution licensee in any area. Also, it does not confer any powers to a State Commission to relax or exempt any provisions related to grant of License as contained in the Act, Rules prescribed by the Government. Therefore, the above provisions in the Licensing Regulation can only be interpreted in harmony with the provisions of EA-2003 and Gol notification. Also, the Regulation notified by the Commission is not related to grant of second or subsequent license in an area.

- (7) KSEB Ltd therefore submitted that,
- (a) The license application can only be treated as application for second license for distribution of power in KINFRA Petrochemical Park area since KSEBL already possess license for distribution of electricity in that area.
 - (b) The said area alone does not satisfy the minimum area prescribed in Gol notification.
 - (c) The said area presently does not come under SEZ and KINFRA has not produced any document to establish the area as SEZ.
 - (d) As per the existing status and notifications, the petitioner is presently not eligible to get second distribution license in the KINFRA Petrochemical Park in Ambalamugal, Kochi.

KSEB Ltd submitted that, in view of the above, the petition for inclusion of KINFRA Petrochemical park to KPUPL may please be disposed directing to obtain SEZ status for the area in case the applicant desires to function as a distribution licensee in the area. Until then the petitioner, if desires so, can avail single point supply and distribute power to beneficiaries as per Regulation 56 of Supply Code, 2014.

5. The State Government vide the letter dated 30.01.2021 submitted the following comments on the petition filed by M/s KPUPL.

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- (1) *The license application can only be treated as application for second license for distribution of power in KINFRA Petrochemical park area since KSEBL already possess license for distribution of electricity in that area.*
- (2) *The said area alone does not satisfy the minimum area prescribed in the Gol notification dated 23.03.2005.*
- (3) *The said area presently does not come under SEZ and KINFRA has not produced any document to establish the area as SEZ.*
- (4) *As per the existing status and notifications the petitioner, KPUPL is presently not eligible to get second distribution license in the KINFRA Petrochemical Park in Ambalamugal, Kochi.*

The State Government opined that, the petition for inclusion of KINFRA Petrochemical park in Ambalamugal, Kochi to KPUPL may please be disposed directing to obtain SEZ status for the area in case the applicant desires to function as a distribution licensee in the area. Until then the petitioner, if desires so, can avail single point supply and distribute power to beneficiaries as per Regulation 56 of Supply Code, 2014.

6. The Commission conducted public hearing on the petition on 01.02.2021 at Collectorate Conference Hall, Ernakulam. Summary of the deliberations during the hearing is given is below.

- (1) Sri. Sajeev M.S, presented the petition on behalf of the petitioner, M/s KPUPL. The issues raised during the hearing is summarised below.

- M/s KPUPL is an existing distribution licensee in the State, supplying power in the parks at Kakkanad (280.126 Acres), Kalamassery (240 Acres), Kanjikode- KINFRA Industrial & Textile Park (350 Acres) and Kanjikode- Mega Food Park (79.42 Acres). As on today, the licensee supplying 428 consumers across the State.
- KINFRA proposed to setup KINFRA Petrochemical Park, at Ambalamugal, Kochi, in a total area of 311.79 Acres of land. Earlier, the land was in possession of FACT, Kochi. The major products expected are Plasticisers, Paint & Resin formulation, Dyes, Textile finishing, Solvents and Acrylate esters, Paper printing chemicals, Pharmaceuticals, Power coating products etc.
- Total power demand expected for the park is 32.07MVA, and the power is proposed to source in bulk from KSEBL from its 220 kV substation at Brahmapuram. For the phase-1, for meeting power requirement upto 3 MVA load, an 11kV line/ ABC is proposed from KSEBL 220 kV Brahmapuram substation. In the Phase-2, for meeting power requirement above 3 MVA and upto 12 MVA, a 33 kV line/ UG cable is proposed from KSEBL 220 kV Brahmapuram substation. In the Phase-3, for meeting the power demand above 12 MVA, a double circuit 110 k line is proposed from nearby KSEBL line.
- Total power demand expected by the year 2023-24 is 4 MW.
- Approximate cost for creating the distribution system is Rs 55.73 crore with split details as below.

(a) Electrical Infrastructure for Phase-1	= Rs 32.42 crore
(b) <u>Electrical Infrastructure for Phase-2</u>	<u>= Rs 17.66 crore</u>
Sub total	= Rs 50.08 crore
(c) <u>External illumination and Telecommunication</u>	<u>= Rs 5.65 crore</u>
Grand Total	= Rs 55.73 crore
- Source of funding for the infrastructure development is from Kerala Government / KINFRA.
- KPUPL further submitted the following benefits to the consumers
 - (i) Since the HT power supply distribution is at 33kV & 11kV level, which will ensure low system losses.
 - (ii) Since the distribution is using UG cable and in a limited area, reliable and uninterrupted power supply can be ensured.
 - (iii) Maintenance staff will be available round the clock to ensure uninterrupted power supply to consumers.
 - (iv) KINESCO is following pre-paid energy meter billing system.
 - (v) Minimum initial investment for electrical works.
 - (vi) Maximum power quality.

