

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

Present: **Shri. S. Venugopal, Member**  
**Shri. K.Vikraman Nair, Member**

**Petition No. OP 4/2017**

In the matter of : Application for inclusion of additional distribution license area of KINESCO Power and Utilities Private Limited.

Petitioner : The Chief Executive Officer  
KINESCO Power and Utilities Pvt. Ltd.  
KINFRA Park Office, Infopark P.O,  
Kakkanad, Kochi-682 042

**Order dated 11.09.2018**

1. KINESCO Power and Utilities Pvt. Ltd (hereinafter referred to as KPUPL) has filed an application before the Commission on 27.02.2017, for extending its distribution license area to the KINFRA Mega Food Park, in the 3214.23 Ares (79.42 acres) of land at Kanjikode, Palakkad. KPUPL source the power from KSEB Ltd. Internal resources are proposed for creating the distribution infrastructure.
2. The Commission admitted the petition as OP No.4/2017 and forwarded a copy of the application to the KSEB Ltd for their comments. The Commission has also directed KPUPL to publish the applications in two dailies for comments of the stakeholders. KSEB Ltd submitted its comments on 13.09.2017.
3. The Commission conducted a public hearing on the petition at 'Soorya Retreat, Palakkad on 14.09.2017. Sri. Sajeev M.S, resident engineer, KPUPL, briefly presented the petition before the Commission on behalf of the petitioner. The Mega Food Park at Kanjikode, Palakkad is being implemented in accordance with Mega Food Park Scheme of Ministry of Food Processing Industries, Government of India. The project includes (i) Centralised Processing Unit, (ii) Primary Processing Center, (iii) Standard Design Factories (SDF), (iv) Core facilities including cold storage, Ripening chamber, raw materials Warehouse, Finished product warehouse, Silos, Pack house, Quality Control Lab etc. The electricity demand expected in the park is 1 MW for the FY 2017-18, 3 MW for 2018-19 and 6 MW for 2019-2020. The electricity demand is proposed to be met from KSEB Ltd.
4. Sri. A Mohanan, Secretary, Elappully Grama Panchayath, submitted that, it has no objection in giving distribution license to KPUPL. He added that

Panchayath is not having any technical knowhow to comment on the other aspects of the proposal.

5. Sri. Bipin Sankar, Deputy Chief Engineer, KSEB Ltd submitted that the application for additional license area to extend the distribution license in Mega Food Park by KPUPL may be rejected by the Commission due to the following;-
  - (i) KSEB Limited, the State Government owned power utility, is the deemed distribution licensee for the entire State of Kerala. Therefore the application of M/s KINESCO for the license for Mega food park can be treated only as a subsequent license in accordance with Proviso 6 to Section 14 of the Electricity Act, 2003.
  - (ii) The minimum area prescribed by Government of India, vide notification dated 23.3.2005 as per "Distribution license Rules 2005" are to be satisfied by KPUPL.
  - (iii) Government of India also issued under Special Economic Zone 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 Sec 14 of Electricity Act 2003. The area specified (3214.23 Ares (79.42 acres) of land) in the petition has not been notified as Special Economic Zone.
  - (iv) The Commission has limited the licensee to SEZ area alone while granting license to M/s Infopark and Cyber park.
  - (v) The subsidizing commercial consumers are expected in the proposed license area, hence granting license to the area may affect its ability to provide electricity to the subsidizing categories.
  - (vi) The Commission vide the order dated 25<sup>th</sup> July 2012, in petition No. RP 2/2012 has limited the license of M/s Infopark to the area notified under SEZ alone. Similar treatment also done while granting license for distribution in Cyber Park, Kozhikode also.
  - (vii) KSEB Ltd requested to reject the application for extending the licensed area of KPUPL to the Mega Food Park.
6. The Commission vide the daily order dated 22.09.2017 granted time till 03.10.2017 to the petitioner KPUPL and the respondent KSEB Ltd to file additional details.
7. KSEB Ltd vide letter dated 10.10.2017 submitted the additional details and the summary of the issues raised by them are given below.
  - (i) KSEB Ltd is the successor entity to erstwhile KSEB, and the State Government owned power utility has the distribution license for the entire State, including the area for which license sought for by the petitioner. Hon'ble Appellate Tribunal for Electricity (APTEL) in the

judgment dated 16.12.2011 in Appeal No. 39 of 2011, has observed these facts.

