

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

Present : Adv. A.J Wilson, Member (Law)

OP No 58/2022

In the matter of : Petition seeking approval for entering into agreement for banking of power with the traders M/s.Arunachal Pradesh Power Corporation Pvt Ltd and M/s. Kreate Energy (I) Pvt Ltd for the period from 01.02.2023 to 30.09.2023 for managing the power deficit during Summer 2023.

Petitioner : Kerala State Electricity Board Ltd

Respondents : 1. Kreate Energy (I) Pvt Ltd (KEIPL)
2. Arunachal Pradesh Power Corporation Pvt. Ltd (APPCPL).

KSEB Ltd represented by : Smt.Latha S.V, Assistant Executive Engineer.
M/s KEIPL represented by : Sri D.Srihari, Deputy Manager.
M/s APPCPL represented by : Sri Aswini Mittal, Deputy Manager.

Date of hearing : 18.10.2022, 11:00 AM
Venue : e-hearing through video conferencing

Order dated 19.10.2022

1. M/s Kerala State Electricity Board Ltd (herein referred as M/s KSEB Ltd or petitioner) on 07.10.2022 filed a petition before the Commission, seeking approval for entering into an agreement for banking of power with the traders, M/s Arunachal Pradesh Power Corporation Pvt Ltd and M/s Kreate Energy (I) Pvt Ltd for banking of power during the period from 01.02.2023 to 30.09.2023 for managing the power deficit during Summer 2023.
2. Summary of the petition filed by M/s KSEB Ltd is given below:
 - (i) M/s KSEB Ltd expected to have a power shortage up to 500MW during the coming summer months, and proposed to meet a part of the shortage through banking transactions.
 - (ii) M/s KSEB Ltd has invited tender on 17.08.2022 for banking of power from Traders/Utilities during the period from 01-02-2023 to 30-09-2023 as detailed below:

Supply period				Return period				
Month	Duration/MW			Month	Duration/ Max MW return possible against each slot			
	RTC	14:00 to 22:00	14:00 to 23:00		00:00 to 06:00	06:00 to 18:00	18:00 to 22:00	22:00 to 24:00
Feb-2023		100		16-06-2023 to 30-06-2023	100	100	50	100
Mar-2023	200		100	Jul-2023	250	250	50	250
Apr-2023	200		100	Aug-2023	250	250	50	250
May-2023	200		100	Sep-2023	250	250	50	250

(iii) The timelines specified for bidding process is given below;

Sl. No.	Event	Date
	Publication of tender	17.08.2022
	Receipt of Clarification on queries	20.08.2022 (3 pm)
	Publishing of Response to queries	23.08.2022
	Last date of Submission of Bid	26.08.2022 (2 pm)
	Opening of technical bid followed by opening of financial bid	26.08.2022 (3 pm)
	Clarification, if any, sought from Applicants	27.08.2022
	Issuing of LoA to the successful bidder(s)	After getting approval from KSERC

Wide publicity of the tender was given through two (2) national dailies and also in the website of KSEB Ltd. As per the request of the bidders, the last date for submission of the bids were extended up to 05.09.2022.

(iv) The bids were opened on 05.09.2022 at 03:00pm. Two traders namely Arunachal Pradesh Power Corporation Pvt. Ltd (APPCPL) and Kreate Energy (I) Pvt Ltd (KEIPL) have participated in the banking tender and the offers received from the bidders are given below:

(a) Offer of APPCPL (From M/s PSPCL)

Utilities/ Traders	Supply			Return			Trading Margin (paise/ kWh)
	Supply period	Duration (Hrs)	Quantum (MW)	Return period	Duration (Hrs)	Return %	
Arunachal Pradesh Power Corporation Pvt Ltd from M/s. PSPCL	March 2023	RTC	200 (From M/s PSPCL)	16.06.2023 to 30.06.2023	As per the tender	108.41	3.00
	April 2023	RTC	200 (From M/s PSPCL)	July 2023	As per the tender		
	01.05.23 to 20.05.23	RTC	200 (From M/s PSPCL)	August 2023 September 2023	As per the tender As per the tender		

