

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri T K Jose, Chairman
Adv. A.J Wilson, Member
Shri B Pradeep, Member

OP No 49/2022

In the matter of : Petition filed for extension of Tariff Period I of the Power Purchase Agreement (PPA) of Iruttukanam Small Hydel Power Project Stage-I (2x1.5) MW destroyed in the Maha Pralayam on the 9th August and 14th August 2018

Petitioner : M/s Viyyat Power Private Limited

Petitioner represented by : Shri. P.D Nair, MD, Viyyat Power Private Limited

Respondents : 1. Kerala State Electricity Board Ltd
2. Principal Secretary,
Power Department,
Government of Kerala
3. The Director,
Energy Management Centre,

KSEB Ltd represented by : 1. Shri. Rajan M.P, Dy. Chief Engineer,
2. Shri. Shine Raj, Asst: Executive Engineer

Power Department Represented : 1. Smt. Preethy. C.S, Joint Secretary,
2. Shri. G.Ramnath, Under Secretary, GoK

EMC represented by : Shri. Anoop Surendran, Energy Technologist,

First hearing on : 11.10.2022
Second hearing on : 13.12.2023
Third hearing on : 07.01.2025

Order dated 11.03.2025

1. M/s Viyyat Power Private Limited (hereinafter referred to as petitioner) on 17.08.2022, filed a petition before the Commission for extending the Tariff Period I of the PPA signed with KSEB Ltd by 333 days i.e., up to 01.08.2023.

2. The summary of the petition filed by the petitioner M/s Viyyat Power Private Ltd is given below.
- (i) The Government of Kerala (GoK) has allotted 3MW Iruttukanam Small Hydel Power Project (SHP) to the petitioner in the year 2004. The petitioner had entered into an Implementation Agreement (IA) with State Government on 10.12.2004. Subsequently, as per the provisions of the Implementation Agreement and with the approval of the Commission, the Power Purchase Agreement (PPA) was signed with M/s KSEB Ltd on 07.06.2007.
 - (ii) The petitioner was selected and awarded the project based on the tariff quoted in the tariff based competitive bidding initiated by the State Government. The tariff quoted by the petitioner from 7th year of CoD to 18th year of BOOT period was (Tariff Period I) ₹2.70 per unit, and 19th year to 30th year of BOOT period was Rs 2.07/unit. The Stage-I project achieved CoD on 04.11.2010. Since then, the petitioner has been generating electricity from the project and supplying to KSEB as per the provisions of the PPA.
 - (iii) Subsequently, during the Maha Pralayam occurred in August 2018, the powerhouse of the petitioner was destroyed fully except civil works.
 - (iv) The petitioner rebuilt the powerhouse with an additional cost of about Rs 17.69 crore. Out of it, the insurance coverage was obtained only for about Rs 7.095 crores. The petitioner has availed a term loan of 7.0 Crores for completing the project.
 - (v) The rehabilitated project was recommissioned on 08.07.2019 and generating electricity then.
 - (vi) The petitioner further submitted that neither the State Government or M/s KSEB Ltd has given any relief or compensation to the petitioner for the damages occurred during the Maha Pralayam.
 - (vii) The petitioner further submitted that the full generation and supply of energy has been suspended from 9th August 2018 to 7th July 2019 (333 days, falling in the Tariff Period I of PPA). Hence, the petitioner requested before the Commission to extend the Tariff Period I of the PPA by 333 days.
3. KSEB Ltd vide the letter dated 06.10.2022 filed the counter affidavit. The summary of the issues raised by KSEB Ltd is given below.
- (1) The Commission vide the Order dated 24.04.2020 in Petition OA No. 30/2019 has rejected the claim of the petitioner for compensatory tariff on account of the financial loss sustained due to the Mahapralayam happened in the year 2018. In the said petition, M/s Viyyat Power Pvt Ltd prayed before the Commission that, along with the other claims, the loss of generation during the rehabilitation period from 09.08.2018 to

07.07.2019 as Rs 4.94 crore. However, the Commission rejected the claim citing that there is no provision in the Implementation Agreement and PPA for making compensation for such losses. The petitioner M/s Viyyat Power Pvt Ltd filed an Appeal Petition against the Order before the Hon'ble APTEL and the matter is pending. Hence the subject issue is sub-judice.