- (ii) The sixth proviso to Section 14 of the Electricity Act, 2003 specifies the conditions prescribed by the Central Government 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:
  - (iii) *Government of India, vide Notification dated 23-03-2005 has prescribed the additional requirements wherein the following are prescribed.*
    - 1. *The Commission shall decide the requirement of capital investment in the area.*
    - 2. *The applicant shall be required to satisfy that 30% of the cost of investment is available.*
    - 3. *In case of second licensee, the minimum area of supply shall be a municipality, corporation or revenue district.*
    - 4. *The applicant has not been found guilty under provisions of Companies Act, IT Act, SEBI Act, Excise and Customs Act.*
  - (iv) The area notified for setting up Mega Food Park is not notified as Special Economic Zone.
  - (v) KSEB Ltd further, appealed before the Hon. Commission that:
    - (a) *The license application can only be treated as a second application for distribution license in Mega food park, Palakkad since KSEB already possess a license in that area.*
    - (b) *The said area does not satisfy the minimum area specified in the Gol notification.*
    - (c) *The said area does not come under SEZ as no documents to that effect are filed by the petitioner.*
    - (d) *As per the existing statutes and notifications, the petitioner is not eligible to get a distribution license in the Mega Food Park area in Palakkad.*
8. KSEB Ltd, vide the additional submission dated 20.11.2017 submitted that:
- (i) KINFRA remitted approximately one crore for construction of dedicated feeder to KINFRA park. The work is in progress.
  - (ii) KSEB Ltd is able to supply from Valayar Kozhippara feeder, which is about 500 meter away from Mega Food Park. This 22 kV feeder has a capability to deliver 7 MW, but presently loaded only upto 1 MW. This feeder is sufficient to meet the entire 5.5MW sought by KINFRA.
  - (iii) In various industrial parks including that of KINFRA, quality power is being provided by KSEBL.

- (iv) KSEB Ltd can provide supply to the Mega food park treating it as a industrial complex having 5.5 MW connected load. KSEB Ltd is ready to empower the park operators for single window clearance as part of 'ease of doing business' and to provide supply by utilising the facility provided under Kerala Electricity Supply code, 2014 for Single Point Supply.
  - (v) KSEB Ltd, therefore submitted that KSEB Ltd will be able to provide quality supply meeting the requirements of KINFRA's Mega Food park at Palakkad.
9. The Commission vide letter dated 29.12.2017 directed KPUGL to submit the following additional information, on or before 31.01.2018.
- (1) The documents including Government Order that, M/s KPUGL is a subsidiary company of M/s KINFRA.
  - (2) The proof to claim exemption under Regulation 3(2)(a) of the KSERC(Licensing) Regulations, 2006.
  - (3) The capital adequacy and net worth of the assets as per regulation 3(2)(c) of the KSERC (Licensing) Regulations,2006.
  - (4) The details of the distribution infrastructure proposed to be created in the additional license area with details of investment proposed to be made.
  - (5) As per the application, M/s KINFRA is making infrastructure in the proposed Mega food park for erecting distribution infrastructure. Hence KPUGL was directed to clarify, whether this belongs to KPUGL.
  - (6) The complete application under Regulation 4 of the KSERC (Licensing) Regulations, 2006.
10. KPUGL vide letter dated 30.1.2018 submitted the additional information and documents as directed by the Commission. The details are given below:
- (i) *The State Government vide the order GO (MS) No. 88/2008/ID Dated 27-06-2008, accorded sanction for the formation of joint venture with KINFRA and NTPC Electrical Supply Company Limited (NESCL) for distribution of power in industrial areas, parks and special economic zones of KINFRA. Accordingly, a 50:50 joint venture company named KINESCO Power and Utilities Pvt Ltd (KPUGL) has been formed on 17<sup>th</sup> September 2008.*
  - (ii) Subsequently, the State Government vide the G.O (Rt) No. 756/2014/ID dated 07-07-2014, accorded sanction to KINFRA for the withdrawal from joint venture agreement entered between KINFRA/KEPIP and NESCL and for spending necessary funds for arranging security deposit to be given to KSEBL for the signing of the Power Purchase agreement for undertaking operation and maintenance of the power distribution system in various KINFRA parks.
- KPUGL also submitted a copy of the list of shareholders filed with the registrar of companies, Ernakulam, under Ministry of Corporate Affairs.

