

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: **Shri. Preman Dinaraj, Chairman**

Petition No. OP 17 /2020

In the matter of : Petition filed by M/s. Kosamattam Finance Limited for the approval of Power Purchase Agreement with KSEBLtd for 1 MW Wind Energy Generating Unit at Ramakkalmedu, Idukki District.

Petitioner : M/s Kosamattam Finance Limited (KFL)

Respondent : Kerala State Electricity Board Limited.

Petitioner represented by : Shri. George Thomas.

K S E B Ltd. represented by : Shri. K.G.P. Nampoothiri, EE, TRAC.

Date of hearings : (i) Initial hearing on 26-06-2020
(ii) Second hearing on 07-08-2020
(iii) Final hearing on 23-09-2020

Order dated 27.10.2020

1. M/s. Kosamattam Finance Limited (hereinafter referred to as M/s KFL or the petitioner) on 02.06.2020, filed a petition before the Commission for the approval of draft Power Purchase Agreement (PPA) signed with KSEB Ltd for the sale of electricity generated from its 1MW Wind Energy Generating Unit at Ramakkalmedu, Idukki District to KSEB Ltd.
2. The background of the petition is as follows:
 - (i) M/s Kosamattam Finance Ltd (hereinafter referred to as the petitioner or M/s KFL), a generating company, has filed a petition before the Commission on 22.05.2018 with the following prayers:
 - (ii) Approve the proposed project specific tariff @ of Rs.6.33 per unit without accelerated depreciation benefits (as worked out and detailed in Annexure III) for

the entire duration of the PPA going to be executed in due course for the power to be fed into the grid;

- (iii) Approve and allow all power generated from the proposed 1 MW system to be fed into the grid and pay for by the distribution licensee such as KSEB Ltd operating in the State of Kerala at the approved project specific tariff rate as per point (a) above under the Wind RPO obligations.
- (iv) To issue appropriate instructions to the State Transmission Utility (STU) to continue with the running of the plant without break till the PPA is executed. It is also requested that, subsequently, the rate as per PPA may be given with retrospective effect from the date of filing of this petition. In the meanwhile, till the time the project specific tariff is fixed, the Hon'ble Commission may consider paying us Rs.3.90, which is the accepted APPC.
- (v) To condone any inadvertent omissions, errors, shortcomings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date;
- (vi) To pass such other and further orders as may be deemed fit and proper according to the facts and circumstances of the case; and
- (vii) To direct distribution companies in the State to take appropriate steps to facilitate feed-in tariff.

3. The petition was admitted as OP No. 11/2018 and after the detailed examination of the petition filed by M/s KFL and comments of the respondent KSEB Ltd and also duly considering the provisions of the Electricity Act-2003, Tariff Policy 2016, and the Regulations notified by the KSERC and Central Commission, and other relevant documents wherever necessary, the Commission vide the Order dated 04/12/2019 ordered the following:

- (i) The levelized tariff for the electricity generated from the 1 MW WEG installed by M/s KFL at Ramakkalmedu is approved at Rs 4.23 per unit without the benefit of

accelerated depreciation and Rs 3.93 per unit, if the benefit of accelerated depreciation is to be availed of.

- (ii) The petitioner may enter into PPA with the respondent KSEB Ltd at the tariff of Rs 3.93 per unit. If the petitioner does not intend to avail the benefit of accelerated depreciation, the respondent KSEB Ltd may enter into PPA with the petitioner at Rs 4.23 per unit. The petitioner has to provide an affidavit along with the PPA to the effect that if and when the petitioner avails the benefit of accelerated depreciation, from that year onwards the applicable tariff shall be Rs 3.93/- per unit. The petitioner shall also submit copies of the Income Tax Returns every year to the respondent KSEB Ltd as documentary evidence if they do not claim accelerated depreciation.
- (iii) The levelized tariff approved by the Commission is applicable for the entire electricity injected into the grid from the effective date of the PPA mutually agreed by the parties, since there was no understanding between the petitioner and KSEB Ltd to purchase of the power injected during the testing period or afterwards until PPA is executed with KSEB Ltd.
- (iv) KSEB Ltd shall reimburse, any tax paid on the RoE, limited to the amount of equity specified in this Order. For claiming the tax, developer shall furnish the proof of payment of such tax to KSEB Ltd.
- (v) KSEB Ltd shall make payment for the energy injected into the grid during the testing period at the APPC approved by the Commission for the relevant financial year concerned.

