

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

Present: Shri T.M. Manoharan, Chairman
 Shri P. Parameswaran, Member
 Shri Mathew George, Member

No..1/CT/KSERC/2014 dated 25/2/2014

In the matter of: Requirement of reduction in tariff of LT X (Display lighting and hoarding) consumers which is about 300% above the cost of supply, creating heavy tariff shock to consumers.

Petitioner Shri. Shaji Sebastian, Chairman,
 Industrial Electricity Consumers Consortium,
 Manakkat Building, 21/67/A-1,
 University Road,
 Kochi University P.O.,
 Kochi 682 022.

Respondents: 1. Kerala State Electricity Board Ltd.,
 Vydyuthi Bhavanam, Pattom,
 Thiruvananthapuram-695 004.
 Represented by Secretary.

 2. The Chairman & Managing Director,
 Kerala State Electricity Board Ltd.,
 Vydyuthi Bhavanam, Pattom,
 Thiruvananthapuram-695 004.

ORDER

1. Shri. Shaji Sebastian, the petitioner has filed this petition as per the authorization from the General Secretary, Kerala Advertising Industries Association which is a registered charitable society as per reg. no. EKM/TC/536/2012, Kaloor, Kochi 682 017. It has been stated that the petition is being filed as per sub clause (d) of regulation 22 of KSERC (Conduct of Business Regulations), 2003. The averments in the petition in brief are as follows;
2. The consumers of advertising industry is enjoying industrial tariff for electricity in earlier days and subsequently commercial tariff was introduced for the sign boards, advertising boards and hoardings. In the tariff order for the financial year 2012-13 such consumers were included in commercial category. In the tariff

petition for the financial year 2013-14, display lighting and hoarding were included in the commercial category. Subsequently Kerala State Electricity Board Ltd., had filed a tariff re-categorization petition. The Commission had conducted public hearing at Ernakulam, Kozhikode and Thiruvananthapuram on 04.03.2013, 06.03.2013 and 12.03.2013 respectively. It has been alleged that the consumers having sign boards, display light and hoarding were not aware of the re-categorization proposal for want of date and publication and hence they could not respond properly during Public Hearing. The Commission has included display lighting and hoarding in LT X category and fixed a tariff which is more than 100% above the then existed commercial tariff, resulting in tariff shock to the consumers in this category. The petitioner has submitted that the rate of Rs.12.50 per kWh being collected as energy charge is illegal and the maximum charge that can be collected is only Rs.5.57. The petitioner has cited clause 8 (4) (2) of tariff policy and order of the Appellate Tribunal in support of this claim. The petitioner has sought the following reliefs:

1. Hon. Commission may fix the tariff of LT X (Display Lighting and Hoarding) as Rs.5.50/kWh and direct KSEB to refund the excess amount collected.
2. Hon. Commission may give an interim direction to KSEB to collect only Rs.5.50/kWh.
3. A notice was issued to the petitioner and respondents fixing the admissibility hearing on 19.02.2014 and the admissibility hearing was conducted on the said date.
4. In the hearing on 19.02.2014, Shri. Shaji Sebastian presented the case for the petitioner and submitted the prayers as stated in para 2. Shri. Sivaprasad, Executive Engineer, TRAC, KSEB Ltd., presented the defence on behalf of the respondents and submitted that the petition is not maintainable and admissible. The main contentions of Shri. Sivaprasad were the following:
 - i. The reliefs sought for in the petition is reduction in tariff of LT X (Display Lighting and Hoarding) category and such relief cannot be granted by the Commission in such a petition.
 - ii. The petitioner ought to have approached the Appellate Tribunal if he has any true grievance against the tariff specified for LT X (Display Lighting and Hoarding) category.
 - iii. Even if the petition is considered as a review petition, it is badly time barred.
 - iv. Shri. Shaji Sebastian cannot file such a petition on behalf of the consumers in LT X (Display Lighting and Hoarding) category, since he is not an affected party.
 - v. Shri. Shaji Sebastian cannot represent the petitioners in view of regulation 30 of KSEB (Conduct of Business) Regulations, 2003, since he is not an affected party or an authorized employee of the affected party or authorized professional who may be an advocate or a chartered accountant or a cost and works accountant or a company secretary or a graduate chartered engineer holding a certificate of practice.

5. The Commission has considered the petition and the contentions raised by the respondent. The impugned tariff petition was issued on 30.04.2013 in O.P No.2 of 2013. The petition under consideration was received in the Commission on 01.01.2014 after a delay of 244 days from the date of order. The regulation 67 of the Kerala State Electricity Regulatory Commission (Conduct of Business) Regulations, 2003 states as follows:

“The Commission may, either on its own motion or on an application made by any interested or affected party, within 90 days of the making or issuing any decision, direction, order, notice or other documents or the taking of any action in pursuance of these regulations; review, revoke, revise, modify, amend, alter or otherwise change such decision, direction, order, notice or other documents issued or action taken by the Commission or any of its officers”.

6. In view of the above provision it is found that the petition is badly delayed. Further the petitioner has not prayed for condoning such delay.
7. The relief sought for is to reduce the tariff of LT X (Display Lighting and Hoarding) category which amounts to redetermination of tariff. Tariff determination has to be done in accordance with the procedures specified for it which include pre-publication of tariff proposal and public hearing. The tariff is determined for all the consumers of the licensee and the tariff petition is not a dispute between two contending parties. The Hon’ble Appellate Tribunal and the Hon’ble Supreme Court have clarified that the tariff determination process is a quasi-legislative process. Therefore petitions of individual consumers against tariff order cannot be considered in a petition like this. Any person aggrieved by the tariff order issued by the Commission can only approach the Appellate Tribunal by filing an appeal. Therefore the Commission is of the view that the petition is not maintainable on this ground also.
8. Shri. Shaji Sebastian has filed this petition on behalf of the General Secretary, Kerala Advertising Industries Association which is a registered charitable society as per reg. no. EKM/TC/536/2012, Kaloor, Kochi 682 017. Admittedly, Shri. Shaji Sebastian is not a person running an advertising industry and therefore he is not a member of the above organization. Thus the petitioner is not an affected party as contemplated in clause (d) of regulation 22 of KSERC (Conduct of Business)
9. Regulation 30 of KSERC (Conduct of Business) Regulations, 2003 provides for representation at proceedings. Sub regulation (1) of regulation 30 states as follows:

A party to any proceedings under this chapter may be represented before the Commission in one of the following manners, namely:-

(a) In person

(b) Through an authorized employee

(c) Through an authorized professional who may be an advocate or a chartered accountant or a cost and works accountant or a company secretary or a graduate chartered engineer holding a certificate of practice.

10. The petitioner in this case is General Secretary, Kerala Advertising Industries Association which is a registered charitable society as per reg. no. EKM/TC/536/2012, Kaloor, Kochi 682 017. The petition has been signed by him as well as by Shri. Shaji Sebastian. Therefore Shri. Shaji Sebastian cannot validly claim that he is the petitioner. Neither is he an authorized employee of the petitioner. Further no document has been produced by Shri. Shaji Sebastian to prove that he is advocate or a chartered accountant or a cost and works accountant or a company secretary or a graduate chartered engineer holding a certificate of practice. Therefore the Commission is of the view that Shri. Shaji Sebastian cannot represent the petitioner in this case.

11. In view of the facts, circumstances and legal provisions explained above the Commission decides not to admit the petition.

Sd/-
P.Parameswaran
Member (Engg)

Sd/-
Mathew George
Member (Fin)

Sd/-
T.M. Manoharan
Chairman

Approved for issue

SECRETARY