- (iii) *The State Government vide the order. G O (MS) No. 29/2017/ID dated 03-05-2017, had accorded sanction for declaring KINFRA Mega Food Park at Palakkad and other parks as Industrial Parks as well as formation of single window clearance board.*
- (iv) *From the audited accounts report of KPUPL as on 31.03.2016, it is understood that KPUPL have net worth more than the estimated annual charges of the assets of Mega Food Park.*
- (v) *At Mega Food Park, Kanjikode, Palakkad, the source of power is proposed from 22 KV feeder at Walayar KSEBL Substation. The power is brought to the park through 22 KV lines for a distance of 2.65 km using covered conductors. M/s. KINFRA have deposited an amount of Rs. 1.02 crores to KSEBL for the transmission side developments and for availing supply to the Mega Food Park. Inside the entire food park, HT and LT distribution are through overhead lines. KINFRA is investing an amount of Rs. 3.20 Crores for developing internal electrical distribution network*

*For LT distribution system, 4 Nos of 250 KVA, 22 KV / 433 V transformers are proposed.*

*For the Admin Building, 1 No. of 500 KVA, 22 KV / 433 V transformer with double pole structure and 1 No. 100 KVA diesel generator are proposed.*

*For the SDF Building, 2 Nos. of 500 KVA, 22 KV / 433 V transformer with double pole structure and 1 No. 62.5 KVA diesel generator are proposed.*

- (vi) *At present, KINFRA is making the infrastructure developments for the erection of distribution network at Mega Food Park. Once the licence is obtained by KPUPL, the entire distribution network will be handed over to KPUPL at a debt-equity ratio of 70:30.*

11. The Commission, observed that under regulation 3 (2) of KSERC (Licensing) Regulation, 2006 the area of supply for distribution licence shall not be less than a Panchayat, municipality or corporation. Exemption is being granted by the Commission in the case of service providers such as Technoparks, Industrial Parks, Special Economic Zones, Export Zones etc. It is noted that, KPUPL has not submitted the copy of the notification by the State Government under Section 2(f) of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999 declaring that, the Mega Food Park at Palakkad as an Industrial Area for such exemption. Hence the Commission, vide letter dated 16.5.2018 has directed KPUPL to submit the copy of the State Government notification declaring the Mega Food Park at Palakkad as an industrial area, within 4 weeks from the date of receipt of the letter.
12. KPUPL, vide its letter dated 7.8.2018 submitted the copy of the Govt Gazette notification GO (P) No.16/2018/ID dated 10<sup>th</sup> July 2018 (published as SRO

No. 502/2018 in the Kerala Gazette Extraordinary No.1975 dated 24<sup>th</sup> July, 2018) notifying 3214.23 Ares (79.42 Acres) of land of Kinfra Mega food Park as industrial area in exercise of the powers under Section 2(f) and Section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999.

### Analysis and Decision

13. The Commission has examined, the application filed by KPUPL for additional distribution license area for the Mega Food Park at Kanjikode, Palakkad, the comments of KSEB Ltd, the guidelines for Mega Food Park scheme notified by the Central Government, orders issued by the State Government for setting up of Mega Food Park at Kanjikode, and the decisions in various meetings between the State Government, KINFRA and KSEB Ltd on providing electricity to industrial parks of KINFRA.
14. The Mega Food Park, at Kanjikode, Palakkad in Kerala is one of the 42 Mega Food Parks allotted to various States by the Ministry of Food Processing Industries in Central Government. The primary objective of the Mega Food Park Scheme (MFPS) is to provide modern infrastructure facilities for the food processing along the value chain from the farm to the market. It will include creation of processing infrastructure near the farm, transportation, logistics and centralized processing centers. Creation of basic infrastructure including that for electricity distribution within the Mega Food Park is part of the enabling basic infrastructure of the project. Further, under the MFPS, the Central Government shall provide a capital grant of 50% of the project cost subject to a maximum Rs 50.00 crore to the project.
15. The Ministry of Food Processing Industries in Central Government vide the approval dated 31.03.2015 has granted 'in principle approval' for establishment of Mega Food Park in the State of Kerala by M/s Kerala Industrial Infrastructure Development Corporation (KINFRA), a statutory body formed by Kerala Government to develop, promote and maintain Industrial Infrastructure in the State.
16. The State Government vide the Government Order G.O (Rt) No. 759/2015/ID dated 04.08.2015 has granted administrative sanction to the project for an amount of Rs 121.92 crore. Out of the total project cost, Rs 15.00 crore is earmarked for creation of distribution infrastructure within the Mega Food Park. The project is executed with the grants from the Central Government and State Government as follows.-

