

# KERALA STATE ELECTRICITY REGULATORY COMMISSION

## THIRUVANANTHAPURAM

### Petition No: OP 35/ 2021

- Present** : **Shri. Preman Dinaraj, Chairman**  
: **Adv. A. J. Wilson, Member (Law)**
- In the matter of** : Petition filed by Kerala State Electricity Board Limited in compliance with the direction of the Commission in OP No.12/14, in the matter of the Construction of Transmission Line with sufficient capacity from Pallivasal Generating Station to Munnar
- Petitioner** : Kerala State Electricity Board Limited (KSEB Ltd)
- Petitioner represented by** : Sri Manoj.G, Assistant Executive Engineer, TRAC, KSEB Ltd.
- Respondent** : Kanan Devan Hills Plantations Company Private Limited (KDHPCL)
- Respondent Represented by** : Sri. P.M.Srikrishnan, Executive Director, KDHPCL  
Adv.Joseph Kodianthra, Senior Counsel  
Sri.Raju.U.Warrier, Manager, KDHPCL  
Sri.Jayaraman, Executive, KDHPCL
- Hearing** : **10:30 AM, on 11-10-2021 at the Panchayath Hall, Munnar**

### Order dated 01.02.2022 in OP No. 35/2021

1. M/s Kerala State Electricity Board Limited (hereinafter referred to as KSEB Ltd) have filed a petition before the Commission, in compliance with the direction of the Commission in OP 12/14, in the matter of Construction of Transmission Line with sufficient capacity from Pallivasal Generating Station to Munnar. M/s Kanan Devan Hills Plantations Company Private Limited (hereinafter referred to as KDHPCL), the respondent is the distribution licensee at Munnar area vide Notification Nos 1/2007 dated 9th January 2007 and 2/2007 dated 23rd March 2007 issued by the Commission.
2. KSEB Ltd has prayed before the Commission to consider the revised proposal relating to the construction of transmission line from Pallivasal generating

station to Munnar and issue Orders on sharing cost in view of the change from the already submitted proposal.

### **Brief History of the issue**

3. The Commission in OP No.17/2014 filed by Kanan Devan Hills Plantations Company Private Limited (KDHPCL) in the matter of transmission charges for drawing the 66kV line from Pallivasal Power House of KSEB Ltd to the proposed 66kV Substation of M/s KDHPCL at Munnar issued the Order dated 18.08.2015, wherein it was directed that:

*“both the petitioner namely KDHPCL and respondent namely KSEB Ltd are directed to discuss various techno economic options relating to construction of transmission line with sufficient capacity from Pallivasal generating station to Munnar and the construction of substation at Munnar in view of the relevant facts. The discussion shall be completed on or before 31.10.2015 and a report on various options with detailed techno economic aspects shall be submitted to the Commission on or before 16.11.2015. After considering such proposals the Commission will take appropriate decision on the project cost as well on the sharing of cost. The OP No. 17/2014 is therefore found to be premature and disposed of with the above directions.”*

4. In compliance with the direction of the Hon'ble Commission in OP No.17/2014, a meeting was scheduled on 05.09.2015. However, the meeting did not materialize due to inconvenience of M/s KDHPCL. In response to KSEB Ltd letter dated 28.09.2015, KDHPCL consented for convening a meeting on 21.10.2015. The meeting was successful in coming to a conclusion on all the techno economic aspects of developing the transmission network for meeting the load at Munnar and nearby areas. But there was no convergence on the matter of sharing of the cost of the project, between KSEB Ltd and KDHPCL.
5. Thereafter, a meeting was conducted by KSEB Ltd and M/s KDHPCL on 28.10.2015 to finalize the site location and technical parameters and an interim report was submitted to the Hon'ble Commission vide Letter dated 18.11.2015. The Commission directed KSEB Ltd to submit the final proposal after getting administrative sanction for the proposal. KSEB Ltd has accorded administrative sanction for the work of providing 33kV EHT supply to M/s KDHPCL, for an estimate amounting to Rs. 2213.00 lakhs and the report was submitted to the Hon'ble Commission vide Letter No. KSEB/TRAC/KDHPCL- O.P-17 of 2014/R1/2695 dated 01.04.2016 and the abstract is provided in Table 1. Out of the estimated cost of Rs.2213.00 lakhs, an amount of Rs.936.00 lakhs is exclusively meant for meeting the demand of consumers of KSEB Ltd at Marayoor, an amount of Rs.17.00 lakhs is for the exclusive purpose of KDHPCL. The remaining amount of Rs.1260.00 lakhs is meant for drawal of

66kV DC feeder and establishment of 66kV Substation at Munnar for the utilization of both M/s KDHPCL and KSEB Ltd.