(b) Offer of Kreate Energy (From M/s BRPL) (arrgement-1)

Utilities/ Traders	Supply			Return			Trading Margin (paise/ kWh)
	Supply period	Duration (Hrs)	Quantum (MW)	Return period	Duration (Hrs)	Return %	
Kreate Energy (I)Pvt Ltd- Arrangement I	Feb 2023	14-22	50 (From M/s BRPL)	16.06.2023 to 15.07.2023	RTC	105% of the RTC power banked to KSEBL during March 2023	3.00
	March 2023	RTC	50 (From M/s BRPL)		00:00 to 06:00 & 22:00 to 24:00	105% of the power banked to KSEBL during 14 to 22 and 14 to 23 in February 2023 & March 2023	
		14:00hrs to 23 :00 hrs	50 (From M/s BRPL)				

(c) Arrangement -II of Kreate Energy (From M/s BYPL) (arrangement-2)

Utilities/ Traders	Supply			Return			Trading Margin (paise/ kWh)
	Supply period	Duration (Hrs)	Quantum (MW)	Return period	Duration (Hrs)	Return %	
Kreate Energy (I)Pvt Ltd- Arrangement II	Feb 2023 (On firm basis)	00:00 to 06:00	100 (From M/s.BYPL)	16.06.2 023 to 30.09.2 023	RTC	105	3.00
		14:00 to 24:00	75 (From M/s.BYPL)				
	March 2023 (On Day Ahead Basis)	00:00 to 06:00	100 (From M/s BYPL)				
		14:00 to 24:00	50 (From M/s BYPL)				
	April 2023 (On Day Ahead Basis/As and when available/R equired basis)	Any timeslot between 00:00 to 24:00	Up to 50 (From M/s BYPL)				

After negotiation, M/s APPCPL has reduced the trading margin from 3.00 paise/kWh to 2.90 paise/kWh and also reduced the return percentage from 108.41% to 107.91%. In the case of Kreate Energy (I) Pvt Ltd (KEIPL) the trading margin was 3.00 paise/kWh and return percentage was 105%.

- (v) Considering the anticipated deficits in the coming summer and the uncertainty regarding the availability of power in the market and also due to

the high market rates in summer months, M/s KSEB Ltd has proposed to continue with the banking arrangements.

3. After evaluating the offers, M/s KSEB Ltd decided to bank power with M/s APPCPL and M/s KEIPL as per the tables given below;

Banking arrangement with Arunachal Pradesh Power Corporation Pvt Ltd

Utilities/Traders	Supply to KSEBL			Return from KSEBL						Trading Margin (paise/kWh)	
	Supply period	Duration (Hrs)	Quantum (MW)	Return period	Duration (Hrs)						Return %
					0-3	3-6	6-18	18-22	22-24		
Arunachal Pradesh Power Corporation Pvt Ltd	March 2023	RTC	200	16.06.2023 to 30.06.2023	100	100.13	100	50	100	107.91	2.90
	April 2023	RTC	200	01.07.2023 to 15.07.2023	100	150.13	250	50	150		
				16.07.2023 to 31.07.2023	100	150.13	250	50	150		
	01.05.23 To 20.05.23	RTC	200	Aug 2023	100	150.13	246	50	150		
				Sep 2023	100	150.13	250	50	100		

Banking arrangement with Kreate Energy (I)Pvt Ltd

Utilities/Traders	Supply to KSEBL			Return from KSEBL						Trading Margin (paise/kWh)	
	Supply period	Duration (Hrs)	Quantum (MW)	Return period	Duration (Hrs)						Return (%)
					0-3	3-6	6-18	18-22	22-24		
Kreate Energy (I)Pvt Ltd-BRPL	Feb 2023	14-22	50	16.06.2023 to 30.06.2023	240.11	240.11	16.33	16.33	240.11	105	3.00
	March 2023	RTC	50	01.07.2023 to 15.07.2023	240.11	240.11	16.33	16.33	240.11		
		14 to 23	50								
Kreate Energy (I)Pvt Ltd-BYPL	Feb 2023	14-24	75	16.06.2023 to 30.09.2023	8.58	8.58	8.58	8.58	8.58		

4. M/s KSEB Ltd further submitted that the offers submitted by the bidders is valid for 45 days from the date of opening of the bid. Since the bid was opened on 05.09.2022, the validity was only up to 20.10.2022. Hence, M/s KSEB Ltd requested for an early hearing and also to grant approval for the banking transactions as proposed above.

