

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BANGALORE

Dated 3rd August 2009

Present

1. **Shri K.P.Pandey, Chairman**
2. **Shri Vishvanath Hiremath, Member**
3. **Shri K.Srinivasa Rao, Member**

In the matter of the Approval of the Power Purchase Agreement of Existing Hydro Stations of KPCL in pursuance of Orders of the Hon'ble ATE in Appeal No.89 of 2008

BETWEEN

**BESCOM, MESCOM, HESCOM, CESC & GESCOM & Karnataka
Power Transmission Corporation Limited**

AND

Karnataka Power Corporation Limited

Parties to the cause:

- 1) Managing Director, Bangalore Electricity Supply Company, Bangalore
- 2) Managing Director, Mangalore Electricity Supply Company, Mangalore
- 3) Managing Director, Hubli Electricity Supply Company, Hubli
- 4) Managing Director, Gulbarga Electricity Supply Company, Gulbarga
- 5) Managing Director, Chamundeshwari Electricity Supply Corporation, Mysore
- 6) Managing Director, Karnataka Power Transmission Corporation Ltd. Kaveri Bhavan, Bangalore – 560 009
- 7) Managing Director, Karnataka Power Corporation Ltd. No.82, Shakthi Bhavan, Race Course Road, Bangalore – 560 001

O R D E R

Power Purchase Agreement for Existing Hydro Stations of KPCL

1. A draft Power Purchase Agreement for purchase of power from the following Existing Hydro Stations of KPCL between Karnataka Power Transmission Corporation Ltd. (hereinafter referred to as KPTCL) and Karnataka Power Corporation Ltd. (hereinafter referred to as KPCL) was submitted to the Commission for approval, by KPTCL vide their letter no. Letter no. KPTCL/SEE/Proj/ AEEE3/2431-40/01-02 Dated 07.3.2002.

Sl. No.	Name of the Station	Date of Commissioning
1.	Bhadra Project	1962 & 1963
2.	Sharavathy Generating station	1964-1977
3.	Linganamakki Dam Power House	1979-1980
4	Nagjhari Power House	1979- 1984
5	Supa dam Power house	1985
6.	Ghataprabha Power house	1992
7.	Varahi Power House	1989- 1990
8.	Mani Dam power house	1993
9.	Kadra Power House	1997- 1999
10.	Bhadra RBC (6 MW) Power House	1998
11	Kodasalli Power House	1998-1999
12.	Gerusoppa Power House	2001

2. After examining and considering the material placed before it and objections from general public, Commission approved the said PPA vide Commission's Order dated 10th April 2003, with certain modifications.
3. The Commission's Order came to be challenged by KPCL in the High Court of Karnataka in MFA No. 4256 Of 2003. The Hon'ble High Court of Karnataka disposed of the Appeal vide its Order dated 22nd February 2008 duly permitting KPCL to withdraw the Appeal with liberty to file the appeal before the Hon'ble Appellate Tribunal for Electricity (ATE), Accordingly, KPCL preferred the Appeal before the Hon'ble ATE in Appeal No.89 of 2008.
4. The Hon'ble ATE vide its order dated 18th March 2009, setting aside the order of the Commission dated 10th April 2003, remanded the matter back to the Commission to pass fresh orders after affording an opportunity to the Appellant to make its submissions on the modification directed by the Commission vis-à-vis objections filed by the Objectors.
5. Pursuant to the orders of Hon'ble ATE, the Commission issued notice to the Appellant and the respondents to make their submissions, if any, on the modifications directed by the Commission in the Impugned Order dated 10th April 2003, duly informing the objectors.
6. The Commission held a public hearing on 17th June 2009. In the hearing MD, KPCL for the Appellant, MD, KPTCL and MD, BESCOM for Respondents appeared and made their submissions.
7. KPCL has pleaded in its written submission dated 30.04.2009 that it is agreeable for computation of tariff as per CERC Regulations 2009 which have come into force from 01.04.2009, except for the following:
 - i) In addition to clause 1 to 6 of the Depreciation clause, the benefit of Advance Against Depreciation (AAD) may be considered.