Table 1. Abstract of Estimate

Part No	Description of work	Estimate amount (Lakhs)	Remarks
I	Construction of 2 Nos 66kV feeder bays at Pallivasal Power House	230.00	To be shared between KDHPCL & KSEB Ltd (Rs.1260.00 Lakhs)
II	Construction of 6km 66kV DC line from Pallivasal to Munnar	320.00	
III	Construction of a 66kV Substation at Munnar with 2 nos 66kV incoming feeder bays and 2 nos 66/33transformer bays	710.00	
IV	Providing 33kV Outgoing feeder outlet to M/s KDHPCL from proposed 66kV Substation at Munnar	17.00	Exclusive for M/s KDHPCL only
V	Construction of 33kV DC line from Munnar to Marayoor	676.00	Exclusive for KSEB Ltd (Rs. 936.00 lakhs)
VI	Construction of 33/11 kV Substation at Marayoor	260.00	
	Total	2213.00	

6. As per the proposal, the land for construction of Substation at Munnar is to be provided by M/s KDHPCL. The government land leased to M/s KDHPCL was under litigation, in Hon'ble Supreme Court and the transfer of land to M/s KSEB Ltd could not take place. The dispute was settled by Hon'ble Supreme Court and M/s KDHPCL expressed willingness to transfer the land to M/s KSEB Ltd for the construction of Substation. But the land offered by M/s KDHPCL is found to be not suitable for the construction, due to steep terrain which would incur high developmental expenses.

7. KSEB Ltd has submitted their revised proposal based on the meeting held between KSEB Ltd and M/s KDHPCL on 03.02.2020, to the Commission as per the KSERC Order dated 18.08.2015 in OP 17/2014, vide Letter No.KSEB/TRAC/KDHPCL/R1/749 dated 22.04.2020. M/s KSEB Ltd submitted that, in order to resolve the voltage issues at Marayoor area, KSEB Ltd decided

to go ahead with the construction of the 33kV Substation at Marayoor, drawing 33kV Single Circuit (SC) line directly from Pallivasal Power house.

8. As per the meeting on 03.02.2020, KSEB Ltd suggested the possibility of construction of 33kV Substation, since the construction of 66kV Substation and line will take more time to complete. KSEB Ltd suggested the possibility of constructing 33kV DC line from Pallivasal to Munnar, out of which one circuit can be extended to Marayoor and the second one to terminate at Munnar facilitating M/s KDHPCL for connecting to a new 33kV Substation.
9. M/s KDHPCL in the meeting submitted that their present load is 12 MVA and they expect an anticipated load after 10 years up to 20 MVA. They expressed their concern that, whether the load up to 20 MVA can be fed at 33kV voltage level without constraints. The decision of the meeting was as follows:
  - (1) To install two 66/33kV transformers and associated feeder bays at Pallivasal Power House Substation, one immediately and the second one as per load requirement;
  - (2) To construct 33kV DC line from Pallivasal to Munnar with high-capacity conductor, if possible, one to Marayoor and the second to the proposed Munnar 33kV Substation site;
  - (3) To construct 33kV Substation at Munnar by M/s KDHPCL or by KSEB Ltd on deposit work basis;
  - (4) To construct 33kV SC line from Munnar to Marayoor at its own cost;

Based on the above decision and as the immediate commissioning of the Marayoor Substation was necessary, KSEB Ltd decided to go ahead with the installation of one number 66/33kV transformer at Pallivasal Power House and construction of 33kV SC line upto Marayoor.

10. KSEB Ltd revised the administrative sanction for, installation of 2 nos 20 MVA, 66/33kV transformers at Pallivasal Power House, 7km 33kV DC line from Pallivasal to Munnar, 31km 33kV SC line from Munnar to Marayoor and 33kV Substation at Marayoor. The proposal is shown in Table 2. The line from Munnar to Marayoor and Marayoor Substation is exclusively for the purpose of serving consumers of KSEB Ltd and the 33kV DC line from Pallivasal to Munnar is for the use of both M/s KDHPCL and KSEB Ltd. It was proposed that the cost of common transmission system upto Munnar is to be shared between KDHPCL and KSEB Ltd as per the load sharing.

Table 2. Revised Estimate

Part No	Description of work	Estimate amount (Lakhs)	Remarks
I	Construction of 2 nos. 20 MVA 66/33kV transformer bay at Pallivasal	685.00	To be shared between KDHPCL & KSEB Ltd
II	Construction of 7km 33kV DC line from Pallivasal to Munnar	310.00	
III	Construction of 14km 33kV SC line from Munnar to Rajamala	220.00	Exclusive for M/s KSEB Ltd only
IV	Construction of 17km 33kV SC line from Vaguvara to Marayoor	270.00	
V	Construction of 33 kV Substation at Marayoor	440.00	
	Total	1925.00	

11. Hon'ble Commission directed M/s KSEB Ltd to file separate petition in this regard and sought the details below:

- 1) The projected electricity demand of Munnar and surrounding area.
- 2) The proposal of constructing a 33kV transmission system instead of the earlier proposal of the 66kV Substation.
- 3) Transmission system proposed including the cost estimate of the 33kV Substation at Munnar and 66kV Substation at Munnar.
- 4) Cost sharing between KDHPCL and KSEB Ltd.

