

**KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BANGALORE 560 001.**

Present: Shri Philipose Matthai Chairman
Shri H R Gopal Member
Smt. Nalini M K Menon Member

Dated: 29th May, 2002

ORDER

Sub:- Application of KPTCL for assigning Retail Supply Licence to the new Distribution Companies set up in terms of Government's Electricity Sector Reform Policy.

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- 1) KPTCL presently holds a Transmission Licence and a Supply Licence, both valid throughout the State of Karnataka.
- 2) In their Lr.No.KPTCL/B-36/T/5704/T/1/495-503 dt.20.5.02 KPTCL have informed the Commission that 4 Distribution Companies have been set up by the Government (in terms of the approval granted in Order DE 69 PSR 2001 dt.15.2.02) in order to carry on the duties of Retail Supply in various areas in the State of Karnataka by taking away the said duty from KPTCL and have requested the Commission to assign that part of the Supply Licence held by them as relates to Retail Supply to these 4 Companies in their respective areas of Supply.
- 3) The Commission wrote to the KPTCL in this regard vide its Lr.No.R/03//2/809 dt.22.5.02 requesting KPTCL to provide some clarifications on the commercial arrangements that have been made for transacting business between KPTCL in its capacity as a Bulk Supplier and also as the Transmission Licensee on the one hand and the Distribution Companies as Retail Suppliers on the other hand. Vide their Lr.No.GM(T)/PS/2002/8 dt.24.5.02, KPTCL have provided some information in relation to the Commission's queries. This matter was also

discussed at a meeting between the Commission and KPTCL that was initially fixed for 23.5.02 and was later postponed, at KPTCL's request, to 27.5.02.

- 4) The Commission notes that the Government has set up 4 Distribution Companies as part of its policy of reform and restructuring of the Electricity Sector in the State. It appears to have also been decided at the Government level that these Distribution Companies should be enabled to function as Retail Suppliers of power with effect from 1.6.02. KPTCL has therefore requested for urgent orders of the Commission in this matter in their letter of the 27th May..

- 5) Section 19 of the KER Act, 1999, contains provisions relating to the grant of Licence by the Commission. Sub-Section (2) of the said Section lays down a procedure in relation to the grant of Licence. This procedure provides for giving public notice and hearing of objections from any member of the public as also for obtaining no objection certificates from the Central Government in certain specific circumstances. Sub-Section (7) of Section 10 of the Act further provides that in the discharge of its functions, the Commission shall consult, to the extent the Commission considers appropriate from time to time, such person or groups of persons who may be affected or are likely to be affected by the decisions of the Commission. The Commission has been scrupulously adhering to these requirements of the Act hitherto. In all matters where the public at large are affected or are likely to be affected by a decision of the Commission, notices are ordered to be published inviting objections from any member of the public so affected or likely to be affected. The Commission understands that the requirement of Sub-Section (7) of Section 10 of the Act should be read in to the entire scheme of the Act and also into provisions of Section 25(2) under which KPTCL has sought permission for assigning of its licence.

- 6) At the same time, the Commission would also like to facilitate the implementation of Government's Policy that requires the operationalisation of the Distribution Companies with effect from 1.6.02.

- 7) As stated above, there are several commercial and operational matters that need to be settled in relation to the transactions between the KPTCL and the DISTCOMS before the DISTCOMS can be truly functional,, independent Retail Suppliers. The basic requirement for independent operation is to ensure that the quantum of energy supplied to these Companies is metered and billed at a tariff that is determined by the Commission. In their reply dt.24.5.02, KPTCL has mentioned that 82% of the interface points have already been metered with static meters while 72 interface points have Electro Mechanical Meters. It has been mentioned that as per the survey conducted in December 01, there were 85 un-metered interface points and that metering the same has been initiated. It is seen from the above that though a very large proportion of the interface points (over 90%) have been metered, about 10% are yet to be fitted with meters. It is seen from Annexure 1 to KPTCL's letter dated 24.5.02 that a detailed report has been prepared for providing all the interface points with 0.2 class electronic meters that are required for accurate commercial transaction of bulk power supply. The timeframe for implementing this report is not mentioned. The Commission notes that, given the clear policy of the Government for unbundling distribution from transmission that was announced quite some time ago, the KPTCL should have taken advance action well in time for installing at least the required metering infrastructure. However, this has not happened.
- 8) Similarly, KPTCL has proposed that the Distribution Companies are charged a provisional tariff based on the generation costs, transmission costs, transmission loss and units allowed by the KERC in the Tariff Order 2002. KPTCL has also proposed that subsidies would be received by KPTCL directly from the Government and accounted appropriately. The revenues collected by the Distribution Companies less the Distribution costs are to be passed on to KPTCL. It has been stated that such an arrangement would assist in the transfer of responsibilities to the Distribution Companies in a phased manner and that the