KSEBL further submitted that, the issue raised by the petitioner is already examined by the Commission in petition OA No. 30/2019, but the same was rejected.

The Commission vide the Order dated 24.04.2020 in Petition OA No. 30/2019 has directed the petitioner to approach the State Government, who allotted the project to the petitioner to extend the BOOT period, if the petitioner so desires. However, the request of the petitioner to extend the BOOT period was pending before the State Government.

The petitioner has approached the State Government, APTEL and the KSERC on the same issue at the same time. It is not permissible to raise issues more than one appeal forums at the same time.

- (2) The tariff rate and tariff period are specified in the PPA dated 7th June 2007. The provisions of the PPA cannot be altered or modified without mutual consensus.
- (3) Ministry of Power (MoP), Government of India (GoI) vide the Order dated 11.05.2022 has made clear that, in view of the settled position of law, once a binding contract has been entered, neither party can resile from the same nor the SERCs can alter any of the terms of the contract that has been mutually agreed upon by the parties.
- (4) The claim of the petitioner for compensation for loss of full generation for a period of 333 days during rehabilitation period is against the provisions in the Implementation Agreement signed by the Petitioner with GoK and the PPA signed by the Petitioner with KSEBL. In this matter, KSEBL has placed the relevant clauses of the Implementation Agreement (IA) and Power Purchase Agreement (PPA) before the Commission, which is extracted below.

(i) Clause 6.6 of the Implementation Agreement is extracted below:

"6.6 Liability for other losses, damages etc.

Save and except as expressly provided in this Article 13, no party hereto shall be liable in any manner whatsoever to the other party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure event."

(ii) Clause 13.6 of the PPA which states the following:

"13.6 Liability for other losses, damages etc.

Save and except as expressly provided in this Article 13, no party hereto shall be liable in any manner whatsoever to the other party in

respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure event.”

- (5) KSEBL further submitted that, the argument of the petitioner that, the rehabilitation and recommission was done with the approval of KSEBL is not correct. This argument was already rejected by the Commission vide the Order dated 24.04.2020 in Petition OA No. 30/2019.
 - (6) KSEBL also submitted that, the actual generation from the project is much higher than the designed energy. This is due to the water available from the catchment area of the Sengulam Augmentation Scheme. The financial loss occurred due to loss of generation during the rehabilitation period on account of the August 2018 flood was compensated by the excess generation during the remaining years.
4. The Commission admitted the petition as OP 49/2022. First hearing of the petition was conducted through video conference on 11.10.2022. The summary of the deliberations during the hearing is given below.
- (1) Shri. P.D Nair, Managing Director, M/s Viyyat Power Private Limited submitted the following.
 - (i) The 3 MW Iruttukanam SHP was one of the thirteen (13) small hydro projects (SHPs) allotted by the State Government in 2004 through tariff based competitive route. However, Iruttukkanam is the only project developed and commissioned out of that bid. The petitioner had entered into an Implementation Agreement (IA) with State Government on 10.12.2004 and a Power Purchase Agreement (PPA) with M/s KSEB Ltd on 07.06.2007.

However, due to the unprecedented delay of 15 months caused by the Commission in giving tariff approval, six months delay caused by KSEB Ltd in insisting to get Government approval of an already approved draft PPA and the 12 months delay caused by Court interventions, totalling to 33 months delay for no fault of the developer, the project could be commissioned only on 04.11.2010. As a result, the cost of generation was increased from Rs 2.22 /kWh to Rs 3.57/kWh making the project unviable and insolvent.
 - (ii) The petitioner filed a Truing Up petition with the actual cost for re-determination of tariff, however the Commission by the Order dated 02.11. 2010 rejected the petition. The petitioner developed an expansion project with an additional capacity of 1.5MW, which was commissioned on 10.04.2012.
 - (iii) However, in the Mahapralayam struck the state in August 2018, the powerhouse was totally destroyed except the civil structure.

The petitioner decided to rebuild the power house rather than surrender it to the State Government. The power station was rebuilt completely with new equipment and generators, in less than a year and finally commissioned on 08.07.2019, at a total cost of Rs. 17.69 Cr. Out of it, Rs. 7.095 Cr received from the insurance proceeds and balance Rs 7.00 Cr met from SBI loan.