5. The Commission admitted the petition as OP 58/2022. Smt Latha S V, Assistant Executive Engineer presented the matter on behalf of KSEB Ltd. Sri. Aswin Mittal, Deputy Manager appeared on behalf of the respondent Arunachal Pradesh Power Corporation Pvt Ltd and Sri. Srihari D, Deputy Manager appeared on behalf of the Kreate Energy (I) Pvt Ltd. The summary of the deliberations during the hearing is given below.

(1) KSEB Ltd submitted that, it was expected to have a power shortage up to 500MW during the coming summer month. KSEB Ltd proposed to meet a part of the shortage through banking transactions.

KSEB Ltd floated a tender on 17.08.2022 for banking of power from Traders/Utilities during the period from 01-02-2023 to 30-09-2023. Two traders namely Arunachal Pradesh Power Corporation Pvt Ltd (APPCPL) and Kreate Energy (I) Pvt Ltd (KEIPL) participated in the banking tender. M/s APPCPL offered 200MW power each from March 2023 to 20th May 2023 and the return period is from 16th June 2023 to September 2023. The Return percentage (%) quoted was 108.41% and trading margin, Rs 3.00 paise/kWh.

Kreate Energy Pvt Ltd offered banking arrangement through two sources. First arrangement is from M/s BRPL for the months of February 2023 and March 2023 with a return period from 16th June 2023 to 15th July 2023. Second arrangement is from M/s BYPL during the month of February 2023 on firm basis, and in the months of March-2023 and April-2023 on day ahead basis with return period from 16th June 2023 to 30th September 2023. The return percentage (%) quoted was 105% and the trading margin, Rs 3.00 paise/kWh.

It was further submitted that on negotiation, M/s APPCPL reduced the return percentage from 108.41% to 107.91% and the trading margin from 3 paise per kWh to 2.90 paise/kWh. But M/s Kreate Energy (i) Pvt Ltd was not willing to reduce either return percentage or trading margin.

In response to the query from the Commission, M/s KSEB Ltd clarified that it had conducted a market-based financial analysis prior to floating of the tender. It was also clarified that M/s KSEB Ltd has accepted the offer from M/s BYPL for only 75 MW power, that was supplied on firm basis.

(2) Sri. Aswin Mittal, on behalf of the APPCPL submitted that, the banking arrangement proposed by M/s KSEB Ltd was acceptable to them.

(3) Sri. Srihari D., on behalf the KEIPL submitted that, they were not able to reduce the trading percentage as they have already quoted a lower return percentage of 105%. It was also submitted that they would like to modify the return period of M/s BYPL to 16th June 2023 - 15th July 2023 instead of 16th June 2023 - 30th Sept 2023, that was mentioned in the

Offer Letter. However, the arrangement 1 with M/s BRPL was acceptable to them. The modifications suggested were agreed by M/s KSEB Ltd.

6. KSEB Ltd vide the additional submission dated 19.10.2022 submitted that, M/s Kreate Energy (I) Pvt Ltd requested to revise the return period of banked power from M/s BYPL to one month duration from 16.06.2022 to 15.07.2022 instead of 16.06.2023 to 30.09. 2023. The revised offer of M/s Kreate Energy Pvt Ltd in arrangement-II through M/s BYPL is as detailed below.