12. M/s KSEB Ltd filed this petition on the revised proposal, in compliance with the direction of the Hon'ble Commission in OP No.17/2014 on 07.05.2020 with the explanations for the details sought. The Commission admitted the petition as OP 35/2021 and Hearing on the petition was held on 11.10.2021, 10:30 AM at the Panchayat Hall, Munnar.

#### **Submission of KSEB Ltd**

13. The following submissions has been made by KSEB Ltd regarding the details sought by the Commission:-

(1) *The projected electricity demand of Munnar and surrounding area:*

The present demand of M/s KDHPCL is around 12 MVA including the demand of KSEB Ltd feedback points. Their demand may increase to 20 MVA by 2030. KSEB Ltd had decided to construct the substation considering the high level of interruption in the area. The peak demand of around 4200kW is considered in Marayoor area. For the next 10 years, in Marayoor area, the growth rate is not increasing as expected. M/s KDHPCL in their ARR & ERC

has taken only 2% growth rate for each year from 2018-2022. The capacity proposed at present will be sufficient to meet the demand in the coming years. By the construction of 5MVA 33kV Substation at Marayoor, almost all the feedback points of KSEB Ltd will be disconnected, this will in turn reduce the load at Munnar area and also reduce the demand for KDHPCL.

*(2) The proposal of constructing 33kV transmission system instead of earlier proposal of the 66kV Substation:*

At present there are three 11kV feeders from Pallivasal to Munnar which can cater 9MVA load. KSEB Ltd is supplying power at Marayoor and other remote areas through 15 feedback points of KDHPCL network. Marayoor is about 45kms away from Munnar, so the interruption is high. Due to the appeal petitions pending before the Hon'ble Supreme Court, the land transfer for the construction of 66kV Substation was delayed and KSEB Ltd started construction of 33kV line from Marayoor to Munnar and 33/11kV Substation at Marayoor. In order to connect 33kV line completed upto Munnar the option is either extend the 33kV line upto Pallivasal or to construct a new 66/33kV Substation at Munnar by drawing 66kV line from Pallivasal to Munnar. The construction of Munnar Substation would take more than 2 years, whereas the Pallivasal 33kV DC line can be completed within 6 months. The land proposed by M/s KDHPCL is also not suitable for 66kV Substation construction due to the steep terrain. So KSEB Ltd decided to construct 33kV line from Pallivasal to Munnar. Once the entire load of KSEB Ltd consumers is diverted, the load of KDHPCL will be reduced. Once 33kV DC line is constructed to Munnar, KDHPCL can also have dedicated line from Pallivasal and they can construct their own 33kV Substation.

*(3) Transmission system proposed including the cost estimate of the 33kV Substation at Munnar and 66kV Substation at Munnar:*

In the two proposals by KSEB Ltd, the construction of 33kV line from Munnar to Marayoor and 33kV Substation at Marayoor is common. The difference is the construction of line from Pallivasal to Munnar and associated construction in Pallivasal and Munnar. In the earlier proposal, DC line was proposed to Marayoor but now SC line is proposed.

In the first proposal, two 66kV bays were to be constructed at Pallivasal. Construction of 6km 66kV line from Pallivasal to Munnar and 2 nos 66kV incoming feeder bays at Munnar and providing 33kV feeder outlet to KDHPCL was envisaged.

In the second proposal (Table 2 Revised estimate) consists of construction of 2 nos. of 20 MVA, 66/33kV transformer bay at Pallivasal Power House, construction of 7km 33kV DC line from Pallivasal to Munnar and construction of Substation at Munnar by KDHPCL. Out of the two 33kV DC lines from

Pallivasal to Munnar, each line can be used by KSEB Ltd and KDHPCL independently without affecting operation of the other.

*(4) Cost sharing between KDHPCL and KSEB Ltd:*

The cost of infrastructure is proposed to be shared as indicated in Table 2 Revised estimate. As per the Order of the Commission dated 18.08.2015 in OP No.17/2014, KSEB Ltd stated that the projected cost and the cost sharing will be decided by KSERC.

### **Response of M/s KDHPCL**

**14.** KDHPCL vide Letter dated 27.08.2021 submitted their counter affidavit against the petition filed by KSEB Ltd. The power is currently drawn by the Respondent at 11kV level from KSEB Ltd. The Licensee purchases power from KSEB Ltd. The Licensee company consumes 50% of the power purchased. The remaining power is used to supply the 11000 nos. labour and their families residing within the plantation, various consumers including for its own plantation activities and related consumption, and the balance power is supplied to independent consumers, including resorts in Munnar.