4. In compliance of the direction of the Commission dated 04.12.2019, M/s KFL filed this petition and the Commission admitted the same as OP No 17/2020. The initial hearing was conducted on 26.06.2020 and its Daily Order was issued on 29-06-2020. The second hearing was conducted on 07-08-2020 and the third and final hearing was conducted on 23-09-2020 and its Daily Order issued on the same day. The petition was heard through video conferencing on the respective days. Shri. George Thomas presented the petition

on behalf of M/s KFL and Sri. K.G.P. Nampoothiri, Executive Engineer presented the counter arguments on behalf of the respondent KSEB Ltd.

5. The Commission posted the petition for the initial hearing on 26-06-2020. During the hearing, the Commission examined the draft PPA in detail and issued a Daily Order dated 29-06-2020 with directions to amend certain clauses as shown below in the draft PPA:

Article- 1.0.n. Definition clause: *In the Draft Agreement, clearances shall mean the clearances as mentioned in Schedule 4. But in the Agreement submitted as part of the petition, no additional schedule except schedule one is available. So, all the additional schedules mentioned in the Agreement have to be furnished for examination and approval by the Commission.*

Effective date: *Effective date is not seen defined in the definition clause. Hence the “Effective Date” may be defined as “shall have the meaning ascribed thereto in Article 2.0 of this Agreement” and the date shall be specifically mentioned in the Article therein.*

aa. Interconnection point: (Definitions): *The existing clause shall be amended to “shall be the line isolator on outgoing feeder on HV side of the Pooling substation, at which the energy is delivered to the buyer and metered”.*

ab. Interconnection facility: *In the existing clause the word “KSEB’s Grid System” may be amended to “KSEB’s nearest Grid System”.*

ac. Interconnecting substation: *In the existing clause the words “includes facilities” may be amended to “includes all facilities”.*

an. Operating period: *The existing definition may be amended to “period commencing from 13 years from 22.12.2018”.*

Article 2.0. Effective date and Term of Agreement: *The effective date mentioned in this Article is “27.10.2018” may be corrected to “22.12.2018, the date of COD”.*

Article 5.0. Transmission/wheeling of power: Since the petitioner is directly supplying power to the respondent, no transmission or wheeling charges are payable. Hence the necessity of retaining of this Clause is to be examined.

Article 6.8: This Article contradicts Article 3.0, wherein this respondent has agreed to purchase the contracted capacity of 1 MW of power from the Developer. Hence this clause if it is to be retained has to be for generation above 1 MW.

Article 6.11: The Reactive power charges mentioned for lagging power factor has to be modified to state “as per rates decided by KSERC from time to time”.

Article 6.13: This clause is seen contradictory to clause 7.0. This has to be examined and shall be modified.

Article 6.14: The words “the Developers shall provide to the SLDC” shall be modified to “the Developer shall provide on demand to the SLDC”.

Article 8.4.: At present interest is being fixed by Financial Benchmark India Limited (FBIL). Hence the words “marginal cost of fund based bending rate (MCLR)” has to be changed to FBIL.

Article 9.0 Force majeure: The word change in law is unnecessary in this clause. This has to be deleted. Moreover, the words “within a reasonable time” may be modified to mention a specific period of time.

Article 10.00 Dispute Resolution: In this clause it is stipulated that all disputes shall be dealt as per the Electricity Act, 2003. It may be noted that the disputes arising out of PPA has to be dealt by the KSERC in accordance with Section 86 (1) (f) of the Electricity Act, 2003. Hence this clause has to be modified.