Utilities/ Traders	Supply to KSEBL			Return from KSEBL						Trading Margin (Ps/ kWh)	
	Supply period	Duration	Quantum	Return period	Duration						Return
		(Hrs)	(MW)		(Hrs)						%
					0-3	03- Jun	Jun- 18	18 - 22	22 - 24		
Kreate Energy (I)Pvt Ltd- BRPL	Feb- 23	14-22	50	16.06.2023 to 30.06.2023	240.1 1	240.1 1	16.3 3	16.3 3	240.1 1	105	3
	Mar- 23	RTC	50	01.07.2023 to 15.07.2023	240.1 1	240.1 1	16.3 3	16.3 3	240.1 1		
		14 to 23	50								
Kreate Energy (I)Pvt Ltd- BYPL	Feb- 23	14-24	75	16.06.2023 to 15.07.2023	86	50	8	15	86		
				16.06.2023 to 15.07.2023							

Analysis and Decision of the Commission:

7. The Commission has examined in detail the petition filed by M/s KSEB Ltd for approval for entering into an agreement for banking of power with the traders M/s. Arunachal Pradesh Power Corporation Pvt Ltd and M/s. Kreate Energy (I) Pvt Ltd for the period from 01.02.2023 to 30.09.2023 for managing the power deficit during Summer 2023, as per the provisions of the Electricity Act, 2003 and KSERC (Terms and conditions for Determination of Tariff) Regulations, 2021 (Tariff Regulation 2021), and decides as follows:
8. As per the provisions of Section 86(1)(b) of Electricity Act, 2003, prior approval of the Commission is mandatory for purchase of power by the distribution licensee from generating companies or licensees or from other sources through agreement. The relevant portion of the Electricity Act, 2003 is extracted below:

“Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely: -

- (a) *determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:*

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

- (b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;”*

- 9. The Regulation 78 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 (herein after referred as Tariff Regulations, 2021) provide as follows;

“78. Short-term power procurement. –

- (1) *The distribution business/ licensee may, if it considers necessary undertake additional short-term power procurement to overcome any short-term deficiency in power requirement during the financial year, as per the short term power procurement plan approved by the Commission, in accordance with this Regulation.*

.....

- (3) *The distribution business/ licensee may enter into a short-term power procurement agreement or arrangement under the following circumstances subject to the ceiling tariff approved by the Commission for this purpose: -*
 - (i) *where the distribution business/ licensee is able to source new short-term source of supply from which power can be procured at a tariff that reduces its approved total power procurement cost;*
 - (ii) *when faced with emergency conditions that threaten the stability of the distribution system or when formally directed to do so by the State Load Despatch Centre to prevent grid failure;*
 - (iii) *where the tariff for power procured under such agreement or arrangement is in accordance with the guidelines for short-term procurement of power by distribution licensees through tariff-based bidding process issued by the Central Government;*
 - (iv) *when there is a contingency situation and power purchase price is within the ceiling price as prescribed by the Commission in the distribution licensee’s ARR&ERC;*
 - (v) *procurement of short-term power through power-exchange; and*
 - (vi) Procurement by way of exchange of energy under ‘banking’ transactions:**

Provided that prior approval of the Commission and the ceiling rate; shall not be applicable to the short-term purchases under clause (ii).

Provided further that prior approval of the Commission is not required for short term purchases under clause (v) above, so long as the average rate is within the ceiling rate.”

- (4) *The Commission may stipulate the ceiling quantum and ceiling rate for purchase of power from short-term sources.*
- (5) *As far as practicable, approval for all power purchases must be sought in advance. Where it is not practicable due to any contingency situation, the distribution licensee shall within fifteen days from the date of entering into an agreement or arrangement for short-term power procurement shall file a petition for approval of the Commission by filing full details of such agreement or arrangement, including quantum, tariff calculations, duration, supplier details, method for supplier selection, circumstances necessitating such a purchase and such other details as the Commission may require to assess that the conditions specified in this Regulation have been complied with:*

Provided that where the Commission has reasonable grounds to believe that the agreement or arrangement entered into by the distribution business/ licensee does not meet the criteria specified in this Regulation, the Commission may disallow all such transactions from the annual revenue requirements, the net increase in the cost of power on account of such procurement apart from any other action that the Commission may initiate as per law against the distribution licensee.”