- ii) Normative Plant Availability Factor (NAPAF) may be considered at 85% for all the Hydro Stations.
 - iii) O & M Expenses for the year 2007-08 may be considered as the base year and escalated at 5.72% for the years FY09 & FY10 and escalated for future years.
8. It is further requested by KPCL that the tariff computation and operating norms for the generating stations of the erstwhile VVNL (i.e., M.G.H.E, Munirabad Power House, Shivanasamudram and Shimsha) may be considered as per items (i),(ii) & (iii) above. In its written submission dated 11.06.2009, KPCL has requested to approve average tariff for Varahi stage 1 & 2 duly considering applicable norms as per CERC Regulations 2009 in view of commissioning of units 3 & 4 of Varahi stage-2 on 3.1.2009 and 14.1.2009 respectively.
9. The submission of KPCL for applying CERC Regulations dated 19.01.2009 cannot be accepted, as the said Regulations have no retrospective application. The approval of the PPAs has to be considered in accordance with the norms/rules/Government orders as were applicable when the draft PPA was negotiated and submitted to the Commission for approval. The existing hydro stations as indicated in Sl.No.1 to 8 in the Table in para 1 above, were commissioned much before the issue of 1992 norms. As per the Gol notification dated 30th March 1992, 1992 norms are applicable to such hydro power stations, which commenced the commercial operation on or after 1st January 1997. Since no norms were available for the existing hydro stations, which were commissioned before 1997, the Commission accepts to consider the 1992 norms adopted by KPCL as guidelines for all the hydro stations covered under this PPA.

10. Further, units 3 & 4 of Varahi stage-2 were not the subject matter of any PPA before the Commission when the draft PPA for existing hydro stations was submitted to the Commission for approval. Therefore Commission directs KPCL/ESCOMs to file appropriate proposals separately for unit 3 &4 of Varahi stage - 2.

11. In respect of erstwhile VVNL hydro stations, PPAs have so far not been submitted to the Commission for approval. Hence the Commission hereby directs the ESCOMs and KPCL to file separate power purchase agreements in respect of those stations also.

12. The Commission, after carefully considering the oral and written submissions made on behalf of KPCL, KPTCL & BESCO on the PPAs, and also considering the material on record, approves the PPAs submitted for approval duly considering the modifications then proposed by both the parties, with the following norms:

13. Project wise / Station wise Tariff

According to the draft PPA, the following stations have been clubbed together and tariff has been proposed by KPCL project wise.

- | | | | |
|----|--|---|---------------------------------------|
| I. | (i) Sharavathy Generating Station
(ii) Linganamakki Dam Power House | } | Sharavathi Hydro-
electric Project |
| II | (i) Nagjhari Power House
(ii) Supa Dam Power House | } | Kalinadi Hydro-
electric Project |

III	(i) Varahi Underground Power House	}	Varahi Hydro-electric Project
	(ii) Mani Dam Power House		
IV	(i) Bhadra Power House including RBC Unit - II		Bhadra Hydro Electric Project

According to the details provided by KPCL in the draft PPA and in the tariff working, all the costs and expenses have been considered project wise in respect of the above stations. The Commission also notes that the existing tariffs were determined by the Government project wise. The Commission agrees to the proposal of KPCL to determine the tariff project wise for the above stations. However, availability of each of the stations shall be computed separately for determining availability based incentive / disincentive.

KPCL has proposed station wise tariff in respect of the following stations.

- (a) Kadra Power House
- (b) Kodasalli Power House
- (c) Gerusoppa Power House
- (d) Ghataprabha Power House

14. Salient features of the Draft PPA as filed before the Commission on 07.03.2002 for approval are as under:

- a. Draft PPA is based on Hydro norms as per two-part tariff notification of GOI dated 30.3.1992.
- b. The tariff for the project is based on the Design Energy, which means the quantum of energy, which could be generated in a 90% dependable year with 95% Availability of installed capacity of the Station.

- c. The two-part tariff shall comprise the recovery of annual capacity charges, energy charges, and royalty on water and incentive on secondary energy that means the energy generated in excess of Design Energy on annual basis in the Station.
- d. Deemed Generation is allowed on Availability of 85% and above for any Tariff period which means the difference between Tariff Design Energy and Net Metered Energy (NME). This is allowed if the NME falls short of Tariff Design Energy for reasons solely attributable to hydrology during the first seven years and due to any event or condition solely attributable to the Buyer System.
- e. The rate of return on equity shall be at 15% of equity.
- f. O&M and Insurance expenses for the first year will be equal to actual O&M cost for Financial Year 2001. O&M expenses in each subsequent tariff period after the first tariff period shall be increased by 6%.
- g. Auxiliary consumption inclusive of Transformation losses is subjected to a ceiling of 1% of energy generated.
- h. KPTCL shall provide Letter of Credit equal to two months projected payments. Letter of Credit shall be established not later than 30 days from the effective date.
- i. Royalty, if applicable, is payable at a rate of 4 paise per kWh of NME. Provided that, if the GOK revises this rate, such new rate shall be adopted for payment of royalty.