**15.** In the counter affidavit, the respondent submitted that it is the duty of KSEB Ltd, being the State Transmission Utility to meet the expenditure of the upgradation of the Substations by quoting para 31 in the Hon'ble Commission Order dated 18.08.2015 in OP 17/2014. The relevant portion is indicated below:

*31. In view of the facts and circumstances explained above, it can easily be found that the poor quality of supply of electricity had been a vexing problem in Munnar and surrounding areas. Interruption and voltage drops were frequent. For solving these issues, both the petitioner KDHPCL and the respondent KSEB Ltd have to cooperate, discuss and decide on the technical and financial requirements for the up-gradation of transmission system to carry the required power to Munnar area. In this, KSEB Ltd has a dual role to play. KSEB Ltd is the State Transmission Utility which has to build, maintain and operate an efficient transmission system within the State. KSEB Ltd is also the distribution licensee which sells electricity to M/s KDHPCL for distribution to the consumers in Munnar. As distribution licensee, KSEB Ltd is also distributing electricity to its consumers around the area of licence of KDHPCL by drawing power through the distribution system of KDHPCL. The present contracted demand of KDHPCL is only 7000 kVA as against the actual demand of about 12000 kVA. Admittedly the load growth in and around Munnar is at a rate of about 8%. Being an international tourism destination, the load growth is not likely to come down. KSEB Ltd has to meet the growing demand for power in its area of supply at localities like Marayoor and Vattavada which are about 30 km away from Munnar. KSEB Ltd is planning to implement a hydel project*

*namely Pambar (40 MW) utilizing the water resources of the east flowing river namely Pambar. KSEB Ltd, in the capacity of the State Transmission Utility, has a duty to construct required transmission lines taking into consideration of the above facts. **The transmission line and sub-station can be constructed by KSEB Ltd in its capacity as STU at its expense and realize transmission charges as determined by the Commission for transmitting energy along that line. Alternatively, STU can also take up the work as a deposit work funded jointly by KDHPCL and KSEB Ltd in its capacity as distribution licensee. In such case, the transmission line and sub-station will belong to KDHPCL and KSEB Ltd which fund for their construction.** If the expenditure relating to construction of transmission lines and sub-station at 66 kV level is shared, the issues relating to ownership of transmission line and substation, sharing of the operation and maintenance expenses, manning of the substation, control over sub-station etc. should also be appropriately addressed. Being distribution licensees, KDHPCL and KSEB Ltd should reach a consensus on such techno-economic issues.*

- 16.** Further they suggested that KSEB Ltd as the State Transmission Utility is obliged to construct transmission line and Substation as part of transmission in and around Munnar and beyond. The Distribution Licensee obligation is to only distribute power in its designated territory. The proposed 33kV Substation is to be constructed by KSEB Ltd at Munnar and there is no question of sharing this cost or any cost incurred by KSEB Ltd for transmitting the power for onward distribution by the Licensee. The distribution Licensee cannot be called upon to bear this cost for the upgradation of the transmission system, as it is not mentioned in Section 14 of the Electricity Act 2003, which is reproduced below;

**Section 14. (Grant of licence):**

*The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -*

- (a) to transmit electricity as a transmission licensee; or*
  - (b) to distribute electricity as a distribution licensee; or*
  - (c) to undertake trading in electricity as an electricity trader,*
- in any area as may be specified in the licence:*

*Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:*



*Provided further that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:*

*Provided also that in case an Appropriate Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:*

*Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:*

*Provided also that the Government company or the company referred to in sub-section (2) of section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule, shall be deemed to be a licensee under this Act:*

*Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements 1[relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:*

*Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:*

*Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures which may be specified by the Authority under section 53:*

*Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.*

- 17.** It is also submitted that the entire upgradation envisaged by KSEB Ltd should be on the premise that, any increase in the future demand of the Respondent upto 20 MVA is to be handled by the present upgradation to 33kV Substation.

## **Hearing of the Petition and the arguments presented**

**18.** KSEB Ltd was represented by Shri. Manoj G, Assistant Executive Engineer, TRAC. M/s KDHPCL was represented by Shri. P.M Srikrishnan (Executive Director), Adv. Joseph Kodianthra (Senior Counsel), Shri Raju. U. Warriar (Manager) and Sri Jayaraman (Executive).

### **Arguments by KSEB Ltd**

**19.** Sri Manoj, Assistant Executive Engineer, KSEB Ltd presented the petition filed in compliance of the above Order of the Commission and replied to the clarifications sought by the Commission in the matter. He stated that in compliance to the direction in OP No. 17/2014, several rounds of discussions were held between M/s KSEB Ltd and M/s KDHPCL during which they arrived at a conclusion on the techno economic aspects of developing the transmission network for meeting the load at Munnar and nearby areas. But there was no convergence on the matter of sharing the cost of the project between KSEB Ltd and KDHPCL.