Change in Law: - Instead of framing a separate Article for change in law, the said clause is seen included in the definition. Hence, if Change in law is to be effected,

a separate clause may be drafted and included. The word “change in law” shall be deleted from “Force Majeure” clause in Article 9.0.

6. In reply to the said directions, the KSEB Ltd forwarded a letter dated 05-08-2020 agreeing to the suggestions issued by the Commission as per Order dated 29-06-20, except Clauses 6.8, 6.14 and 10.0 which may be retained and Clause No.5 be amended. The relevant portion of the Annexure forwarded by the KSEB Ltd is extracted hereunder:

SLNo	Amendment suggested	Remarks of KSEBL
1.	<p><u>Clause 5.0: Transmission/wheeling of power:</u> Since the petitioner is directly supplying power to the respondent, no transmission or wheeling charges are payable. Hence the necessity of retaining of this Clause is to be examined.</p>	<p>In view of the direction of the Hon'ble Commission, the said clause may be modified as follows: <i>“All charges incurred in respect of the evacuation of power from the generating unit up to STU's substation shall be borne by the Developer. The STU shall provide transmission/ wheeling facilities for evacuation of power from the nearest STU substation.”</i></p>
2	<p><u>Clause 6.8.:</u> This Article contradicts Article 3.0, wherein this respondent has agreed to purchase the contracted capacity of 1 MW of power from the Developer. Hence this clause if it is to be retained has to be for generation above 1 MW.</p>	<p>This clause is included in the PPA as per the request of the wind generators and is a generic clause and hence may be retained as in the initialed PPA.</p>
3	<p><u>Clause 6.14.:</u> The words “the Developers shall provide to the SLDC” shall be modified to “the Developer shall provide on demand to the SLDC”.</p>	<p>As per prudent practice the Developer must provide to the SLDC the generation summation outputs wherever no automatic transmission of metered data or SCADA</p>

		equipment exists. Hence the original clause to be retained.
4	<u>Clause 10.00 Dispute Resolution:</u> In this clause it is stipulated that all disputes shall be dealt as per the Electricity Act, 2003. It may be noted that the disputes arising out of PPA has to be dealt by the KSERC in accordance with Section 86 (1) (f) of the Electricity Act, 2003. Hence this clause has to be modified.	In view of the proposal to formulate a Electricity Contract Enforcement Act having power of a civil court to settle disputes contained in the proposed Amendment Act, the clause may be retained as in the original PPA.

7. The Commission examined the clarification submitted by the KSEB Ltd as per letter dated 05-08-2020 in detail and posted the petition for the second hearing on 07-08-2020. During the hearing the following decisions were taken:

(a) Clause 5:- During the hearing, M/s KFL agreed to accept the alternative clause proposed by the KSEB Ltd in the draft PPA. Hence the Commission directed to amend the existing clause as proposed by the KSEB Ltd as shown below:

“All charges incurred in respect of the evacuation of power from the generating unit up to STU’s substation shall be borne by the Developer. The STU shall provide transmission/ wheeling facilities for evacuation of power from the nearest STU substation.”

(b) Clause 6.8:- The Commission explained the difficulties in retaining the Original Clause. The Commission cannot agree to the proposal to divert the electricity to a third party which is against the contractual term. To avoid such a possibility the Commission suggested framing an alternative clause. KSEB Ltd and M/s KFL agreed with the suggestion. Hence the said clause is hereby modified as shown below:

“Clause 6.8:- KSEB Ltd shall absorb the entire quantum of power generated from the project of the Developer as per the terms and conditions of this PPA. However, if KSEB Ltd is not in a position to absorb the entire quantum of power generated from the project of the Developer due to reasons beyond

their control such as force majeure events under Article-9, instructions of State Load Despatch Centre etc, KSEB Ltd shall inform to the same to the Developer in writing, and during such time KSEB Ltd shall provide open access facility to the Developer to transmit the power through its network, subject to the Regulations issued by KSEB/CERC as the case may be, amended from time to time”.