- j. The Secondary energy rate is 15 paise per kWh of NME in excess of Tariff Design Energy and the total incentives (along with Secondary Energy Charges) shall not exceed 3.28% of equity.

15. Operating Norms:

a) Design Energy:

As per the draft PPA, Design Energy means the quantum of energy, which could be generated in a 90% dependable year with 95% Availability of installed capacity of the Station. Since the details of annual generation are available for all the hydro stations, KPCL shall provisionally determine the design energy for each of the projects as detailed below:

If the total energy generation in the years for which hydrological data is available (say in N years) is arranged in descending order, the (N+1) x 0.9th year would represent the 90% dependable year. The 90% dependable year is a year in which the annual energy generation has the probability of being equal to or in excess of 90% of the expected period of operation of the scheme.

The Commission agrees to approve the design energy figures provisionally as computed above, subject to KPCL obtaining the approval of the Central Electricity Authority. Necessary data shall be filed with Central Electricity Authority within six months from the date of this order under intimation to the Commission.

b) Availability

- i) As per the draft PPA, Availability means the capability of a Generating Station to generate electrical energy on Availability of water and the annual Availability of that Generating Station shall be determined as per the following formula:-

$$\text{Availability In \%} = \frac{(U_1 * H_1 + U_2 * H_2 + \dots + U_n * H_n)}{(U_1 + U_2 + \dots + U_n)} \times 100$$

Where U_1, U_2, \dots, U_n is the contracted capacity of generating units in a Generating Station expressed in MW.

H_1, H_2, \dots, H_n are the hours for which the respective generating units were available for operation during the tariff period. In case any generating unit is not being operated for reasons due to prudent utility practices or is under renovation, modernization or uprating, such period in hours shall be considered as being available for computation of Availability.

'Prudent Utility Practices' is defined in the draft PPA as follows:-

"Prudent Utility Practices" means the exercise of that degree of skill, diligence, foresight and operating practice generally followed by qualified prudent professionals in the power generating industry with respect to the design, engineering, construction, testing, metering, repair, operation and maintenance of electrical generating facility, and in procurement & use of spare parts.

The above definition of Availability in the Draft PPA conforms to that in the two part Notification of GOI dated 30.3.1992 with the exception that -

- a) U_1, U_2, \dots, U_n is indicated as the contracted capacity of the Generating Units in the draft PPA which is the capacity net of auxiliary consumption whereas in the GOI Notification, it is indicated as the capacities of different units which means the Gross Capacity

b) The aspect mentioned in the draft PPA viz. counting the period during which any generating unit is not being operated for reasons due to Prudent Utility Practices or is under renovation, modernization or uprating, for purposes of computing Availability, is not covered in the GOI norms dated 30.3.1992.

The following categories of generating stations are covered in the draft PPA.

- a) Dam Site Power Stations where the output of the generating units depends on the level of water in the reservoirs as in the case of Bhadra, Ghataprabha, Supa, Linganamakki, Mani, Kadra, Kodalalli and Gerusoppa.
- b) Generation is at constant head as in the case of Nagjhari, Sharavathi and Varahi Underground Generating Stations.
- c) Generation in Bhadra and Ghataprabha Stations is seasonal in nature and depends on the release of water for irrigation purposes. Many of the stations operate during peak load hours during the non-monsoon period.

Considering the above aspects, the Commission directs KPCL that Availability of a Generating Station requires to be computed on a daily basis depending upon the Declared Capacity of the station for each hour of the day with respect to the Contracted Capacity of the Station averaged over the day and then over the year to arrive at the Annual Availability.

The Daily Availability shall be computed based on the following formula:

$$\text{Percentage Daily Availability} = \frac{U_1 \times H_1 + U_2 \times H_2 + \dots + U_{24} \times H_{24}}{U \times 24} \times 100$$

Where: $U_1, U_2, U_3, \dots, U_{24}$ are the hourly Declared Capacities of the Station for the day commencing from 1st hour to 24th hour;

H_1, H_2, \dots, H_{24} are the hours commencing from 1st to 24th hour and

U is the Contracted Capacity of the Station for the day.