#### Funding pattern (Year wise)

Year	GoK	Gol	Term Loan
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)
2015-16	2.00	15.00	10.00
2016-17	26.58	15.00	11.76
2017-18	15.00	20.00	6.58
Total	43.58	50.00	28.34

17. Subsequently, the Central Government has granted final approval for setting up the Park vide its order dated 27.11.2015, with a project cost of Rs 119.02 crore, including a grant in aid of Rs 50.00 crore, term loan of Rs 28.34 crore and State Government contribution of Rs 40.68 crore.
18. As per the guidelines issued by the Ministry of Food Processing Industries, Government of India, KINFRA as the park developer, is responsible for creation of distribution infrastructure within the park area, along with roads, drainage, water supply, effluent treatment, telecommunication lines etc. Further, the said guidelines also cast upon the State Government, the responsibility to provide necessary assistance for power, water, approach roads etc.
19. As per the Mega Food Processing Schemes notified by the Central Government, the activities of the Mega Food parks involves the following.
  - (i) Centralized processing center
  - (ii) Primary processing center,
  - (iii) Standard design factories (SDF),'
  - (iv) Core facilities including cold storages,
  - (v) Raw materials ware houses,
  - (vi) Pack house,
  - (vii) Quality control lab etc.

The park developer has to create necessary infrastructure for providing power supply to the above activities along with other infrastructure facilities required at the park. The developer has to utilize the grants available from the Central and State Government for this purpose.

20. The present application filed by KPUPL before this Commission is to get an extension of distribution license for distribution of electricity within the park area for KPUPL, a subsidiary of KINFRA, instead of KSEB Ltd, the incumbent licensee, supplying power to the park area. In this matter, the following are noted.
  - (i) As on 06.02.2018, nine out of the 42 Mega Food Parks Schemes in the Country are operational. The park developers of these schemes seek separate distribution license for distributing electricity within the Mega Food Park established by them.
  - (ii) One of the two Mega Food Park Scheme allotted to this State is being developed by KSIDC, another infrastructure developer constituted by the State Government, at Alappuzha district with a total capital cost of Rs 129.15 crore. KSEB Ltd, the incumbent distribution licensee has been providing electricity within the Mega Food Park developed by KSIDC at Alappuzha.
  - (iii) If the distribution of electricity within the Mega food park at Palakkad is being done through KSEB Ltd, the present dispute between KSEB Ltd and KINFRA/KPUPL could have been avoided. However, at the Mega Food Park, at Palakkad, the developer KINFRA proposed to distribute

electricity through its subsidiary KPUPL, instead of through the incumbent licensee KSEB Ltd.

21. Kerala Industrial Infrastructure Development Corporation (KINFRA) is a statutory body formed by Kerala Government to develop, promote and maintain Industrial Infrastructure in the state of Kerala as per the provisions of the Kerala Industrial Infrastructure Development Act, 1993. Among others, Chairman and Managing Director of KSEB Ltd is one of the Directors of KINFRA. KPUPL is a subsidiary company of KINFRA, established for distribution of electricity with in the industrial parks and special economic zones, developed by KINFRA. One of the Director of KSEB Ltd is the Director of the KPUPL as well.
22. Unlike in other States, this Commission has granted license to the various IT parks and special economic zones based on their request, including KINFRA, Technopark, Cochin Special Economic Zones, Infopark etc for distributing electricity within their IT Parks/ SEZs, irrespective of the size of area of operation and consumer mix of these service providers. However, since the inception of these small licensees, as per the policies of the State Government, the erstwhile KSEB and its successor in interest KSEB Ltd has been supplying electricity to these service providers at the BST approved by the Commission from time to time.
23. It is also a fact that, the consumers of the KINFRA and other Industrial parks & SEZs are mostly industrial/ Industrial IT consumers, and they do not have the subsidized categories such as domestic, agriculture etc, like the consumer mix of KSEB Ltd, wherein the domestic consumers itself account for more than 51% of their total consumption.

