

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri. Preman Dinaraj, Chairman

OP 70/2021

In the matter of : Seeking approval for Petition for One Time Settlement Scheme for Arrears (OTS-2022)

Petitioner : M/s. Kerala State Electricity Board Limited

Order dated 18.03.2022

1. KSEB Ltd, filed a petition on 02.11.2021, before the Commission for approval of the One Time Settlement Scheme (OTS-2022) for collection of arrears, to be implemented for the period from 01.01.2022 to 31.03.2022.
2. The summary of the petition filed by KSEB Ltd is given below.
 - (1) As per Section 136(5) of the Supply Code, 2014, the licensee is permitted to formulate a scheme for One Time Settlement of long pending arrears and implement the scheme with prior approval of the Commission.
 - (2) As per the Order of the Commission dated 11.02.2021, KSEB Ltd had implemented OTS-2021 scheme for the period from 15.02.2021 to 31.03.2021. Under OTS -2021, 923 applications, having an arrear amount of Rs 20.34 Cr had been settled and the total amount realized is Rs 13.06 crore. The details are given below.

Arrears collected under OTS-2021

Particulars	Application Settled under OTS 2021(Nos)	Actual arrear		Settlement made under OTS	
		Principal amount (Rs.Cr)	Interest amount (Rs.Cr)	Principal amount (Rs.Cr)	Interest amount (Rs.Cr)
LT Consumer	915	2.99	4.84	2.81	1.52
HT Consumer	8	5.88	6.63	5.86	2.88
Total	923	8.87	11.47	8.67	4.40
Grand Total		20.34		13.06	

- (3) KSEB Ltd further submitted that, in the wake of Covid -19 pandemic, several requests have been received from consumers that, they could

not avail the earlier OTS schemes within the time frame and hence requested for considering their requests for settlement of arrears under OTS at reduced interest rates. Further, model code of conduct was in force in the State from March 2021 onwards. Hence, an effective implementation of above scheme could not be undertaken by KSEB Ltd.

- (4) KSEB Ltd also submitted that, as per the conditions of the OTS-2021, the arrears of age above 2 years are eligible under the scheme for settlement. Several clarifications raised from field offices regarding the applicability of OTS 2021 for settling the arrears of Self Financing Institutions based on the judgment of the Hon'ble Supreme Court dated 20th February 2020 in Civil Appeal No. 8350 of 2009. The arrears of these cases are pertains to the period from November 2007. However the demand for the arrears are raised subsequent to the judgment of the Apex Court dated 20.02.2020. Hence from the date of issue of the fresh demand based on judgment of Hon'ble Supreme Court, the age of the arrears were less than two years. The Commission in the above matter after issuing the Order on OTS 2021 clarified that, any amendment to the approved terms and conditions requires to follow the due process of law. In view of the above, in OTS 2022, KSEB Ltd proposes to modify the eligibility criterion that, *'the actual date from which the amount become originally due is to be taken for assessing the eligibility'*.
- (5) In order to mitigate the hardship faced by the consumers due to Covid-19 pandemic and also considering the several requests made by the consumers and also to recover the arrears, a new proposal for One Time Settlement (OTS-2022) almost in line with the previous scheme (OTS 2021) is submitted before the Commission for approval. The terms and conditions of the OTS 2022 proposed by KSEB Ltd is given below.

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A. Terms & Conditions

1. Eligibility

Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2022. ie; arrear resulted from demand raised prior 01.01.2020. The actual date in which the amount becomes originally due will be taken for assessing eligibility. The scheme will also be open to those cases where RR action has been initiated and those pending before courts. However the cases once settled under previous OTS, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme. .

2. Period of the scheme:

The scheme shall be open from 01.01.2022 to 31.03.2022.

3. Time schedule of the scheme

<i>01.01.2022 -</i>	<i>Intimating consumer about the scheme.</i>
<i>01.01.2022 -</i>	<i>Acceptance of application.</i>
<i>10.01.2022 -</i>	<i>Commencement of issue of demand notice</i>
<i>25.03.2022 -</i>	<i>Last date of accepting application form</i>
<i>31.03.2022 -</i>	<i>Last date to issue of demand notice and remittance of first installment by the consumer</i>

4. The Scheme:

The Consumer will be eligible to get reduced rate in interest as mentioned below. The Interest can be remitted in six months time with equal installments. However, the Principal portion of the arrear shall be remitted in lump sum along with first installment of interest.