- (2) Sri. K.N. Biju, Village Officer, Puthencruz, and Sri. Manikantan, Secretary, Puthencruz attended the hearing, but not offered any comments on the proposal.
- (3) Sri. Manoj.G, Asst Executive Engineer, on behalf of the KSEB Ltd submitted the following.
- KSEB Ltd is the deemed license in the area proposed for the KINFRA petrochemical park. Hence the petition filed by M/s KPUGL shall be considered as a petition for seeking second license as per the Section 14 of the Electricity Act, 2003.
 - As per the Distribution Licensee Rules, 2005 notified by the Central Government on 23.03.2005, in case of a second license, the minimum area of supply shall be a municipality, corporation or a revenue district. Further, the petitioner is also required to satisfy that 30% of the cost of investment is available as equity.
 - If the proposed area is notified by the Central Government as Special Economic Zone (SEZ), such zones are deemed distribution licensee and exempted from the conditions specified in the Distribution Licensee Rules, 2005. However, the area of the proposed KINFRA Petrochemical Park is yet to notify as SEZ by the Central Government.
 - KSEB Ltd has been supplying power to various parks of KINFRA directly. Here also, KSEB Ltd can directly supply power to the various beneficiaries within the Park.
 - If the Petitioner KPUGL want to distribute electricity in the area proposed for the KINFRA Petrochemical Park, they have to obtain SEZ status for the area, and till then KPUGL can avail single point supply from KSEBL and distribute power to the beneficiaries as per Regulation 56 of the Kerala Electricity Supply Code,2014.
- (4) Smt. Ambili T.B, Manager, KINFRA submitted the following during the hearing.
- Entire investment for the park is proposed to source from KIIFB. The investment for acquiring the land for the project from FACT was already released by KIIFB. The approximate cost of investment for the entire park is about Rs 280.00 crore, and KINFRA Management already approached KIIFB for getting the fund for creating the infrastructure. The interest rate and other terms and conditions for the loan from KIIFB is yet to be finalised.
 - The State Government vide the order dated 28.04.2006, ordered to notify the 442 hectares (1092.18 Acres) of land comprised in Resurvey No. 205, Block No.37 of Vadavukode Puthencruz village owned by FACT as Industrial Area. The proposed land of the KINFRA Petrochemical Park falls within this Area. However, about 40 Acres of land additionally acquired and the same also required to be notified as Industrial area. KINFRA already taken up with the Government to notify the newly acquired area also as Industrial Area.

7. Based on the deliberations during the hearings, the Commission hereby issue the following directions to the petitioner M/s KPUPL, KINFRA and KSEB Ltd for immediate compliance latest by 17.02.2021.
- (1) KSEB Ltd shall immediately forward copy of their comments dated 29.01.2021 to M/s KPUPL and M/s KINFRA for their comments.
 - (2) M/s KPUPL and M/s KINFRA shall submit the following latest by 17.02.2021, with a copy to KSEB Ltd.
 - (i) Detailed comments on the issues raised by KSEB Ltd in their letter dated 29.01.2021.
 - (ii) Government notification declaring the area of 311.79 Acres of land at Ambalamugal, Kochi proposed for the KINFRA Petrochemical park as Industrial area as per section 2(f) and section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999.”

Sd/-

Adv. A.J. Wilson
Member (Law)

Sd/-

Preman Dinaraj
Chairman

Approved for issue

C R Satheeshchandran
Secretary (i/c)

List of stakeholders participated in the public hearing held on 01.02.2021

1. Smt. Sreedevi.S, KINESCO
2. Sri. Sarath Dileep, KINESCO
3. Sri. Alan Alby, KINESCO
4. Sri. Ajith Kumar T.M, KINESCO
5. Sri. Sajeev M.S, KPUPL
6. Sri. S.N Ashok Kumar, KPUPL
7. Sri. Joel Joy, KPUPL
8. Sri. Rakesh Pillai, KPUPL
9. Sri. Manoj G, AEE, TRAC, KSEBL
10. Sri. Natarajan V, KPUPL
11. Sri. K.N Biju, Village Officer, Puthencruz
12. Sri. Mohan A George KINFRA
13. Sri. Nikanth U, KINFRA
14. Smt. Mini Vinod, KPUPL
15. Smt. Mini N, KPUPL
16. Sri. Sudeep S.G, KINFRA
17. Sri. Sreelakshmi P.S, KINFRA
18. Sri. C. Manikandan, Secretary, Puthencruz
19. Sri. Suresh M.C, Clerk, District Panchayath, Ernakulam
20. Smt. Sweeta Francis, AE, Tripunithura Municipality
21. Smt. Ambili T.B, KINFRA CZ Head
22. Sri. Rakhil A, KINFRA JM(C)
23. Sri. Sreeyesh T.S, NGIL, Kochi