KSEB Ltd as the successor to the erstwhile Kerala State Electricity Board and the incumbent distribution licensee of the State, has been implementing the various policies of the State and Central Government. KSEB Ltd is also generating and purchasing the entire electricity requirement of the State including the power requirement of these service providers and small distribution licensees in the State. Almost all the subsidized categories of consumers are with KSEB Ltd. Considering these aspects in detail, the Commission has been adopting a policy of following 'retail supply tariff (RST) for the consumers' and 'bulk supply tariff (BST) for the small licensees.

- (i) The Commission has been following uniform retail supply tariff in the State, irrespective of whether the consumers are availing power from KSEB Ltd or from other licensees. The retail supply tariff determined by the Commission for the incumbent distribution licensee KSEB Ltd has been made applicable to all the consumers of the State including the consumers of the small distribution licensee and service providers.
- (ii) The BST applicable to each small licensee, is being determined in such a way that, the total revenue from sale of power after meeting the allowable expenditure of the small licensees, as approved by the Commission, is being passed on to the KSEB Ltd as BST.

By this methodology, the cross subsidy of the subsidizing categories of consumers with the small licensees and service providers is being transferred to KSEB Ltd for subsidizing the subsidized categories with KSEB Ltd.

- (iii) KSEB Ltd is bound to meet the power requirement of the small licensees/ service provides as per the Power Purchase Agreement (PPA) entered into between them, and/or as per the policies of the State Government regarding the power supply to Industrial parks etc.
24. At present, the KPUPL, the subsidiary of KINFRA, has license for distributing electricity in the following industrial parks of KINFRA, by availing power from KSEB Ltd at the BST approved by the Commission.
- (a) Kinfra Export Promotion Industrial Park, Kakkanad (180.126 acres)  
The electricity distribution at Kakkanadu is in fully operational.
  - (b) Land of Kinfra for KEPIP expansion, Kakkanad (100 acres)  
The electricity distribution in this area is yet to be operationalised.
  - (c) Kinfra Hi-Tech Park, Kalamassery (240 acres)  
(Not yet fully operational.)
  - (d) Kinfra Integrated Textile Park, Palakkad. (350 acres)
25. However, in many other parks developed by KINFRA such as 'Apparels and textile parks at Thumba & Thaliparambu, Film & video parks at Kazhakoottam, Food processing zone at Malappuram, various industrial parks across the state, Kinfra defence park at Ottappalam etc, the power supply is being provided by the incumbent licensee KSEB Ltd.
26. In the present case, the KINFRA/KPUPL proposes to distribute electricity in the Mega Food Park, by availing power from KSEB Ltd. It is submitted by KPUPL in the application for grant of licence that, the total power requirement of the park is about 6 MW by the year 2019-20, and the entire requirement is proposed to be purchased from KSEB Ltd through long term contracts. Since the entire power requirement of the Mega Food Park is met from KSEB Ltd and also as per the methodology followed by the Commission for determining the BST of KPUPL and others, the net revenue after meeting the expenses of the KPUPL as approved by the Commission shall be passed on to the KSEB Ltd as BST of KPUPL. Accordingly, one of the major objections raised by KSEB Ltd has been addressed to a great extent.
27. The Regulation 3(2) of the Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2006 stipulates that;

***“3. Eligibility Conditions of persons requiring a Licence.-***

.....

***(2) Distribution Licence (a) The Area of Supply for distribution licence shall not be less than a Panchayath, Municipality or Corporation. Exemption may be granted by the Commission in the case of service providers such as Technoparks, Industrial Parks, Special Economic Zones, Export Zones, etc.***

***(b) Technical Requirement: The person requiring distribution licence shall have fifteen years experience in case of graduate electrical engineer or twenty***

years for diploma holders in electrical engineering in development, design, construction, operation and maintenance of distribution system. Provided that the above said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.

(c) *Capital Adequacy: Net worth of the applicant shall not be less than the estimated annual charges of the assets in respect of which the application for grant of licence has been made.*

(d) *Multiple licence: Persons requiring distribution License pursuant to 6<sup>th</sup> proviso to Section 14 shall also satisfy the conditions prescribed under the Government of India Notification G.S.R. 188(E)."*

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28. Further, Section 2(f) of the Kerala Industrial Single Window Clearance Boards & Industrial Township Area Development Act, 1999 defines "Industrial Area" as follows:

***"Section 2 – Definitions***

.....