The petitioner further submitted that, neither the Government, nor KSEB Ltd has given any relief or compensation for the disaster and for rebuilding the power house.

As the Petitioner has lost full generation and supply of energy to KSEB Ltd for the period from 9th August 2018 to 7th July 2019 (333 days) falling in Tariff Period I of the PPA, it was requested before the Commission to extend the Tariff Period I of the PPA by 333 days.

- (2) KSEB Ltd during the hearing submitted the following against the petition filed by M/s Viyyat Power Private Ltd for extending the Tariff Period-1 of the PPA by 333 days.
- (i) The Commission vide the Order dated 20.04.2020 in petition OA No. 30/2019 had already examined the presumptive generation loss in revenue during the rehabilitation period. The petitioner has raised the settled issue again in some other form as 'extension of Tariff Period-1 of the PPA'.
 - (ii) The petitioner has filed an appeal before the Hon'ble Appellate Tribunal for Electricity at New Delhi (APTEL) against the Order dated 20.04.2020 in petition OA No, 30/2019. In the said petition OA No. 30/2019, the petitioner has raised the issue of loss sustained by the petitioner due to the flood in 2018. Hence the matter is sub judice before the Hon'ble APTEL.
 - (iii) The terms and conditions of a mutually agreed PPA cannot be amended or modified without the consent of the parties.
 - (iv) Ministry of Power (MoP), Government of India (GoI) vide the Order dated 11.05.2022 has made it clear that, in view of a settled position of law, once a binding contract has been entered, neither party can resile from the same nor the Hon'ble Court can alter any of the terms of the contract that has been mutually agreed upon by the parties.
 - (v) The petitioner requested for extension of BOOT period. The request of the petitioner for the extension of the BOOT period is pending before the State Government, the prayer of the petitioner shall not be considered.

- (vi) The rehabilitation was done without the approval of the State Government, KSERC and KSEB Ltd.
 - (vii) The petitioner has not claimed any compensation from “Dhurithaswasam” ordered by the State Government for compensating the loss sustained by the flood affected parties in the 2018 floods, instead the petitioner opt for extension of the BOOT period.
 - (viii) The actual generation from the project was much higher than designed energy, mainly due to the additional water available from the catchment areas of Sengulam Augmentation Project of KSEB Ltd, which was badly delayed due to various reasons.
- (3) Shri. G. Ramnath, Under Secretary, Government of Kerala submitted that, the matter of extension of the BOOT period is pending before the State Government and it will take an appropriate decision after detailed examination.
- (4) Shri. Anoop Surendran, Energy Technologist, EMC submitted that, EMC already given recommendations to the Government to extend the BOOT period by 8 years. The ‘tariff extension period of 326 days’ requested by the petitioner is included in the BOOT period.
- (5) The Commission during the hearing directed the petitioner to clarify the following;
- (i) As directed by the Commission vide the Order dated 24.04.2020 in petition OA No. 30/2019, whether the petitioner had approached the State Government to extend the BOOT period.
 - (ii) Whether the Commission has the authority to extend the Tariff Period-1 by modifying the mutually agreed PPA without the approval of the State Government.
- (6) Regarding the objections raised by KSEB Ltd and the clarifications sought by the Commission, the petitioner M/s Viyyat Power Private Limited clarified the following.
- (i) The petitioner in the petition has requested to extend the Tariff Period-1, whereas the matter pending before the State Government is for extension of the BOOT period. These are two different issues.
 - (ii) As per the Section 64 of the Electricity Act, 2003, the Commission has the authority to extend or modify the Tariff period, even for the concluded PPAs without the consent of the parties.

- (iii) The rehabilitation of the project was done based on the recommendations of the Chief Engineers of KSEBL.
- (7) The Commission clarified to the parties that, the project of the developer M/s Viyyat Power Private Ltd (petitioner in this petition) was selected through tariff based bidding by the State Government. Further, the State Government had signed an implementation agreement with the petitioner on 10.12.2004. The implementation agreement deals with the various aspects of the project during the construction and operation of the project including the BOOT period, obligations of the petitioner, force majeure events, termination of the agreement, transfer of the project after the BOOT period etc.