(c) Clause 6.13 : The Commission in the hearing held on 26.06.2020, had pointed out that this Clause contradicts Clause 3 of the PPA and directed the parties concerned to examine it and modify as required. KSEB Ltd in their reply dated 05.08.2020 agreed with the Commission’s observation.

The Commission thereafter directed that Clause 6.13 shall be modified as follows :

“Clause 6.13: Benefits, if any, offered for the renewable power project, benefits accruing on account of carbon credit etc., except the Renewable Purchase Obligation mentioned in Clause 7.0 of this PPA shall be retained by the developer”.

(d) Clause 6.14:-The Commission agreed to retain the existing clause contained in the draft PPA as suggested by KSEB Ltd.

(e) Clause 10.00:- The suggestion to retain the existing Clause 10 relating to dispute resolution was declined by the Commission since the proposed Amendments to the Electricity Act, 2003 (Electricity (Amendment) Bill, 2020) is still pending. Moreover, change in law would affect all existing agreements in accordance with the amended provisions, unless suitable saving clause is included in the amended Act. Hence the modification suggested by the Commission is hereby confirmed. The KSEB Ltd agreed to the said direction.

8. But before issuing final Orders, M/s KFL has forwarded a letter dated, 17-08-2020 submitting that the M/s KFL required 200 KVA power for their Office at Kottayam and that they are willing to obtain necessary documentations and other approvals from the

respective Offices in this regard. The petitioner requested the Commission to direct KSEB Ltd to include the above requirement as a clause in the PPA before its finalization.

9. The Commission as per letter dated 21-08-2020 has forwarded a copy of the letter dated 17-08-2020 to KSEB Ltd to offer their comments before 07-09-2020. But due to delay in getting the response from KSEB Ltd, the Commission again posted the case for 3rd and final hearing on 23-09-2020.

10. Meanwhile, KSEB Ltd as per letter dated 22-09-2020 submitted the following before the Commission for consideration:

- 1) ANERT is the nodal agency of the Government of Kerala for granting IPP/CPP category for wind projects in the State of Kerala. As per the proceedings of ANERT dated 04-12-2013, technical approval has been accorded for the project on IPP mode. To consider any change in status, views of the GoK has to be obtained. Further, while executing connection agreement with KSEB Ltd on 26-12-2017, the petitioner had specified the project as IPP.
- 2) Further, in case the petitioner wishes to operate the plant on captive basis it has to meet the requirements as per Electricity Rules, 2005, which interalia specifies the equity holding and minimum level of self-consumption (51%).
- 3) The petitioner had agreed mutually on the terms and conditions of the PPA and KSEB Ltd has initialed the draft PPA with the petitioner, M/s KFL for procurement of 1 MW wind power, i.e. the entire energy generated from the project considering it as an IPP. As per clause 3 of the PPA, the contracted power is 1 MW for sale to KSEB Ltd. In case the petitioner requires any change in the already agreed terms of the contract, the petitioner has to approach KSEB Ltd first.

11. During the 3rd hearing through video conferencing on 23-09-2020, the Commission has sought the comments of M/s KFL and clarification from KSEB Ltd in the matter of reduction of contracted power from 1 MW to 800 KWA. The Commission explained the situation leading to the present hearing and sought to know whether there was any enabling provision in the Act or Rules whereby ANERT can grant technical approval in IPP mode. The Commission observed that the issues raised by the KSEB Ltd have to be

interpreted in the light of the verdicts of the Hon'ble Courts and keeping in view the legal provisions contained in the Act and Rules. The Commission agreed with the point raised by the KSEB Ltd that in case the petitioner requires any change in the terms of the initialed PPA, the petitioner has to approach KSEB Ltd first. KFL agreed to the suggestion and expressed their willingness to approach KSEB Ltd with their plea, so as to arrive at a decision in the matter through mutual discussion or through video conference.