For the purpose of this formula, Declared capacity shall mean the Capacity in MW Ex-Bus of the Station declared by the Seller for each hour of the day and Contracted Capacity shall mean the capacity of the Station Ex-bus under the prevailing conditions of water levels and flows.

In respect of the stations where head available for power generation varies depending upon the level of water in the Reservoir, the Contracted Capacity used in the above formula should correspond to the head available during that period including the overload capacity if built into the design of the units.

KPCL shall furnish to the Buyers the details of the guaranteed capacities of the generating units at various heads and overload capacities if built into the design of the units. If the generating units are operated on overload capacity either to prevent spillage of water during monsoon months or dispatched to meet peak load requirements, the Contracted Capacity shall include the overload capacity wherever applicable.

ii) **Availability under conditions of Uprating, Renovation & Modernization**

The draft PPA provides that the periods in hours during which the units are not being operated for reasons due to prudent utility practices or is under renovation modernization or up rating shall be considered as being available for computation of Availability. Since some of the units have already served considerable number of years after commissioning, the units may require modernization and renovation. It is also essential to utilize the benefits of up rating, if such a thing is possible. Hence the Commission agrees for the above provision. However, it is essential to see that any work, which is taken up under the above category, shall be completed under a tight time schedule for reaping the intended benefits. Hence, the Commission prescribes the following procedures to be adopted.

- iii) For all R&M and uprating works, which are taken up and are in progress, the KPCL shall file status report and programme of completion for consideration of the Commission and suitable orders.
- iv) For the other schemes yet to be taken up, KPCL shall file all information as above along with copies of estimates.
- v) The Commission on scrutiny of records and further deliberations with KPCL and ESCOMs/Licensees , if required, shall pass orders on the extent of optimum time required for the said works. Such period as may be approved by the Commission only shall be counted for Availability calculations. In case of time over run, due to any reasons, which is not approved by the Commission, the Seller shall bear the risk and the period shall not be counted for Availability.

vi) **Availability under conditions of constraints in operation for reasons due to prudent utility practices**

The draft PPA provides that the periods in hours during which the units are not being operated for reasons due to “Prudent Utility Practices” shall be counted for Availability. This aspect is not considered in the Norms. If, however, there is a reduction in the guaranteed output from the generating unit/units due to design limits and specifications arising out of grid conditions such as:

- (a) Bus voltage and frequency conditions beyond the prescribed limits
- (b) Constraints in evacuation capacity, etc.,

The Commission agrees that the capacity hours thus lost under items (a) and (b) above shall be considered for computation of availability.

The normative Annual Availability of the projects shall be taken as 85% as per the GOI norms. The definition of Availability provided in the PPA shall be modified suitably.

For the purposes of Availability based Incentive / Disincentive, Availability for individual stations shall be computed and considered.

However, if the generating units are not operated for other reasons mentioned in the draft PPA under “Prudent Utility Practices”, such as, engineering, construction, testing, metering, repair, operation and maintenance of electrical engineering facilities, procurement and use of spare parts, etc., such duration for which the Unit/Units are not operated cannot be counted for Availability.

c) Auxiliary consumption

- i) This parameter is defined in the draft PPA as the amount of energy consumed within the plant boundary inclusive of Transformation losses subject to a ceiling of 1 % of energy generated, during annual capacity test.
- ii) According to the two part notification of GOI dated March 1992 Auxiliary consumption is 0.5% of energy generated. Norms for transformation loss is also 0.5 % of the energy generated.

The Commission approves the Aux consumption for each of the hydro projects (including the transformation losses) not to exceed 1% of the energy generated.

16. Financial Norms:

a) Capital Cost: For the purpose of tariff, historical capital costs as per audited accounts shall be the basis. The Commission therefore approves to consider the actual capital costs as per book value as at the end of 31.3.2009, in respect of each of the existing hydro units covered under this PPA as per audited accounts. This shall include the additional capital expenditure incurred, if any, by KPCL subsequent to CoD, upto 31.3.2009. For any future R&M expenditures, separate proposals, after due consultation with buyers, shall be submitted to the Commission for approval.

b) Interest On Loans (IOL)

- i. According to Annex-III of the draft PPA, a schedule of Debt as on 31.3.2001 has been indicated and loan repayment and interest over a 16 year period from 2001-02 to 2016-17 has been given for each of the projects.