Considering these aspects in detail, the Commission desires to have the considered opinion of the State Government on the issue of extension of the Tariff Period-1 of the project as requested by the petitioner.

- (8) Based on the deliberations during the hearing, the Commission has directed the petitioner and the KSEBL to comply the following.
- (i) The State Government shall file its decision and order on the issue of the 'extension of Tariff Period-1 by 333 days , i.e., upto 01.08.2023', with a copy to the petitioner M/s Viyyat Power Private Limited and the respondent KSEB Ltd.
 - (ii) Energy Management Centre (EMC) shall also file its detailed comments within the time stipulated with a copy to petitioner and the respondents.
 - (iii) The petitioner M/s Viyyat Power Private Limited and the respondent KSEB Ltd shall file its additional comments, if any, before the Commission.
5. Subsequently, the Principal Secretary to the Government vide the letter dated 28.10.2022 informed the Commission the following.

" A committee is being constituted for resolving the issues with Viyyat Power Private Limited. The proposed Committee includes representative of Finance Department as well. It is informed that all pending issues connected to Viyyat Power Private Limited will be left to the proposed committee for taking the stand on behalf of Government."

6. KSEB Ltd vide its affidavit dated 17.11.2022 submitted the following.

" The Board of Directors of KSEB Ltd in its meeting had observed that, the petitioner VPPL has approached the State Government for BOOT period, APTEL for compensatory tariff, State Regulatory Commission for tariff period extension in connection with Mahapralayam. Hence Board of Directors meeting decided to take appropriate decision based on the directions of the State Government."

Since the State Government has decided to constitute a committee for studying the matter on BOOT period extension, KSEB Ltd requested before the Commission that, it may not take further action on the subject matter until the GoK take a decision on the BOOT period extension.

7. The State Government vide letter dated 04.12.2023 submitted the following;

“the matter of Boot Period Extension is under the examination of Government and final decision is yet to be taken. Moreover, KSEBL has informed that they are not in a position to consider any other demands of M/s Viyatt Power Private Limited.”

8. The second hearing of the petition was conducted on 13.12.2023 at the Court Hall of the Commission. Shri. P.D. Nair presented the petition before the Commission. Shri. Shine Raj, Asst: Executive Engineer presented the comments on behalf of the respondent KSEBL.

The Commission during the hearing clarified that, since the project was allotted to the petitioner through bid route by the State Government, and also an implementation agreement is signed between the State Government and the petitioner, the decision of the State Government has to be obtained for taking appropriate decision on the subject matter.

9. In the meanwhile, KSEBL vide the additional submission dated 29.08.2024 submitted to the Commission that, the State Government vide the Order dated 22.05.2024, has extended the BOOT period of the Iruttukkanam SHP (Stage-I and Stage-II) subject to the condition that M/s Viyyat Power Pvt Ltd (VPPL) has to withdraw all the litigations filed in connection with the issues before various forums. As per the Government Order, KSERC approved tariff for the project during non-operation period due to 2018 flood will be applicable to the extended period. Accordingly, the Government has extended the BOOT period as follows;

Unit-1 of Stage-1 - 322 days
Unit-2 of Stage-1 - 323 days
Unit-1 of Stage-2 - 333 days.

KSEBL further submitted that, since the GoK has extended the BOOT period of Iruttukkanam SHP, which covers rehabilitation period due to flood 2018, Commission may dispose the petition based on GoK Order dated 22.05.2024 in the matter of extension of the BOOT period.

10. Third hearing on the petition was held on 07.01.2025 at Court Hall of the Commission. Shri. P. D. Nair presented the matter on behalf of the petitioner. Shri. Shine Raj.P, presented the matter on behalf of the respondent KSEBL. Smt. Preethy C. S, Joint Secretary appeared before the Commission on behalf of the State Government. The summary of the deliberations during the hearing is given below.