12. The Commission, as per Daily Order dated 23-09-2020, issued directions to the petitioner and the respondent to inform the Commission the result of the proposed discussion and the decision taken therein with clarification on the point raised by the Commission not later than 09-10-2020 so as to enable the Commission to take a final decision. No communication has been received from the KSEB Ltd in this matter so far. But M/s KFL as per letter dated 09.10.2020 informed the Commission that they have approached the KSEB Ltd in compliance of the direction contained in the Daily Order dated 23.09.2020. The Commission was informed that, as per the reply received from the KSEB Ltd, the prevailing framework of PPAs regulated by the KSERC does not allow the same generator getting classified as both IPP and CPP simultaneously. Further, if M/s KFL desires to be a CPP, all fresh approvals will have to be obtained from ANERT and other agencies apart from compulsorily consuming more than 51 percentage of the power produced.

13. M/s KFL further informed the Commission that they would have to keep their power production suspended till final agreement, if in the new form is being approved and signed. Under the above circumstances they are withdrawing both their requests for the usage of 200 KW at their new registered office from their 1 MW WEG plant at Ramakkalmedu and to revise the PPA format amending for 800 KW generation as contracted capacity in IPP and 200 KW as contracted capacity in CPP.

14. Hence M/s KFL has requested to the Commission to issue directions to the KSEB Ltd to submit the revised initialed PPA for final approval and also to issue necessary directions to the KSEB Ltd, not to proceed with any coercive steps like disconnection of supply and stopping of provisional payment for the power generated from the plant.

Analysis and Decision of the Commission

15. The Commission examined the petition filed by M/s KFL for approval of the Power Purchase Agreement with KSEB Ltd for 1 MW Wind Energy Generating Unit at Ramakkalmedu, Idukki District and the clarifications and suggestions received from the KSEB Ltd and modifications and proposals therein in detail.

16. The petition is filed on 02.06.2020 in compliance to the Order dated 04.12.2019 in O A. No. 11/2019 as discussed in the previous paragraphs. The petitioner has stated in the petition that they have confirmed the purchase of energy generated from the 1 MW Wind Power Project, at the rate (Rs.3.93/-) per unit fixed by the KSERC. The Agreement shall come in to force from the date of signing of the agreement for all purposes and remain operative for a period of 13 years from the Date of Commercial Operation.

17. The Commission notes that the petitioner KFL specifically stated in the petition that as per the mutually agreed and signed PPA, the contracted capacity is 1 MW of power from the 4 x 250 KW WTG Wind Project, at Ramakkalmedu and KSEB Ltd will buy entire electricity generated @ Rs 3.93/unit. However in para 42 (1), of the Order dated 04.12.2019 in OA No. 11/2018, the Commission has fixed the levelized tariff for electricity generated from this plant and Rs.4.23 per unit without the benefit for accelerated depreciation of Rs.3.93 per unit if the benefit of accelerated depreciation is to be availed off. Further vide para 42 (2) the petitioner has also been given the right to avail or otherwise the benefit of accelerated depreciation and incorporate the appropriate rate in the PPA. However in clause 6 of the draft PPA Rs.3.93 per unit ie., with accelerated depreciation has been shown. It is not clear as to whether the petitioner has exercised the option which was provided vide Commission's order dated 04.12.2019.

18. The Commission notes that both the petitioner M/s KFL and the respondent KSEB Ltd has agreed with the modifications and amendments suggested by the Commission on the following clauses as per their letter No. KSEB/TRAC/2020-21/909 dated 05.08.2020 as suggested by this Commission vide Daily Order dated 29.06.2020 viz.

effective date, aa. Interconnection point, ab. Interconnection facility, ac. Interconnecting sub-station, an. Operating period, Article 2.0. (Effective date and Term of Agreement), Article 6.11, Article 6.13, Article 8.4 and Article 9.0. It was also informed by the respondent KSEB Ltd that the Board has decided to retain the following clauses viz.6.8, 6.14 and 10 and to amend Clause No.5 of the initialed PPA. The Commission examined the clarification furnished by the KSEB Ltd in support of their decision in detail during the hearing held on 07.08.2020. The Commission agreed to retain Clause 6.14 of the agreement and agreed to the modification proposed by the KSEB Ltd on Article 5. As far as Clause 6.8 is concerned, during the deliberations of the said hearing, both KSEB Ltd and KFL agreed with the suggestion to frame an alternative clause. The said alternative clause is given below:

