

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 KSEBL 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.

Daily order dated 29 .06.2020

1. M/s. Kosamattam Finance Limited (hereinafter referred to as M/s KFL or the petitioner) on 02.006.2020, filed a petition before the Commission for the approval of draft Power Purchase Agreement (PPA) signed with KSEBL 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 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 MWp 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.

(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; and

(vi) To pass such other and further orders as may be deemed fit and proper according to the facts and circumstances of the case.

(vii) to direct distribution companies in the State to take appropriate steps to facilitate feed-in tariff.

3. The petition was admitted as petition OP No. 11/2018 and after the detailed examination of the petition filed by M/s Kosamattom Finance Limited, 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 Kosamattom Finance Limited (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 Commission admitted the same as OP No 17/2020. The petition was heard through video conferencing on 26.06.2020. Shri George Thomas presented the petition on behalf of M/s KFL and Sri. K.G.P. Nampoothiri, Assistant Executive Engineer presented the counter arguments on behalf of the respondent KSEB Ltd.

5. During the deliberations of the subject petition, the Commission called for the following additional documents and suggested the following modifications in the draft PPA:

1. 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”.

2. 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”.

3. 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.

4. 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.

5. 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”.

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

7. 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”.

8. 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.

9. 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.

10. 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.

11. 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.

Under the abovementioned circumstances, the Commission hereby direct the petitioner and the respondent to submit the revised initialled PPA for approval before it is signed between KSEB Ltd and the petitioner for the purchase of electricity generated from the 1 MW WEG established at Ramakkalmedu at Idukki District.

**sd/-
Preman Dinaraj
Chairman**

Approved for issue,

**C.R.Satheesh Chandran,
Administrative Officer
in-charge of Secretary**