**20.** The gist of the original proposal was to construct two 66 kV feeder bays at Pallivasal Power House and construct a 6 km 66 kV DC line from Pallivasal to Munnar, construct a 66kV substation at Munnar with 2 nos. 66kV incoming feeder bays and 2 nos. 66/33 kV transformer bays. The proposal envisaged to provide 33kV outgoing feeders to M/s KDHPCL and constructing 33kV DC line from Munnar to the proposed 33kV substation of KSEB Ltd at Marayoor. Accordingly, KSEB Ltd had on 01.4.2016 submitted the proposal at an estimated cost of Rs.2213.00 lakhs. As per the proposal, the land for the construction of substation at Munnar is to be provided by KDHPCL. However, due to litigations in the Hon'ble Supreme Court and issues related to the suitability of various land locations proposed by KDHPCL and the uncertainty in handing over of the land, construction of the substation at Munnar was delayed.

**21.** In the meantime, in order to resolve the voltage issues at Marayoor area, KSEB Ltd had continued with the construction of the 33kV substation at Marayoor, drawing 33kV line directly from Pallivasal Power House. KSEB Ltd submitted that the construction of 17 kms, 33 kV Single Circuit (SC) line from Rajamala to Vaguvarai, construction of 17 kms, 33 kV Single Circuit (SC) line from Vaguvarai to Marayoor and the construction of 14 kms, 33 kV Single Circuit (SC) line from Munnar to Rajamala and construction of 7 kms, 33 kV DC line from Pallivasal to Munnar, has already been completed. It was also submitted that the construction of 33 kV Substation at Marayoor, has been completed and commissioned. Out of the proposed installation of 2 X 20 MVA, 66/33 kV transformers at Pallivasal Power House, one 20 MVA transformer has already been commissioned.

22. Considering the fact that the construction of 66kV substation at Munnar and 66kV line from Pallivasal to Munnar would take more than 2 years and the urgency to address the issue in the power supply to Munnar area, a 33kV Substation may be constructed at Munnar at the cost of KDHPCL, utilizing the new 33kV line from Pallivasal Power House. KSEB Ltd submitted that the construction of 33kV Substation can be completed within a short time period of six months. Accordingly only, the 33kV line from Pallivasal to Marayoor has been drawn as Double Circuit in the Pallivasal- Munnar stretch, as agreed by both the parties.
23. KSEB Ltd has revised the administrative sanction for installation of 2 nos. 20 MVA, 66/33 kV transformers at Pallivasal Power House, 7km 33kV DC line from Pallivasal to Munnar, 31km 33kV Single Circuit (SC) line from Munnar to Marayoor and 33kV Substation at Marayoor. It may be seen that the line from Munnar to Marayoor and to Marayoor substation is exclusively for the purpose of serving consumers of KSEB Ltd whereas the 33kV DC line from Pallivasal to Munnar is for the use of both KDHPCL and KSEB Ltd. Hence KSEB Ltd proposes that the cost of common transmission system upto Munnar be shared between KDHPCL and KSEBL as per the load sharing. Accordingly, the transmission system from Munnar to Marayoor is included in the capital expenditure plan of KSEB Ltd and the revised proposal submitted for Rs. 1925.00 lakhs based on 2016 schedule of rates, as shown in Table 2 above.

#### **Arguments by M/s KDHPCL**

24. Adv. Joseph Kodianthra, Senior Counsel presented their counter argument in the matter and pointed out that as per Section 40 read with Section 39 of the Electricity Act, it shall be the duty of the transmission licensee to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system.

#### **Section 39. (State Transmission Utility and functions):**

- (1) *The State Government may notify the Board or a Government company as the State Transmission Utility:*

*Provided that the State Transmission Utility shall not engage in the business of trading in electricity:*

*Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.*

- (2) *The functions of the State Transmission Utility shall be -*

*(a) to undertake transmission of electricity through intra-State transmission system;*

*(b) to discharge all functions of planning and co-ordination relating to intra-State transmission system with -*

*(i) Central Transmission Utility;*

*(ii) State Governments;*

*(iii) generating companies;*

*(iv) Regional Power Committees;*

*(v) Authority;*

*(vi) licensees;*

*(vii) any other person notified by the State Government in this behalf;*

*(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;*

*(d) to provide non-discriminatory open access to its transmission system for use by-*

*(i) any licensee or generating company on payment of the transmission charges ; or*

*(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge there on, as may be specified by the State Commission:*

*Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:*

*Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:*

*Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission:*

*Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.*

**25.** The Counsel argued that the above sections clearly put the responsibility on KSEB Ltd, being the state transmission utility and therefore the cost should be borne by KSEB Ltd only and not to be shared. He further submitted that the said investments are those which the State Transmission Utility is obliged to incur. Further, as per Section 2 (67) – Definitions, the State Transmission Utility means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39. He stressed on the point that the cost on such investments cannot be shared, as it was the duty of the Strategic Business Unit – Transmission of KSEB Ltd to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission

system or intra-State transmission system. The duties of State Transmission Utility from Section 40 of Electricity Act,2003 is reproduced below:

**Section 40. (Duties of transmission licensees):**

*It shall be the duty of a transmission licensee -*

*(a) to build, maintain and operate an efficient, co-ordinated and economical inter State transmission system or intra-State transmission system, as the case may be;*

*(b) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;*

*(c) to provide non-discriminatory open access to its transmission system for use by-*

*(i) any licensee or generating company on payment of the transmission charges; or*

*(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:*

*Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:*

*Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:*

*Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:*

*Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.*

**26.** KDHPCL has also mentioned that KSEB Ltd has not mentioned the cost for setting up the 33kV Substation at Sevenmalai (Munnar) for receipt of 33kV power by the licensee for its onward distribution in the territory of KDHPCL. They further submitted that the cost of this infrastructure is also to be borne by KSEB Ltd, the State Transmission Utility.