(f) *"Industrial Area" means any area in the State declared to be an industrial area by the Government by notification in the Gazette from time to time and includes industrial estates; development area, development plots, mini industrial estates, industrial parks and growth centres;"*

Section 5 of the same Act is also reproduced here:

***"Section 5 - Industrial Area Boards***

(1) *For the purpose of speedy issue of various licenses, clearances or certificates required under the various State enactments for setting up of small scale industrial undertakings or industrial undertakings in the Various Industrial areas of the State, the Government may, by notification constitute Single Window Clearance Boards for every industrial areas in the State to be called Industrial Area Single Window Clearance Board.*

(2) *Every Industrial area Single Window Clearance Board shall be a body corporate by name of the Industrial Area for which it is constituted, having perpetual succession and a common seal.*

(3) *Every Industrial Area Single Window Clearance Board shall consist of the following members, namely:-*

(a) *Principal Secretary to Government, Industries Department or his nominee;*

(b) *Collector of the District;*

(c) *Chief Executive of the Agency owning or managing the industrial area;*

(d) *Designated Authority of industrial area concerned;*

(e) *District Officer of the State Pollution Control Board;*

(f) *District Officer of the Electrical Inspectorate;*

(g) *District Officer of the Town Planning Department;*

(h) *District Medical Officer;*

(i) *Executive Engineer of the Kerala State Electricity Board;*

(j) *District Officer, Factories and Boilers Inspectorate;*

(k) *Divisional Fire Force Officer;*

(l) *Divisional Forest Officer;*

(m) *District Labor Officer;*

(n) *Deputy Commissioner, Sales Tax and Agricultural Income Tax;*

(o) Executive Engineer, Kerala Water Authority;

(4) The Government may appoint one of the members of an Industrial Area Board not below the rank of District Collector to be its chairman and the Designated Authority of the Industrial Area shall be the Convener of the Industrial Area Board.

(5) The Industrial Area Board shall meet at such time and place to be fixed by the chairman of the industrial Area Board and shall observe such procedure in regard to its trisection of business as may be made in the bye-laws.

(6) The Industrial Area Board may associate itself, in such manner and for such purposes as may be prescribed, with any person whose assistance or advice it may desire to have in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the Industrial Area Board relating to that purpose as a special invitee and shall not be considered as a member of the Industrial Area Board.”

29. The Commission considered the Gazette notification dated 10<sup>th</sup> July 2018 declaring 3214.23 Ares (79.42 Acres) of land possessed by KINFRA Mega Food Park as Industrial area under the Kerala Industrial Single Window clearance Board and Industrial Township Area Development Act 1999.
30. The Commission has also noted the minutes of the meetings held by the Additional Chief Secretary (Industries and Power) on 21.08.2017 and on 19.12.2017 with the officials of KSEB Ltd and KINFRA to sort out the issues in providing power to various parks of KINFRA. Director (Distribution & IT) and Director (Transmission and SO) of KSEB Ltd has attended the meetings. In the said meetings, it was decided that, KSEB Ltd will not object to license status for KINESCO to Mega Food Park at Palakkad.
31. As indicated above, there is an understanding at State Government level between the KSEB Ltd, the State Government owned power utility and KINFRA, a statutory body constituted by the State Government for infrastructure development of the industrial parks and that KSEB Ltd shall not object the licensee status for KINESCO to Mega Food Park at Palakkad. Hence, the objections raised by KSEB Ltd against the grant of licensee status to KPUPL at Mega Food Park, Palakkad before this Commission is considered as settled between them.
32. As given under paragraph 24 above, the KPUPL, the subsidiary of the KINFRA has license for distributing electricity at the industrial parks at Kakkanad, Kalamassery and Integrated Textile park at Palakkad. Hence the Commission proposes to include the Mega Food Park, Palakkad also under the distribution area of the KPUPL subject to the following conditions,-
  - (1) KINFRA shall develop the distribution infrastructure within the Mega Food Park at Palakkad by utilizing the grant from Central Government and State Government.
  - (2) The Commission shall not allow depreciation, interest, and Return on Equity on the distribution assets created by KINFRA, with the grants from Central and State Government.
  - (3) The operation and maintenance of the distribution assets within the Mega Food park is the responsibility of KPUPL/ KINFRA.