“Clause 6.8:- KSEB Ltd shall absorb the entire quantum of power generated from the project of the Developer as per the terms and conditions of this PPA. However, if KSEB Ltd is not in a position to absorb the entire quantum of power generated from the project of the Developer due to reasons beyond their control such as force majeure events under Article-9, instructions of State Load Despatch Centre etc, KSEB Ltd shall inform to the same to the Developer in writing, and during such time KSEB Ltd shall provide open access facility to the Developer to transmit the power through its network, subject to the Regulations issued by KSEB/CERC as the case may be, amended from time to time”.

19. The Commission also examined the clarification furnished by the KSEB Ltd in Clause 10.0 regarding Dispute Resolution. Since the proposal to amend the Electricity Act, 2003 (Amendment Bill-2020) is still pending, the amendment suggested by the Commission is hereby confirmed. Further in Clause 11, Change in Law, instead of framing a separate Article for change in law, the said clause is seen included in the definition. The word “change in law” shall be deleted from “Force Majeure” clause in Article 9.0.

20. The Commission also noted that in the previous petition filed by M/s KFL before the Commission on 22.05.2018, seeking determination of project specific preferential tariff also contained mainly with the prayer **“to approve and allow all power generated from the proposed 1 MW power system** to be fed into the grid and pay for by the distribution

licensee such as KSEB operating in the State of Kerala at the approved project specific tariff rate as per point (a) above under the Wind RPO obligations.” The Commission notes that the tariff had fixed for the entire electricity generated from 1 MW WEG and issued a direction to the petitioner KFL to enter in to PPA with the respondent KSEB Ltd as per Order dated 04-12-2019. The petitioner has never filed a request in O.P. No: 17/2020 at any point of time to the effect that M/s KFL required 200 MWA power for their own use. Hence such a request cannot be considered at this point of time and when it is not a part of the petition.

21. The Commission also notes that vide Article 3.0 initialed PPA, the petitioner has agreed to the sale of the contracted capacity of 1 MW (4x250 kW). Further, in the Commission’s Order dated 04.12.2019 in OA No. 11/2018, the tariff of this project was determined taking into consideration of the capacity of the unit is 1 MW and the useful life of the plant as 25 years. The request to reduce the contracted power was not made even during the first hearing of this petition held on 26-06-2020. Since these facts have emerged only after the Commission pointed out the inconsistency in Clause 6.8 of the initialed PPA, the Commission is not in a position to agree to the request of the petitioner to reduce the contracted power from 1 MW to 800 KWA at this stage. M/s KFL vide their letter dated 09.10.2020 has expressed their willingness to withdraw their request for the usage of 200 KWA and to reduce the contracted power from 1 MW to 800 KWA question of coercive steps does not arise.

22. It is a settled legal position that terms of PPA are binding on both the parties equally and once the PPA has been executed, the parties are governed by the terms of the PPA. (**Gujarat Urja Vikas Nigam Ltd. vs. Essar Power Limited (09.08.2016 - SC) :MANU/SC/0874/2016**). However, parties to a contract can alter the terms of the contract subsequent to the formation of the contract by mutual consent.(**Adani Power Ltd. vs. Gujarat Electricity Regulatory Commission and Ors. (03.12.2015 - SC)MANU/SC/1382/2015**). In view of the withdrawal of the request filed by M/s KFL to reduce the contracted power vide their letter dt.09.10.2020, the initialed PPA for 1 MW power can be confirmed and approved subject to the decisions taken during the hearings held on 26.06.2020 and final decision taken on 07-08-2020.

23. Hence, the Commission hereby accepts the request made by M/s KFL to withdraw their request to amend the contracted power as per their letter dated 09.10.2020 and to confirm the decisions taken by the Commission during the hearings held on 26.06.2020 and on 07-08-2020.