As per the Regulation 78(5) of the Tariff Regulation 2021, KSEB Ltd shall get the prior approval of the Commission for the short-term power purchase also in advance as far as practicable.

10. The Commission examined the petition filed by KSEB Ltd for entering into banking transactions as per the above provisions of the EA-2003 and Tariff Regulation 2021.

The Commission has noted that M/s KSEB Ltd expected to have a power shortage up to 500MW during the coming summer months (February 2023 to May 2023). M/s KSEB Ltd proposed to meet a part of the shortage through banking transactions. Accordingly, M/s KSEB Ltd has invited tender for banking of power from Traders/Utilities during the period from 01-02-2023 to 30-09-2023, as detailed in para 2(ii) above.

Two traders namely Arunachal Pradesh Power Corporation Pvt. Ltd (APPCPL) and Kreate Energy (I) Pvt Ltd (KEIPL) have participated in the banking tender and the offers received from the bidders are detailed in paragraph 2(iv) of this Order.

Subsequently M/s KSEB Ltd has negotiated for the reduction in the trading margin of both traders. M/s APPCPL has reduced the trading margin from 3.00 paise/kWh to 2.90 paise/kWh and also reduced the return percentage from 108.41% to 107.91%. However, Kreate Energy (I) Pvt Ltd (KEIPL), is not willing to reduce the trading margin and return percentage further.

11. M/s.Arunachal Pradesh Power Corporation Pvt Ltd and M/s. Kreate Energy (I) Pvt Ltd are the successful bidders as per the tender conditions of the tender floated by KSEB Ltd on 17.08.2022 for the banking of the power from 01.02.2023 to 30.09.2023.

KSEB Ltd further submitted that, as per the detailed financial analysis of the banking transactions duly considering the supply and return periods, i.e, supply of power during the high demand summer months of the year 2023 and return of power during the low demand monsoon months from 16.06.2023 to 30.09.2023, the offers of both the traders are advantageous to the State of Kerala. The final offers of the traders M/s.Arunachal Pradesh Power Corporation Pvt Ltd and M/s. Kreate Energy (I) Pvt Ltd is detailed under paragraph 3 above.

12. During the hearing held on 18.10.2022, M/s Kreate Energy (I) Pvt Ltd, requested that, their supplier M/s BSES Yamuna Power Ltd (M/s BYPL) requested to modify the return period from 16th June 2023 to 15th July 2023 instead of 16th June 2023 to 30th September 2023. KSEB Ltd during the hearing submitted that, they are agreeable to the proposal. Subsequently, KSEB Ltd vide the additional submission dated 19.10.2022 submitted that, they were agreeable to the proposal of M/s Kreate Energy (I) Pvt Ltd, and submitted the revised offer of M/s Kreate Energy (I) Pvt Ltd as follows.

Utilities/ Traders	Supply to KSEBL			Return from KSEBL						Trading Margin (Ps/ kWh)	
	Supply period	Durati on	Quantu m	Return period	Duration						Retur n
		Hrs)	MW)		(Hrs)						%
					0-3	03- Jun	Jun- 18	18 - 22	22 - 24		
Kreate Energy (I)Pvt Ltd- BRPL (arrangem ent-I)	Feb- 23	14-22	50	16.06.20 23 to 30.06.20 23	240.1 1	240.1 1	16.3 3	16.3 3	240.1 1	105	3
	Mar- 23	RTC 14 to 23	50 50	01.07.20 23 to 15.07.20 23	240.1 1	240.1 1	16.3 3	16.3 3	240.1 1		
Kreate Energy (I)Pvt Ltd- BYPL (arrangem ent-II)	Feb- 23	14-24	75	16.06.20 23 to 15.07.20 23 16.06.20 23 to 15.07.20 23	86	50	8	15	86		

13. M/s KSEB Ltd further submitted that the offers submitted by the bidders M/s APPCPL and M/s KEIPL is valid for 45 days from the date of opening of the bid. Since the bid was opened on 05.09.2022, the validity was only up to 20.10.2022.