- ii. The Commission observes that there may be several changes in the loan repayment schedule and the interest charges over the 15 year agreement period for various reasons. One such major event has already occurred that KPCL has repaid Govt. loans to an extent of Rs.878 crores (which includes loans allocated to both hydro and thermal stations) by way of adjustment vide GO No. DE 20 PSR 2002 dated 1.4.2002. This repayment of GOK loans makes a substantial reduction in the interest liability of KPCL.
- iii. The Commission concludes that the interest shall be limited to the actual interest for each of the projects in each year during the agreement period. Further, it is directed that Annex-III of the draft PPA shall be revised and updated as on 1.4.2009 taking into consideration repayment of loans and also the repayment of Government loan vide GO dated 1-4-2002.

c) Depreciation:

As per draft PPA vide Article 4.3 (ii) "the Depreciation charge on Capital Expenditure and Additional Capital Expenditure shall be at the rates notified by GOI from time to time.

Provided that if the depreciation charge is less than the repayment obligation of Loans, then advance against depreciation not exceeding the difference between the depreciation charge and the repayment obligation of loans shall be allowed in addition to the depreciation charge"

The GOI had issued notification on the rates of depreciation in 1992/1994 under the provisions of Electricity (Supply) Act 1948 according to which the rate of depreciation applicable to Hydro Electric Plant was 3.4%. p.a.

In the written submission dated 30.04.2009, KPCL has requested to consider depreciation norms as per CERC Regulations 2009 in addition to Advance Against Depreciation.

Since the CERC Regulations have come into effect from 1.4.2009, the same cannot be applied to this PPA. In view of this, the Commission approves depreciation at 3.4% on 90% of the capital cost of the project. In case the debt repayment of loan in a year exceeds the amount of depreciation, the difference shall be treated as advance against depreciation and claimed through tariff as agreed to in the draft PPA.

d) Recoverable capacity charges:

The components of recoverable capacity charges are (i) interest payment on loans including lease rentals and (ii) depreciation. The Commission approves the Recovery of Capacity Charges with reference to the approved Interest & Depreciation charges in addition to Advance Against Depreciation, if any.

The relevant provision of draft PPA shall be suitably modified to be in line with the above.

Energy Charges

1. According to the draft PPA, Energy Charges is the sum of Recoverable primary energy charges and Secondary energy charges. The components of primary energy charges are 1) Return on Equity, 2) O&M Expenses 3) Income Tax and 4) Interest on working capital which are discussed below:

a) Return on Equity (ROE)

The return on Equity has been provided in the draft PPA at 15 % and the same has been proposed to be computed on the Equity plus reserves allocated to the projects. KPCL had furnished allocation of

project cost between Equity and Reserves in certain proportion. KPCL is directed to update the said allocation in proportion to debt equity ratio of 80:20 as on 31,03.2009 in respect of all the hydro projects dealt with in this order.

As per the draft PPA, the parties had agreed to RoE of 15%. Hence the Commission approves to provide RoE of 15% on equity plus reserves.

b) Operation and Maintenance expenses (O&M)

i) The operation and maintenance expenses (O&M) including insurance has been provided in the draft PPA as that equal to actual O&M for Financial year 2001 in the first tariff year and shall be increased by 6 % in each subsequent year.

ii) In their written submission dated 30.04.2009, KPCL has requested to consider the actual O & M expenses for the year 2007-08 as the base year with an annual escalation of 5.72%.

Since the actual expenditure for the year 2008-09 is available, the Commission approves the O&M expenses in respect all the hydro stations covered under this Order with reference to the actual O & M expenses for the year 2008-09 with an escalation of 6% per annum on the base year. While arriving at the base expenses, the arrears of wage revision, major repairs etc, included in the base expenses shall be excluded.

c) Tax On Income (TOI)i.

The draft PPA provides for payment of all taxes on income in relation to the project. The Commission notes that the GOI 1992 norms provides for passing on the income tax on return up to 16 % on equity.