**27.** The Commission observed that even though the development of the transmission system is the duty of the STU, KDHPCL being a Bulk consumer has to avail the power from KSEB Ltd at the voltage level, depending upon the contracted demand of Power and carryout the necessary transformation and distribution in the licensed area. KDHPCL having a contract demand of 9 MVA need to avail the supply at a voltage level of 33kV or above. Accordingly, the 33kV Distribution substation is to be established by the licensee itself. It is only based on a special permission; the present connectivity is provided through the 3 nos. of 11kV feeders. Commission also pointed out that the licensee had an accumulated surplus of Rs.9.00 Crores as per its finalized Regulated accounts.

- 28.** KDHPCL mentioned that this surplus amount is actually not available with the licensee, and the matter is pending in the Hon'ble Supreme Court of India. Further, the counsel of KDHPCL mentioned that, they intend to have another bilateral meeting with the management of M/s KSEB Ltd to sort out the issue pertaining to establishment of the 33kV Substation at Munnar and requested the Commission one more month time. Based on the outcome of the meeting, KDHPCL shall file an affidavit before the Commission.
- 29.** The Commission, has duly considered the arguments of the parties and directed both the parties, M/s KSEB Ltd and M/s KDHPCL to have a detailed bilateral discussion in the matter so as to reach a consensus, and to report to the Commission before 30<sup>th</sup> November 2021. The Commission shall consider the petition based on the submission made. Accordingly, Daily Order dated 29.10.2021 in OP No. 35/2021 was issued by the Commission.

### **Response from KDHPCL after the meeting with KSEB Ltd**

- 30.** M/s KDHPCL vide Letter dated 23<sup>rd</sup> November 2021, requested the Commission to allow time extension till 31<sup>st</sup> December 2021 to have a bilateral discussion with KSEB Ltd in the matter since they have not been able to initiate the discussion within the stipulated time. As per the request of M/s KDHPCL, the Commission allowed time extension upto 31<sup>st</sup> December 2021 to M/s KDHPCL, to have a detailed bilateral discussion with M/s KSEB Ltd regarding the establishment of the 33kV Substation in Munnar and to report the outcome to the Commission.
- 31.** In compliance with the Daily Order dated 29.10.2021 of the Commission in OP No. 35/2021, a meeting with KSEB Ltd was conducted on 21<sup>st</sup> December 2021 to discuss bearing/ sharing of cost of setting up a 33kV Substation in Munnar and the minutes of the meeting was forwarded to the Commission vide letter dated 15<sup>th</sup> January 2022.
- 32.** In the meeting KSEB Ltd pointed out that the Commission in the daily Order pointed to establish 33kV Substation by distribution licensee itself and also as per the existing regulations, the distribution infrastructure is to be developed by the licensee itself at their cost to receive the power at required voltage level. The total demand of M/s KDHPCL is estimated to be around 12 MVA, hence power is to be availed at 33kV. Further KSEB Ltd pointed out that, they are not in a position to establish 33kV Substation for the Licensee at their cost, as per the existing regulations.
- 33.** KDHPCL pointed that as per the existing tariff structure, the expense incurred will be ultimately reflect in Bulk Supply Tariff. KDHPCL has only limited area of distribution as compared to KSEB Ltd and limited resource to invest in a project like 33kV Substation and requested KSEB Ltd to construct Substation which they can recover through tariff.

## **Analysis and decision of the Commission**

**34.** The Commission examined; the petition filed by KSEB Ltd., the earlier Orders and the directions issued by the Commission in this matter, the details provided by both the parties, the arguments presented by the parties during the hearing and the affidavits filed, the techno-economic feasibility details on the matter, the provisions; in the Electricity Act 2003, State Grid Code and the Electricity Supply Code 2014, the duties and responsibilities; of the STU, the Distribution Licensee and the Consumer, and the related rules and regulations, and observe as follows:-