14. The Commission examined the details submitted by KSEB Ltd and decides to grant approval for the proposed banking transaction with the bidders' M/s APPCPL and M/s KEIPL as per the terms and conditions given below:

(a) Banking arrangement with Arunachal Pradesh Power Corporation Pvt Ltd

Utilities/ Traders	Supply to KSEBL			Return from KSEBL						Trading Margin (paise/ kWh)	
	Supply period	Duratio n (Hrs)	Quantu m (MW)	Return period	Duration (Hrs)						Return %
					0-3	3-6	6 -18	18 - 22	22 - 24		
Arunachal Pradesh Power Corporation Pvt Ltd	March 2023	RTC	200	16.06.2023 to 30.06.2023	100	100.13	100	50	100	107.91	2.90
	April 2023	RTC	200	01.07.2023 to 15.07.2023	100	150.13	250	50	150		
				16.07.2023 to 31.07.2023	100	150.13	250	50	150		
	01.05.23 To 20.05.23	RTC	200	Aug 2023	100	150.13	246	50	150		
				Sep 2023	100	150.13	250	50	100		

(b) Banking arrangement with Kreate Energy (I)Pvt Ltd

Utilities/ Traders	Supply to KSEBL			Return from KSEBL						Tradi ng Margi n (Ps/ kWh)	
	Supp ly per iod	Durati on	Quantu m	Return period	Duration						Retur n
					(Hrs)						
		Hrs)	MW)		0-3	03- Jun	Jun- 18	18 - 22	22 - 24		
Kreate Energy (I)Pvt Ltd- BRPL (Arrangement-I)	Feb-23	14-22	50	16.06.2023 to 30.06.2023	240.11	240.11	16.33	16.33	240.11	105	3
	Mar-23	RTC	50	01.07.2023 to 15.07.2023	240.11	240.11	16.33	16.33	240.11		
		14 to 23	50								
Kreate Energy (I)Pvt Ltd- BYPL (Arrangement- II)	Feb-23	14-24	75	16.06.2023 to 15.07.2023	86	50	8	15	86		
				16.06.2023 to 15.07.2023							

Terms and conditions of banking transactions.

- (1) The delivery point will be the regional periphery of the exporting utility during supply as well as return period.

- (2) The trading margin and return percentage shall be approved as follows.
- Banking of power through M/s Arunachal Pradesh Power Corporation Pvt Ltd- trading margin – Rs 0.029/unit, return percentage- 107.91% at Kerala periphery.
 - Banking of power through M/s Kreate Energy (I) Pvt Ltd- trading margin – Rs 0.03/unit, return percentage- 105.00% at Kerala periphery.
- (3) Other terms and conditions shall be strictly as per the bid document for the banking transaction as per the tender No: CE(C&P)/Banking Tender – 1/2022-23.

Order of the Commission

15. The Commission after examining the petition filed by M/s KSEB Ltd for getting approval for entering in the banking transaction for the period from 01.02.2023 to 30.09.2023 as per the provisions of EA-2003 and, KSERC (Terms and conditions for Determination of Tariff) Regulations 2021, hereby orders the following :
- (1) Approve the banking transaction with the trader M/s Arunachal Pradesh Power Corporation Pvt Ltd as detailed under paragraph 14(a) above, subject to the terms and conditions specified under paragraph 14 above.
 - (2) Approve the banking transaction through the trader M/s. Kreate Energy (I) Pvt Ltd as detailed under paragraph 14(b) above, subject to the terms and conditions specified in paragraph-14 above.
 - (3) KSEB Ltd shall submit a copy of the LoA issued to M/s.Arunachal Pradesh Power Corporation Pvt Ltd and M/s. Kreate Energy (I) Pvt Ltd, before the Commission for information and record.

The petition is disposed of. Ordered accordingly.

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

Approved for issue

**Sd/-
C R Satheeshchandran
Secretary**