- (1) The petitioner during the hearing submitted that, they agreed to comply with the GO dated 22.05.2024 in the matter of extension of the BOOT period of Iruttukkanam SHP (Stage-1 and Stage-2). The petitioner also clarified that, no case was pending before the Hon'ble Supreme Court and Hon'ble APTEL on the related issues. The appeal petition pending before the Hon'ble Supreme Court is against the generic tariff approved by the Commission for the Iruttukkanam Stage-2 (1.5MW) project.
- (2) KSEBL also submitted that, they are agreed to extend the BOOT period as per the Order of the Government dated 22.05.2024. Hon'ble APTEL vide the judgment dated 19.12.2024 has rejected the appeal petition filed by M/s Viyyar Power Pvt Ltd against the Order dated 24.04.2020 in petition OA No. 30/2019 in the matter of compensatory tariff for recovering the additional cost incurred for the rehabilitation of Iruttukkanam SHP (Stage-1 and Stage-2) destroyed in the Mahapralayam in August 2018.

Now no appeal petition filed by the petitioner is pending before the Hon'ble Supreme Court and Hon'ble APTEL on the matters related to the flood in 2018.

However, the petitioner is yet to sign Power Purchase Agreement for the Iruttukkanam Stage-2 project due to the pending dispute before the Hon'ble Supreme Court regarding the generic tariff approved for the Iruttukkanam Stage-2 project.

- (3) Joint Secretary to Government clarified that, since the Government issued the Orders on extending the BOOT period, further action may be taken by the Commission based on the Order of the State Government in this matter.

Analysis and Decision of the Commission

11. The Commission having examined in detail the petition filed by M/s Viyyat Power Private Ltd to extend the Tariff Period-I of the PPA by 333 days, i.e, upto 01.08.2023, the comments of the respondent KSEBL, the Order of the State Government dated 22.05.2024, provisions of the Electricity Act, 2003, other Rules and Regulations in force, decided on the matter as follows;
12. Inorder to get clarity on the issues raised by the petitioner, the Commission has examined the background of the project and noted the following.
 - (1) The State Government vide the Order No. GO (Ms) No.16/04/PD dated 21.06.2004, allotted the Iruttukkanam (3 MW) SHP at Idukki to M/s Viyyat Power Private Ltd under IPP category. The allotment criteria was the lowest tariff rate per unit of electricity offered by the petitioner for sale of power from the project to KSEB Ltd.

The tariff quoted by the petitioner is given below.

“Tariff period-I. 6th to 18th year of the BOOT period.
Tariff Period-II. 19th to 30th year of the tariff period.

The different tariff rates as per the PPA is given below.

Years	6*	7	8	9	10	11	12	12	14	15	16	17	18
Tariff (Rs/unit)	1.08	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7

For period II, the tariff shall be Rs. **2.07/ kWh (Outcome of the bid evaluation)**

* Note:- 6th year tariff is meant only for the months 70 to 72 (both months inclusive) from 03.09.2004, the date stipulated for signing of Implementation Agreement.”

- (2) The petitioner signed an ‘Implementation Agreement’ with the State Government on 10th December 2004. The implementation agreement deals with various aspects of the project including ‘terms of the agreement’, ‘construction of the project’, ‘the obligations of the project developer during the construction phase, operation and maintenance phase’, ‘force majeure’, ‘transfer of the project after BOOT period’, ‘dispute resolution’ etc.
- (3) The petitioner signed Power Purchase Agreement (PPA) with KSEB on 7th June 2007. Article 8 of the PPA specify the tariff payable by KSEB Ltd for the electricity generated and supplied to the State grid, which is exactly the same as quoted by the petitioner as extracted under paragraph 12(1) above.

The Stage-1 of the project declared CoD on 04.11.2010.

- (4) As proposed by the petitioner, the State Government vide the Order dated 25.05.2011, has ordered to install an additional capacity of 1.5 MW as Stage-II, at the same project premises for utilising the excess water available after utilising the Stage-1 project. The Stage-II project utilises the weir and power tunnel of the Stage-1 project. The petitioner had signed the Supplementary Implementation Agreement with the State Government on 22.09.2011, wherein the petitioner agreed that, the terms and conditions of the PPA to be signed with KSEB will be the same as that of the original PPA dated 07.06.2007, except for the tariff which shall be decided by the KSERC.

The Stage-2 of the project declared CoD on 10.04.2012.