- 1) Kerala State Electricity Board Limited (KSEB Ltd), the appellant, is an integrated State Public Sector power utility in the State of Kerala, performing the three functions of Electricity Generation, Transmission, and Distribution, through three Strategic Business Units (SBUs). The Transmission Strategic Business Unit (SBU- T) performs the functions of the State Transmission Utility (STU) also, as envisaged under Section 39 of the EA 2003.
- 2) The respondent, M/s Kanan Devan Hills Plantations Company Private Limited (KDHPCL), is the Distribution Licensee in the Munnar and adjacent areas, based on the license granted under Section 14 of the EA 2003. At present, it is sourcing the power from KSEB Ltd. as a Bulk Consumer. The present contract demand with KSEBL is 9 MVA at 11 kV and is availed through three 11 kV feeders from Pallivasal Power House substation. KDHPCL demand may increase to 12 MVA in the near future.
- 3) KSEB Ltd is availing power of approximately 2 MVA from KDHPCL through 15 Nos. LT/ HT drawal points. The areas thus fed by KSEB Ltd include Marayur and adjacent areas, fed through 11 kV feeders of more than 50 km length. The net consumption and demand of KDHPCL is accounted monthly after analyzing the total input power and drawal power at the drawal points.
- 4) Because of the remote, hilly and forest terrain, power interruption is frequent and quality of power in the area is very poor. Both the parties and the consumers suffer very much due to these adverse situations. Reinforcement of the sub transmission and distribution infrastructure in the area is essential to improve the quality of power in the area. Moreover, KSEB Ltd intends to stop the drawal of power back from KDHPCL distribution system and provide distribution of power in their area of supply through a new 33 kV substation at Marayur.
- 5) Initially it was decided to construct a 66 kV substation at Munnar and reinforce the network. But due to many techno economic and land availability issues, the proposal could not be implemented. Hence, based on the directions of

the Commission in the previous petitions filed in this regard, KSEB Ltd have filed this petition for orders of the Commission.

- 6) As per the petition, the mutually agreed technically feasible proposal to reinforce the electricity distribution in the area is as follows:-
- (i) Construct 2 Nos, 20 MVA, 66/33 kV transformer bays at Pallivasal (one unit immediately and the other unit in future);
  - (ii) Construct 7 km of 33 kV double circuit line from Pallivasal to Munnar (one circuit for KDHPCL and one circuit for KSEB Ltd substation at Marayur);
  - (iii) Construct 31 km of 33 kV single circuit line between Munnar and Marayur;  
and
  - (iv) Construction of a 33/ 11 kV substation at Marayur.

The details and the cost estimate as per 2016 schedule of rates are indicated in Table 2 of Para 10 above. The request of KSEB Ltd is that the cost of items (i) & (ii) above is to be shared between KDHPCL & KSEB Ltd. The cost detail of the 33 kV Substation at Munnar is not provided by KSEB Ltd.

- 7) In this regard the requirement of KDHPCL is that, KSEB Ltd should construct the 33 kV line to Munnar and the 33 kV Substation at Munnar at KSEB Ltd cost, and the power at 11 kV be provided to KDHPCL, as existing. Whereas, the requirement of KSEB Ltd is that, KDHPCL should construct the 33kV Substation at Munnar at their cost and also share, the infrastructure upgradation cost at Pallivasal and the cost of 33 kV line to Munnar.
- 8) This issue was dealt by the Commission earlier in OP No. 17/2014 filed by KDHPCL. The relevant portion of the Order dated 18.08.2015 is provided in Para 15 above. In this Order, the Commission has observed that, KSEB Ltd, in the capacity of the State Transmission Utility, has a duty to construct required transmission lines taking into consideration of the above facts. The transmission line and Sub-station can be constructed by KSEB Ltd in its capacity as STU at its expense and realize transmission charges as determined by the Commission for transmitting energy along that line. Alternatively, STU can also take up the work as a deposit work funded jointly by KDHPCL and KSEB Ltd in its capacity as distribution licensee. In such case, the transmission line and sub-station will belong to KDHPCL and KSEB Ltd which fund for their construction. If the expenditure relating to construction of transmission lines and Sub-station at 66 kV level is shared, the issues relating to ownership of transmission line and substation, sharing of the operation and maintenance expenses, manning of the substation, control over Sub-station etc. should also be appropriately



addressed. Being distribution licensees, KDHPCL and KSEB Ltd should reach a consensus on such techno-economic issues.