The Commission agrees to the provision for payment of income tax subject to (i) the MAT/ income tax shall be payable on ROE up to 15 % since 15 % is the agreed ROE in the Draft PPA. (ii) Tax on incentive and on other income, if any, is not payable by ESCOMs/licensees, (iii) The tax shall be subject to actuals and the benefit of tax holiday and/or refunds, if any, shall be passed on by KPCL to the ESCOMs.

d) Interest on Working Capital (IWC)

- i. The Commission notes that the following parameters have been indicated in the draft PPA for computation of working capital:
 - a) O&M expenses for one month
 - b) Spares at actuals
 - c) Receivables for 45 days

However, the rate of interest on working capital to be considered has not been indicated in the draft PPA.

The Commission approves working capital as per the norms as provided in the draft PPA and the Commission allows interest on working capital at SBI PLR plus 2 %. In case reserves are used for working capital purposes, the interest on working capital shall be allowed only on the basis of actual interest paid on the working capital borrowings subject to 1992 norms.

e) Incentive

The draft PPA provides for secondary energy charges at 15 paise/unit of net-metered energy and it is stated that the total incentives, along with secondary energy charges, shall not exceed 3.28% of equity.

The Commission approves to provide incentive at the rate of 15 paise/unit of net metered energy, subject to the condition that the total incentives, along with secondary energy charges, shall not exceed 3.28% of equity.

f) Disincentive for lower Availability

According to the draft PPA, if the Availability achieved is less than the normative Availability, the generator will be eligible for lesser capacity charges based on Capacity Charge Adjustment Factor. The Capacity Charge Adjustment Factor has been defined in the draft PPA as "Capacity Charge Adjustment Factor means for a Tariff period, the quotient obtained by dividing Availability by 85 %. The capacity charge adjustment factor for a Tariff period shall not exceed 1.0". The Commission notes that the recovery of Capacity Charges has been directly linked to the Availability.

The Commission decides that the disincentive for Availability below 85 % shall be at the rate of 0.7 % on equity for every reduction of 1% in Availability below 85 % and such disincentive shall be limited to 15 % return on equity for each of the Stations.

g) Royalty for water

Commission approves the payment of Royalty for each kWh of the Net Metered Energy (NME) at the rates fixed by the State Govt. from time to time.

17. Demonstration of declared capacity and penalty for mis-declaration

It is noted that the draft PPA does not contain any clause regarding the demonstration for declared capacity and penalties for mis - declaration. Since incentives and disincentives are built on the basis of Availability of plant, specific provisions are required to be made in the draft PPA. Hence the following shall be included in the draft PPA.

"The generating Company may be required to demonstrate the declared capacity of its generating station as and when asked for by the Buyer. In the event of generating Company failing to

demonstrate the declared capacity, the capacity charges shall be reduced as a measure of penalty and the quantum of penalty for mis-declaration for any 24 hour period, shall be the charges corresponding to 2 days capacity charges".

The Seller and Buyer shall evolve a procedure for testing the declared capacity.

18. Rebate for payment through Letter of Credit

KPCL has sought to include rebate clause as provided in CERC Regulations dated 19.01.2009. As already held, CERC Regulations dated 19.01.2009 cannot be applied to the present PPA as the same was not provided in the renegotiated PPA.

19. Deemed Generation

In draft PPA under Article 1 – Definitions, the clause Deemed generation, should be changed as per the 92 Norms, which reads as follows:-

"If the station has achieved the normative Availability level in a contract year, but actual energy generation falls short of Design Energy for reasons solely attributable to hydrology, the energy charges for generation up to Design Energy shall be payable to the generating company during the first 7 years of operation.

In case of spillage of water resulting in reduced generation due to reason beyond the control of generating company and non-Availability of Board's Transmission Lines or on receipt of the backing down instructions from the Load Despatch Centre, the energy loss on account of such spillage shall be considered as deemed generation limited to the Design Energy".

Since all the stations dealt with in this Order have served for more than 7 years, the question of allowing deemed generation will not arise.