detailed commercial arrangements are being worked out and will be placed early before the Commission for approval. It is clear from the above statements of the KPTCL that a substantial amount of preparatory work is needed to be done in order to make the Distribution Companies really function in an independent and self sufficient manner. Detailed commercial arrangements are to be worked out and, wherever necessary, the same would have to be placed before the Commission and its approval obtained. In such a situation, the mere fact of possessing a licence with effect from 1.6.02 is not going to be adequate for the Distribution Companies to function in an independent and autonomous manner.

- 9) The Commission notes that there is really no provision laid down in the Act for grant of provisional licence by the Commission. Once a licence is granted, all the obligations that attach to a licence would have to be fulfilled without any diminution in the responsibility cast on the Licensee. It would also be open to any consumer who is being served by such a licensee to insist upon the due performance by the licensee of all its obligations and also seek appropriate legal remedy in enforcing the same. The Commission has highlighted all these points in order to emphasise the fact that the preparatory work for constituting the Distribution Companies as independent licensees has not yet been completed and that this incompleteness or inadequacy in preparation would not be available as a ground for mitigating the responsibilities cast on a licensee by virtue of the licence granted under the Act. However, in view of the stated Policy Objective of the Government that the new Distribution Companies should be granted licences that would be effective from 1.6.02, the Commission agrees to the request of the KPTCL for assigning that part of its Supply Licence as relates to Retail Supply business to the 4 Distribution Companies on the following terms and conditions:

- (a) The assignment of Licence shall come in to effect from 1.6.02 or the date on which the assignee companies file with the Commission their consent to the assignment of licence subject to the conditions laid down in this order, whichever is later.

- (b) The assignee licensees should file the ERC for the current FY 03 for the approval of the Commission latest by 1.8.02. KPTCL should also file the revised ERC for the residual Bulk Supply Business for FY 03 by 1.8.02 at the latest, such that the Combined ERC of all the 5 Licensees matches with the ERC approved by the KERC for the KPTCL's Supply Licence for FY 03.
- (c) No new application for revision of tariff shall be filed by the assignee licensees to take effect in FY 03. However, the assignee licensees are permitted to implement the tariff determined by the Commission in its Order dt.8.5.02;
- (d) The Transmission Licensee (KPTCL) should file its application for approval of the Transmission Tariffs latest by 1.8.02. The bulk supply licensee (KPTCL) shall also file its application for approval of the Bulk Supply Tariffs to the Distribution Companies latest by 1.8.02. The application for approval of Bulk Supply Tariffs should be accompanied by the bulk power supply agreement and the transmission services agreement that would regulate the Commercial Transaction between the Licensees.
- (e) The Commission notes that KPTCL has yet to complete metering of all the interface points. This task should be completed within 3 months positively so that energy audit of the different Distribution Companies can be undertaken on the basis of these meter readings.
- (f) The Licences assigned to the Distribution Companies for Retail supply are as appended to this order. These Licences are valid for a period of 3 months from the date of their coming in to force. Well before the expiry of this period, the Distribution Companies are directed to make application for issue of regular licence, duly following the procedure therefor.

(g) Detailed commercial arrangements for the separation of the Retail Supply Business and the independent operation of the Retail Supply Licensees shall be finalized and submitted to the Commission for approval, wherever necessary, latest by 1.8.02.

10) Consequential amendments to the KPTCL Supply Licence will be issued separately.

Sd/-

(Philipose Matthai)
Chairman

Sd/-

(H.R. Gopal)
Member

Sd/-

(Nalini M K Menon)
Member

kptcl