Order of the Commission

24. In view of the discussions mentioned above and decision taken therein, the following directions are given:

(1) The draft Power Purchase Agreement duly initialed by both the petitioner M/s KFL and the respondent KSEB Ltd is hereby approved subject to the following modifications:

(2) All the schedules as mentioned in the PPA and forming an integral part of this agreement shall necessarily be included in the PPA document.

(3) Clause 1.0 :(a) Effective date: The definition "effective date" shall be incorporated in the PPA as follows:-

"Effective date shall have the same meaning prescribed thereto in Article 2.0 of this Agreement.

(4) aa. Interconnection point: The word "***also***" contained in the above definition clause shall be ***deleted*** and shall be modified ***as "shall be the line isolator on outgoing feeder on HV side of the Pooling substation, at which the energy is delivered to the buyer and metered"***.

(5) ab. Interconnection facility: In the existing clause, the word "***nearest***" shall be incorporated and shall be modified to "***KSEB's nearest Grid System***".

(6) ac. Interconnecting substation: The words "includes facilities" contained in the existing clause shall be ***modified as "includes all facilities"***.

(7) an. Operating period: This clause shall be amended to ***“period commencing from 13 years from 22.12.2018”*** in tune with the CoD declared by the petitioner to 22.12.2018.

(8) Clause 2.0. Effective date and Term of Agreement: The date of CoD declared by the petitioner shall be incorporated as effective date and the date “27.10.2018” mentioned in this clause shall be ***amended to “22.12.2018.”***

(9) Clause 5.0. Transmission/wheeling of power: The existing clause shall be amended to ***“All charges incurred in respect of the evacuation of power from the generating unit up to STU’s substation shall be borne by the Developer. The STU shall provide transmission/ wheeling facilities for evacuation of power from the nearest STU substation.”***

(10) Clause 6.8: The existing clause shall be amended to ***“KSEB Ltd shall absorb the entire quantum of power generated from the project of the Developer as per the terms and conditions of this PPA. However, if KSEB Ltd is not in a position to absorb the entire quantum of power generated from the project of the Developer due to reasons beyond their control such as force majeure events under Article-9, instructions of State Load Despatch Centre etc., KSEB Ltd shall inform to the same to the Developer in writing, and during such time KSEB Ltd shall provide open access facility to the Developer to transmit the power through its network, subject to the Regulations issued by KSERC/CERC as the case may be, amended from time to time”.***

(11) Clause 6.11: The criteria fixed for Reactive power at lagging power factor in the existing clause in the draft PPA shall be modified as ***“Reactive power transaction shall be billed as per rates decided by KSERC from time to time”.***

(12) Clause 6.13: This clause shall be modified as ***“Benefits, if any, offered for the renewable power project, benefits accruing on account of carbon credit etc., except the Renewable Purchase Obligation mentioned in Clause 7.0 of this PPA shall be retained by the developer”.***

(13) Clause 6.14.: In the existing clause the words “the Developers shall provide to the SLDC” shall be modified as **“the developer shall provide on demand to the SLDC”**.

(14) Clause 8.4.: In this clause, for the words “Marginal Cost of fund based Lending rate (MCLR)” the words **“Financial Benchmark India Limited (FBIL),” shall be inserted.**

(15) Clause 9.0 Force majeure: From the existing clause, the word **“change in law” shall be deleted and separate clause shall be included.** For the words “within a reasonable time” a specific period of time shall be mentioned.

(16) Clause 10.00 Dispute Resolution: This clause shall be modified as **“the disputes arising out of this PPA has to be dealt by the KSERC in accordance with Section 86 (1) (f) of the Electricity Act, 2003”**.

2. KSEB Ltd shall modify the said agreement (PPA) incorporating all the suggestions and modifications approved by the Commission at pre para.

3. KSEB Ltd shall submit a copy of the modified PPA signed by the KSEB Ltd and M/s KFL within one month from the date of receipt of this Order.

Sd/-

Preman Dinaraj

Chairman

Approved for Issue,

C. R. Satheesh Chandran

Secretary (i/c)