20. The provision relating to dispute resolution contained in the PPA shall be modified in view of Section 86(1)(f) of the Electricity Act 2003. Now it shall state that any dispute arising out of or in relation to the PPA shall be referred to the Commission for adjudication under Section 86(1)(f) of the Electricity Act 2003.
21. The draft PPA was earlier signed by KPTCL at the time of submission of the PPA for approval of this Commission and Section 39 of Electricity Act 2003 bars KPTCL from entering into agreement for purchase of power. The GoK vide its letter dated EN 18 PSR 2008 dated 20th October 2008 has made source-wise allocation of power to the Hukeri Rural Electric Co-operative Society (HRECS) also. In view of this, HRECS shall also be a party to the agreement. The Commission therefore directs KPCL and ESCOMs and Hukeri Society to execute a fresh PPA with the above-approved parameters and corrections to the draft PPA as per Annex-1 to this Order. KPCL, ESCOMs and HRECS shall execute the PPA with all Annexures and submit 3 copies of the executed agreement to the Commission within thirty (30) days from the date of this Order.
22. Further, the following Annexes shall be made as the part of PPA that are to be finalized by the parties themselves, in addition to the Annexures enclosed to the draft PPA:
 - a) The schematic diagram
 - b) Procedures for conducting Annual capacity test.
 - c) Values of design Energy with details of computation for all the Projects.
23. Any other issues not specifically finalized by the Commission, can be mutually discussed and agreed to between the parties and submitted for approval of the Commission.

24. The revised tariff for existing Hydro Stations shall become effective from 01.04.2009.

This order is signed on 3rd day of August 2009

K.P.Pandey
Chairman

Vishvanath Hiremath
Member

K.Srinivasa Rao
Member

ANNEX - 1

MODIFICATIONS / ADDITIONS TO BE EFFECTED TO THE CLAUSES OF THE DRAFT PPA OF EXISTING HYDRO STATIONS OF KPCL

Page	Corrections
1 of 48 to 3 of 48	<p>The first part of the PPA consisting of the RECITALS may be modified to reflect the ESCOMs and HRECS as Buyers on the one part and KPCL as the seller on the other part.</p> <p>Reference to KER Act may be omitted.</p>

Article 1 Definitions

	The term "Act" may be brought under Definitions to define the Electricity Act, 2003.
4 of 48 to 12 of 48	<p>Definition of "Auxiliary Consumption" shall refer to energy consumption of the auxiliary equipment in the generating station inclusive of transmission losses from generation voltage to transmission voltage. This shall not include energy consumption in the colony.</p> <p>Definition of "Additional Capital Expenditure" shall be modified to reflect the expenditures in respect of approved renovation, replacement, modernization and/or uprating works with the consent of Buyer(s) and KERC from time to time.</p> <p>Definition of "Availability" shall be in accordance with Para 15(b) of the order.</p> <p>Definition of "Capital expenditure" shall be in accordance with Para 16(a) of the order.</p> <p>Definition of "Check Meters" and "Main meters" shall be in accordance with CEA Regulations on Installation and Operation of meters.</p> <p>Definition of "Deemed Generation" shall be modified as per Para 19 of the Order.</p> <p>Definition of "Design Energy" shall be in accordance with Para 15(a) of the Order.</p>

	<p>Definition of KERA may be deleted.</p> <p>In the definition of KERC "established under KERA" may be deleted.</p> <p>In the definition of "Prudent Utility Practices" the words "procurement, storage and disposal of coal/ash" may be deleted.</p> <p>Definition of "Royalty" shall be modified as "the Amount payable to GoK for use of water to generate electricity".</p>
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Article 3 Sale and Purchase of Electricity

	<p>3.3 Contracted Capacity The following may be added after (a). (b) The curves provided by the manufacturer giving the relationship between the head and discharge and the capacity shall be annexed to the Agreement. Para (b) may be changed as (c).</p>
	<p>3.6 The Dispatch procedure shall be in conformity with the KERC Grid Code / KERC Intra State ABT Regulations.</p>
	<p>3.9 Third Party Sale – Sale of energy to third parties shall be subject to first right of refusal resting with the Buyer(s) and approval of KERC therefor as provided for in the draft PPA. However, the category of HT tariff shall be mentioned in the penultimate Para.</p>

Article – 4 Tariff

	<p>Articles dealing with the following financial norms such as –</p> <ul style="list-style-type: none"> a) Capital Expenditure b) Tariff c) Recoverable Capacity Charges d) Interest Payment e) Depreciation f) Energy Charges g) Return on Equity h) Operation and Maintenance expenses i) Tax j) Interest on working capital <p>Shall be in conformity with the Para 16 – "Financial Norms" of the Order.</p>
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Article – 5 Metering

	The provision of main meters and check meters shall meet the requirements of the Availability Based Tariff regime in addition to being in conformity with the CEA Regulations on Installation and Operation of Meters.
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Article – 7 Dispute Resolution

	This Article shall be modified to be in conformity with Para 21 of the Order.
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