- (4) The retail tariff applicable to the electricity usage within the Mega Food Park at Palakkad will be the retail tariff approved by the Commission from time to time.
- (5) The KPUPL shall also follow the provisions in the KSERC (Licensing) Regulations, 2006, and its amendments, other Regulations, orders and directions issued by the Commission, applicable to the distribution licensees from time to time.

### **Orders of the Commission**

The Commission, after duly examining the application filed by KPUPL for extending their distribution license area to the Mega Food Park at Kanjikode, Palakkad, the comments of KSEB Ltd, the guidelines for Mega Food Park scheme notified by the Central Government, orders issued by the State Government for setting up of Mega Food Park at Kanjikode, State Government notification declaring the area under Section 2(f) of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999, the decisions in various meetings between the State Government, KINFRA and KSEB Ltd, hereby orders that the license area of KPUPL be extended to include 3214.23 Ares (79.42 Acres) of land in Puduserry East Village and Elappully Village in Palakkad taluk more particularly described in the notification attached in the Mega Food Park, at Palakkad, subject to the conditions specified under paragraph 32 above.

The notification on extending the license area of KPUPL to Mega Food Park at Palakkad is enclosed as Annexure to this order.

The application is disposed off accordingly.

Sd/-  
**K.Vikraman Nair**  
**Member**

Sd/-  
**S. Venugopal**  
**Member**

**Approved for Issue**

Sd/-  
**Santhosh Kumar. K.B**  
**Secretary**

## **ANNEXURE**

### **KERALA STATE ELECTRICITY REGULATORY COMMISSION**

#### **NOTIFICATION**

#### **INCLUSION OF MEGA FOOD PARK, PALAKKAD IN THE AREA OF LICENCE FOR DISTRIBUTION OF ELECTRICITY BY KPUPL**

No.302/D(T)/2017/KSERC

Dated, Thiruvananthapuram 11<sup>th</sup> September 2018.

Government of Kerala vide G.O.(P) No.18/2003/PD dated 8th May 2003 had granted a licence for supplying electricity to various establishments within the Kinfra Export Promotion Industrial Parks (KEPIP) campus at Kakkanad, Kochi exercising the powers conferred under rule 19 of the Indian Electricity Rules 1956.

In exercise of the powers conferred under Section 14 read with Section 17(3) and Section 181 of the Electricity Act, 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, Kerala State Electricity Regulatory Commission, vide order No.1/2009 dated 30<sup>th</sup> November 2009 granted transfer of Licence for distribution of electricity from M/s Kinfra Export Promotion Industrial Parks to M/s Kinesco Power and Utilities private Ltd (KPUPL), Kochi.

The Chief Executive Officer of KPUPL has now submitted an application before the Kerala State Electricity Regulatory Commission for inclusion of KINFRA Mega Food Park, Palakkad in its licence area for distribution of electricity.

As directed by the Kerala State Electricity Regulatory Commission, KPUPL published notice inviting objections / comments from various consumers and stake holders in English and Malayalam dailies on 01<sup>st</sup> June 2017 indicating the boundaries of the proposed area.

In the said notice it was made clear that objections if any would have to be submitted within 30 days from the date of the notice.

The Commission forwarded the copy of application to Government of Kerala, Elappully Grama Panchayath, and Puthussery Grama Panchayath on 23<sup>rd</sup> August 2017 and to the Kerala State Electricity Board on 17<sup>th</sup> August 2017 for remarks.

A Public hearing on the application was held on 14<sup>th</sup> September 2017 at Soorya Retreat, Palakkad. The daily order was issued on 22<sup>nd</sup> September 2017 and the Commission directed KPUPL and K S E B Ltd. to submit additional information, if any.

No comments were furnished by Government of Kerala. The Panchayath authorities present at the hearing informed that they have no objection in giving license to KPUPL. Kerala State Electricity Board had submitted their comments vide letter dated 13<sup>th</sup> September 2017 and further comments on 10<sup>th</sup> October, 2017 and 20<sup>th</sup> November 2017. KPUPL submitted its clarifications to the Commission on