- 9) Even though many bilateral meetings were held in this regard between the parties no consensus was reached on the cost sharing issue. The last meeting was held on 21.12.2021 and no consensus was reached and the matter was reported to the Commission by KDHPCL through a letter dated 15.01.2022, enclosing the copy of the minutes, for further directions. Further in the Order dated 18.08.2015 in OP No. 17/2014, the Commission had ordered that, 'based on the outcome of the discussions between the parties and the proposals there of, the Commission will take appropriate decision on the project cost as well as on the sharing of cost'.
- 10) In this regard, it is observed that the area definitely requires electricity transmission/ distribution infrastructure upgradation to cater the new developments in the area being the international tourism destination and also to evacuate the power from the proposed generation projects nearby. On the Transmission front, KSEB Ltd being the STU has the statutory obligation under Section 39 & 40 of the EA 2003, to reinforce the transmission infrastructure in the area spanning more than 60 km. Accordingly, KSEB Ltd has to develop the Transmission network of 33 kV and above in the area taking into consideration the future requirements in the area. These infrastructure development works can be included under the capital investment plan of the STU and the cost can be realized through Transmission charges. As such, the proposal detailed in Table 2, i.e., Construction of 2 nos 20 MVA 66/33kV transformer bay at Pallivasal, Construction of 7km 33kV DC line from Pallivasal to Munnar, construction of 14km 33kV SC line from Munnar to Rajamala, construction of 17km 33kV SC line from Vaguvara to Marayoor and construction of 33kV Substation at Marayoor, has to be considered as the Capital Investment Plan of KSEB Ltd under SBU-T and the cost need not be shared with others. It is to be noted that this work (except the second transformer) has already been completed and commissioned.
- 11) KDHPCL is the distribution licensee in Munnar area and is also a bulk consumer of KSEB Ltd availing 9 MVA power for distribution in the area. Being a consumer of KSEB Ltd, KDHPCL is bound to avail power supply at the appropriate voltage level of 33 kV or above, in accordance with the provisions of Regulation 8 of the Kerala Electricity Supply Code, 2014. Accordingly, with the present arrangement for availability of 33 kV supply from KSEB Ltd at Munnar area, KDHPCL has to avail the supply at 33 kV and distribute it to its consumers at 11 kV and 400 V, through a 33 kV

Substation of sufficient capacity at Munnar. The expenses for this Substation shall be considered as the capital investment of the License, i.e., KDHPCL and will be factored while finalizing the Bulk supply tariff of the licensee. Otherwise, if the licensee intends to procure power through open access or through other generators/ traders also, the licensee has to make connectivity arrangements at the appropriate voltage level.

12) In view of the above facts, Commission decides as follows: -

- (i) The Transmission system development in the area should be done by the STU. Hence works detailed in Para 10, Table 2, i.e., Construction of 2 nos 20MVA 66/33kV transformer bay at Pallivasal, Construction of 7km 33kV DC line from Pallivasal to Munnar, Construction of 14km 33kV SC line from Munnar to Rajamala, Construction of 17km 33kV SC line from Vaguvara to Marayoor and Construction of 33kV Substation at Marayoor, shall be carried out by KSEB Ltd and the expenses shall be accounted in the capital investment expenses of KSEB Ltd, SBU- T in the respective accounting years.
- (ii) KDHPCL shall avail the 33 kV supply from the 33 kV feeder already available at Munnar. A 33/ 11 kV Substation of sufficient capacity shall be established by KDHPCL at Munnar at their own cost and the distribution system of the licensee be rearranged through this Substation. KDHPCL can utilize the accumulated surplus available with the licensee or any other financing/loan system for establishing the 33 kV Substation at Munnar. The Substation and associated works should be completed before March 2024 positively. KDHPCL can get the work done through KSEB Ltd as deposit work or through qualified external agencies following due tender process as considered appropriate.
- (iii) KSEB Ltd shall take immediate action to provide quality power to its consumers from its own distribution system. The back feeding interconnection/ drawal points existing at 15 points should be discontinued before March 2024.
- (iv) The Commission conveys its displeasure to the petitioner (KSEB Ltd) and the respondent (KDHPCL), over the failure of both, in implementing the earlier directions of the Commission from 2011 onwards in this regard, for improving the quality of power supply to the consumers in the area. Any further failure in implementing this Order will be taken seriously and action under the provisions of the EA 2003 will be taken.

## Orders of the Commission

**35.** The Commission after examining; the petition filed by KSEB Ltd., the earlier Orders and directions issued by the Commission in this matter, the details provided and the arguments presented by KDHPCL & KSEB Ltd., the techno-economic feasibility details on the matter, the provisions; in the Electricity Act 2003, State Grid Code and the Electricity Supply Code 2014, the duties and responsibilities of; the STU, the Distribution Licensee and the Consumer and the related rules and regulations, hereby orders as follows:-

- (i)** The Transmission system development in the area should be done by the STU. Hence works detailed in Para 10, Table 2 shall be carried out by KSEB Ltd and the expenses shall be accounted in the capital investment expenses of KSEB Ltd SBU- T in the respective accounting years.
- (ii)** KDHPCL shall avail the 33 kV supply from the 33 kV feeder already available at Munnar. A 33/ 11 kV substation of sufficient capacity shall be established by KDHPCL at Munnar and distribution system of the licensee be rearranged through this substation. The Substation and associated works should be completed before March 2024 positively.
- (iii)** KSEB Ltd shall take immediate action to provide quality power to its consumers from its own distribution system. The back feeding interconnection/ drawal points existing at 15 points should be discontinued before March 2024.
- (iv)** KSEB Ltd and KDHPCL should provide report of progress of the above matters in every six months interval beginning July 2022 without fail.

The petition is disposed of as ordered above.

Sd/-  
**Adv. A. J. Wilson**  
Member (Law)

Sd/-  
**Preman Dinaraj**  
Chairman

Approved for issue

Sd/-  
C R Satheesh Chandran  
Secretary