The Commission vide the Order dated 30.09.2011 in petition No. OP 20/2011, determined the tariff for the electricity generated from the Irttukkanam stage-II at Rs 2.94/unit, at the preferential tariff approved by the Commission vide the KSERC (Power Procurement from Renewable Sources by Distribution Licensee) (Second Amendment) Regulations, 2010 dated 22.11.2010. However, the petitioner filed an

appeal petition before the Hon'ble APTEL against the tariff determined by the Commission, and the Hon'ble APTEL rejected the petition. However, the petitioner filed appeal against the matter before the Hon'ble Supreme Court and the matter is now pending before the Hon'ble APEX Court.

It is noted that, the petitioner is yet to sign power purchase agreement for the Stage-II project. However, the petitioner has been raising invoices and the respondent KSEBL has been making payments at the tariff of Rs 2.94/unit, approved by the Commission.

- (5) The petitioner submitted that, during the land slide and flood on 09.08.2018, the Iruttukkanam Stage-1 and Stage-2 project was completely destroyed including the control room, switch gear room, generating units etc. The petitioner further submitted that, they rehabilitated the project and again synchronised with the grid on the dates given below.

Unit-1 of Stage-1 - 27.06.2019
Unit-2 of Stage-1 – 28.06.2019 and
Unit-1 of Stage-2 – 08.07.2019.

The petitioner further submitted that, neither the State Government or KSEBL has given any relief or compensation to the petitioner for rebuilding the powerhouse.

The petitioner claimed that, they lost full generation and supply of energy from 9th August 2018 to 7th July 2019 (333 days) falling in Tariff Period-1 of the PPA of Stage-1. Hence the petitioner prays before the Commission to extend the Tariff Period -1 of the PPA of the Stage-1 by 333 days.

13. First hearing on the petition was held on 11.10.2022. During the deliberations of the subject matter, the Commission has examined the issue raised by the petitioner and decided as follows.

“The Commission noted that, the project developer M/s Viyyat Power Private Ltd (petitioner in this petition) was selected through tariff based bidding by the State Government. Further, the State Government had signed an implementation agreement with the petitioner on 10.12.2004. The implementation agreement deals with the various aspects of the project during the construction and operation of the project including the BOOT period, obligations of the petitioner, force majeure events, termination of the agreement, transfer of the project after the BOOT period etc. Considering these aspects in detail, the Commission desires to have the considered opinion of the State Government on the issue of extension of the Tariff Period-1 of the project as requested by the petitioner.”

Based on the deliberations during the hearing, the Commission has issued the following directions to the parties for immediate compliance.

“

- (1) *The State Government shall file its decision and order on the issue of the extension of Tariff Period-1 by 333 days , i.e., upto 01.08.2023, with a copy to the petitioner M/s Viyyat Power Private Limited and the respondent KSEB Ltd.*
- (2) *Energy Management Centre (EMC) shall also file its detailed comments within the time stipulated with a copy to petitioner and the respondents.*
- (3) *The petitioner M/s Viyyat Power Private Limited and the respondent KSEB Ltd shall file its additional comments, if any, before the Commission.”*

14. Regarding the extension of the BOOT period of Stage-I & II of the Iruttukkanam SHP of the petitioner to compensate the generation loss sustained due to the breakdown of the plant and machinery of the project in the flood in August 2019, the State Government vide the Order dated 22.05.2024 ordered as follows.

“The State Government, orders to extent the BOOT period to compensate the loss sustained due to the closure of the plant due to the damages caused by the flood 2018, at the KSERC approved tariff as follows, subject to the condition that, M/s Viyyat Power Pvt Ltd shall withdraw all the cases filed against the subject matter at various Courts.

Unit-1 of Stage-I	322 days,
Unit-1 of Stage-II	333 days,
Unit-2 of Stage-I	323 days,

During the deliberations of the subject petition on 07.01.2025, both the parties agreed to implement the Order of the State Government dated 22.05.2024. The parties further clarified that, no appeal filed by the petitioner is pending before the Hon’ble Supreme Court, Hon’ble APTEL or any other Hon’ble Courts on this matter.

15. Since both the parties agreed to comply with the Order of the State Government dated 22.05.2024 in the matter of extension of the BOOT period, the parties has to incorporate necessary modifications in the Power Purchase Agreements signed between the parties for the generation of power from the project and purchase of power at the Tariff approved by the Commission.
16. As already discussed in the previous paragraphs, the petitioner has implemented the project in two stages, Stage-I (2 x 1.5= 3MW) and Stage-II project.