30.01.2018. No public responded to the Notice.

The objections of the Kerala State Electricity Board was considered by the Commission and the Commission came to the conclusion that KPUPL has distribution license to distribute power in areas of establishments of KINFRA and that the present petition is only to extend the area of distribution. The area sought to be extended is already acquired by Kinfra for setting the Mega Food park under the scheme of Ministry of Food Processing Industries, Government of India. The KINFRA will fund the development of distribution system in the Park. In principle approvals were received for the development of the Park by KINFRA from Govt. of Kerala and Ministry of Food Processing Industries. Gazette notification was issued by Government of Kerala, vide GO (P) No.16/2018/ID dated 10<sup>th</sup> July 2018 (published as SRO No. 502/2018 in the Kerala Gazette Extraordinary No. 1975 dated 24<sup>th</sup> July 2018) notifying the 3214.23 Ares (79.42 Acres) of land of Kinfra Mega food Park as industrial area in exercise of its powers under Section 2(f) and Section 5 of the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act 1999.

Considering the facts and circumstances as stated above, and in exercise of the powers conferred under Section 14 of the Electricity Act 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, and satisfying itself that the public interest so permits the Kerala State Electricity Regulatory Commission hereby makes the following amendments to order-No.1/2009 Dated 30<sup>th</sup> November 2009.

### **ORDER**

Clause “3 Area of Licence” under part II shall be substituted with the following, namely:-

**“3 Area of licence.-** The area of licence shall be as under ;

The areas of licence shall be all those pieces or parcels of land acquired by M/s KEPIP in, 1) Kakkanad in Thrikkakara Grama Panchayat of Ernakulam district 2) Thrikkakara North in Kalamassery Municipality of Ernakulam District and 3) Puthussery Central village in Puthussery Panchayat and Elapully village in Elapully Grama Panchayat of Palakkad District. The boundaries of the area of Licence are as under. The sketches showing area of licence are furnished as annexure to this document.

**Kinfra Export Promotion Industrial Park, Kakkanad (180.126 Acres)**

North : Kakkanad-Edachira PWD Road

East : Chithra Puzha thodu

West : Survey Nos. 628-1,629-3,629-4,631,632,633,682,683

South : Parackamughal Chithrapuzha panchayat Road Survey Nos. 627-1,627- 2,627-4,627-5.

**Land of Kinfra for KEPIP Expansion, Kakkanad (100 Acres)**

North : Private properties( Sy. Nos. 570/26, 570/28,570/29,580,581).

South : Private properties( Sy. Nos 570/1, 570/17, 570/19 to 22, 570/31).

East : Kadamprayar River.  
West : MLA Road, Private properties ( Sy. Nos. 573,574/4,574/7,574/8)

Kinfra Hi-Tech Park, Kalamassery (240 Acres)  
North : Private properties(Sy. Nos 288 to 293), NAD.  
South : Medical College and Kangarapady road.  
East : Thavakal Road, Sy. Nos 262,272,274,284.  
West : HMT area, Private properties( Sy Nos 272 to 274).

Kinfra Integrated Textile Park, Palakkad( 350 Acres)  
North : Kanjikode Menon Para PWD road ( In Sathyanantham Pallam and PK Challa Localities).  
South : Korayar River.  
East : By Edappakulam Area Private lands and Edappakulam-Nombikode PWD road in North East corner.  
West : Kinfra 200 acres, Panchayat road on South West corner.

Kinfra Mega Food Park (3214.23 Ares (79.42 Acres))

I. Village/ Block No : Pudussery East Resurvey Block No. 33

Survey Nos : 474/11,477/2,3,4, 487/1,2, 488/2,3,5,

II. Village/Block No : Elappully Resurvey Block No. 41

Survey Nos : 227/2 part, 228/1,2 part, 229/1,8 part, 230/1 part, 236/1,2 part, 236/3,4 part, 237, 238/2, 239/2 part, 240/5 part, 240/6 part, 241/2,3,4,5,6,7,8,9,10, 242/1,2,4 part, 243/1,2,3 part, 4 part, 6 part, 244/1,2,3, 245/1,2

Boundaries :-

North : Land of Ahalya  
South : Private Land, Land of Ahalya, Land of KINFRA  
East : Ahalya, Private Land  
West : Irrigation canal

Village/Panchayath/Municipality: Pudussery East & Elappully/  
Pudussery Gramapanchayath & Elappully  
Gramapanchayath

Taluk/District : Palakkad"

The date of commencement of the order shall be the 11<sup>th</sup> September 2018.

By Order of the Commission,

Sd/-  
**Santhosh Kumar. K.B**  
Secretary