However, in the present petition filed before the Commission, the petitioner requested to extend the tariff period-1 of the PPA of the Stage-I project of the Iruuttukkanam SHP (3MW) by 333 days. There was no PPA signed between the petitioner and KSEBL for the Stage-II project. Hence the decision and approval of the Commission in this Order is limited to the Iruttukkanam Stage-I (3MW) project only.

17. The tariff of the Stage-I is the tariff arrived through the bidding route, as detailed in paragraph 12 (1) above. Further, the petitioner has quoted the tariff @Rs 2.70/unit for the first 12 years and Rs 2.07/unit for the remaining period of the BOOT period.

The petitioner M/s Viyyat Power Pvt Limited and the respondent KSEBL also signed the PPA for the Stage-I project on 7th July 2017. The Article-8 of the PPA deals with the Tariff for the purchase of electricity generated from the project by KSEBL. The Commission also adopted the tariff and approved the PPA signed between the parties.

As per the details submitted by the parties, the 'tariff period-1 of Stage-I' of the project is from 03.09.2010 to 02.09.2022 (12 years) and 'tariff period-2 of the project is from 03.09.2022 onwards till the end of the BOOT period.

18. As per the details available with the Commission, the Stage-1 project was destroyed due to the flood in 2018 on 9th August 2018. As per the Order of the State Government dated 22.05.2024, the petitioner could rehabilitate and recommission the unit-1 of the Stage-I on 27.06.2019 and unit-2 of the Stage-I on 28.06.2019.

Accordingly, there was no generation from the unit-1 of the Stage-I from 09.08.2018 to 26.06.2019, i.e., by 322 days.

Similarly, there was no generation from the unit-2 of the Stage-I project from 09.08.2028 to 27.06.2019, i.e., by 323 days.

Thus, the loss in generation from the both unit-1 & 2 of the Stage-I project falls between the Tariff Period-1 of the Stage-I project, i.e. within the period of 03.09.2010 to 03.09.2022.

19. As discussed earlier, the State Government vide the Order dated 22.05.2024 has ordered to extend the BOOT period of the unit-1 of the Stage-I project by 322 days and unit-2 of the Stage-I project by 323 days. The Government further ordered to extend the BOOT period at the KSERC approved tariff for the project during the extended period.
20. Considering all these aspects in detail, the Commission hereby orders to extend the Tariff Period-1 of the Unit-1 and Unit-2 of the Iruttukkanam Stage-I project as follows.

Extension of Tariff period in compliance of the extension of BOOT period by State Government vide the Order dated 22.05.2024	
Iruttukkanam Stage-1	Extension of Tariff period-1
Unit-1 of Stage-I	322 days from 03.09.2022 (from 03.09.2022 to 21.07.2023)
Unit-2 of Stage-I	323 days from 03.09.2022 (from 03.09.2022 to 22.07.2023)

The parties may extend the Tariff Period-2 of the Iruttukkanam Stage-1 also as per the Order of the State Government dated 22.05.2024.

21. The Commission hereby further Orders that, on the basis of the Order of the State Government dated 22.05.2024 in the matter of the extension of the BOOT period and also incorporating the extension of the Tariff Period as detailed in the paragraph-20 above, petitioner M/s Viyyat Power Pvt Ltd and the respondent KSEBL shall sign a supplementary Power Purchase Agreement to the original PPA dated 07.06.2007, as part and parcel of the original PPA.

Order of the Commission

22. The Commission after examining the petition filed by M/s Viyyat Power Private Ltd dated 17.08.2022, the comments of the respondent KSEBL, the Order of the State Government dated 22.05.2024, provisions of the Electricity Act, 2003, other Rules and Regulations in force, Ordered as follows;
- (1) To extend the Tariff Period-1 of the Units 1 and 2 of the Iruttukkanam Stage-I (2x 1.5 = 3MW) project, as detailed in paragraph-20 above.
 - (2) The petitioner M/s Viyyat Power Pvt Ltd and the respondent KSEBL shall sign a Supplementary Agreement to the original PPA dated 07.06.2007, as detailed in paragraph-21 above.

The petition disposed of. Ordered accordingly.

Sd/-
T K Jose
Chairman

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Approved for issue

Sd/-
C.R Satheesh Chandran
Secretary