5. Reduction in Interests :

For arrears of age below 5 years old and above 2 years, a reduced flat interest rate equivalent to average of the previous 6 months MCLR of one month tenor as notified by SBI instead of 18% interest will be applicable for the entire arrear, for arrears more than 5 years old and below 15 years old, a reduction to flat 6% interest rate will be applicable for the entire arrears and for arrears more than 15 years old an interest rate of 4% will be applicable for the entire arrear. For arrears of continuous nature, the entire arrear will be split age wise and the applicable rate of interest will be applied. ie; 4% rate for arrears above 15 years, 6% interest on arrears between 5 to 15 years, MCLR rate arrived for arrears between 2 to 5 years and the ruling rate of 18% for arrears less than 2 years from the date of OTS. No further interest will be levied for payment of interest portion in installment upto six months.

6. Full settlement option:

Consumer may also remit the entire principal amount and total reduced interest in one lump sum. In such cases a rebate of 2% on interest amount (total reduced interest amount) would be granted.

7. Installment for principal amount:

In certain deserving cases, (Government departments, Public undertakings, Government institutions, local bodies, other deserving consumers with long pending arrears) installment will be provided after the approval of the concerned Deputy Chief Engineer/Full time Directors of KSEBL. Six equal monthly installments shall be provided on the principal amount by Deputy Chief Engineer of the concerned circle office and for installments above 6 and upto 18, the approval of the Full Time Directors is needed. Such equal monthly installments upto 12 will bear an interest rate of 12% per annum and for above 12 installments upto 18 will bear an interest rate of 14%.

8. Dismantled connections :

The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling except for minimum guarantee/rental liability cases. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.

9. Industrial units/Plantations with different spells of closure (intermittent period of closure):

The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure.

10. Revenue Recovery action cases:

The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.

11. Arrears under litigation :

The applications from LT consumers for settling arrears under litigation will be received by Senior Superintendant in the concerned

section office. Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. However, District Level Committees (DLC) formed for this purpose will examine the matter on a case to case basis and settle the cases. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS, it shall be consolidated by Deputy Chief Engineers (District Headquarters) and placed before DLC. The committee shall interact with the consumers and propose settlement formula in compliance with the interest rates approved by the Hon'ble Commission. There will not be any financial limit to settle the cases. The decision of the Committee, if accepted by the party, will be implemented subsequent to the respective court allowing withdrawal of cases. Cases which cannot be settled by the District Level Committee shall be taken up with the Director (D&IT).

The District Committee shall comprise of the following members:

1. Deputy Chief Engineer, Electrical Circle in District Head quarters (Convener)
2. Deputy Chief Engineers of Electrical circle
3. Executive Engineers of Distribution Divisions
4. Assistant Executive Engineers of Electrical Subdivisions
5. Special Officer (Revenue) or his representative
6. Representative of Legal Advisor & Disciplinary Enquiry Officer

Applications for settlement of Arrears with litigation from HT consumers will be received at the office of SOR. The applications shall be processed by SOR and placed before the State Level (Expert) Committee. The State Level (Expert) Committee constituted as given below shall examine carefully the issues in such cases, shall interact with consumer and shall propose a settlement to Full Time Directors for decision. The State level Committee may also recommend review in the principal amount in genuine cases, the reasons shall be stated clearly in the Report.

The State Level Expert Committee shall comprise of the following members:

1. Chief Engineer (Commercial & Tariff)(Chairman)
2. Special Officer (R) (Convener)
3. Joint Secretary (Law)
4. Accounts Officer, Arrear Clearance Cell
5. T.A to Director (Dist & IT)

The guidelines to be followed by KSEBL as per the above OTS scheme for settling arrears which are entangled in court cases and similar issues is attached separately in Annexure 2.

12. Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. However request

for more than 6 installments on principal amount shall be taken up with FTD through Director (D&IT). Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD with the recommendation of expert committee for settlement. “

KSEB Ltd also submitted the *Guidelines for settling arrears entangled in court cases and similar issues by the District level committee and submitted that these guidelines also same as approved by the Commission in OTS 2021.*

3. The Commission admitted the petition as OP 70/2021. Hearing on the petition conducted through video conference on 18.02.2022. The list of participants appeared for the hearing is given as Annexure-1. Summary of the deliberations during the hearing is given below.
- (1) Sri Suresh, Executive Engineer and Sri. Rajesh, Asst: Executive Engineer, TRAC, on behalf of KSEB Ltd submitted the following during the hearing.
- (i) The petition for approval of OTS -2022 was filed as per Regulations 136 (5) of Kerala Electricity Supply Code, 2014. Due to Covid 19 pandemic, and also due to the ‘model code of conduct enforced by the Election Commission in the months of March 2021, April 2021 and May 2021, KSEB Ltd could not effectively implement the OTS 2021. Hence, many consumers complained that, they could not avail OTS-2021 and requested for another scheme similar to OTS 2021 for settling the arrears.
 - (ii) KSEB Ltd further submitted that OTS - 2021 was implemented from 15.02.2021 to 31.03.2021. 923 applications were settled with the total arrear amount of 20.34 Cr. The amount collected is Rs 13.06 Cr.
 - (iii) KSEB Ltd clarified that the OTS - 2021 was settled as per the rates approved by the Commission.
 - (iv) KSEB Ltd also submitted that the terms and conditions of the present OTS-2022 is similar to that of the terms and conditions approved by the Commission in the OTS -2021. The modifications as directed by the Commission to the OTS 2021 has been incorporated in OTS 2022. The only change requested by KSEB Ltd in OTS 2022 from OTS 2021 is for clarity regarding whether the due date in which the amount was originally due has to be taken into account while settling the arrears.
 - (v) KSEB Ltd further submitted that, the total arrears as on 31.12.2021 is Rs 2771 Crore out of which around ₹1000 Crore is the arrears with age less than six months. This delay in remittance may be due to time extension granted by KSEB Ltd

upto December 2021 for payment of electricity charge to various consumers due to the financial difficulties faced by them on account of Covid-19 pandemic. As such, the total arrears with age more than six months is Rs 1700.00 crore. The summary of the pending arrears as on 31.12.2021 is given below.

ABSTRACT OF ARREARS AS ON 31-12-2021 (Without Surcharge) (Rs.in Crore.)								
Sl. No.	Consumer	Arrear excluding litigation			Arrear under litigation			GRAND TOTAL
		LT	HT	Total	LT	HT	Total	
A	B	C	D	E = (C + D)	F	G	H = (F + G)	I = (E + H)
1	GoK Dpts	17.72	55.34	73.06	44.61	0.68	45.29	118.35
2	State.PSUs	270.87	716.51	987.38	0.12	33.24	33.36	1020.74
3	Public Inttns	3.69	22.49	26.18	0.64	21.15	21.79	47.98
4	Local Bodies	5.71	0.00	5.71	1.87	0.00	1.87	7.58
5	Gol Dpts	2.19	0.26	2.45	0.53	0.00	0.53	2.98
6	Central PSUs	6.40	60.10	66.49	1.33	5.61	6.94	73.43
7	Domestic	387.80	0.00	387.80	6.68	0.00	6.68	394.48
8	Private Insttns	298.12	488.87	786.99	35.03	201.74	236.77	1023.76
9	CPP	0.00	11.06	11.06	0.00	52.99	52.99	64.05
10	Inter State	0.00	0.10	0.10	0.00	2.22	2.22	2.32
11	LICENSEE	0.00	3.41	3.41	0.00	10.88	10.88	14.30
12	OTHERS	0.77	0.00	0.77	0.40	0.00	0.40	1.16
GRAND TOTAL		993.26	1358.15	2351.42	91.21	328.52	419.73	2771.14

(vi) The details of age wise arrear submitted by KSEB Ltd is as follows:

STATEMENT OF AGE WISE RECEIVABLES as on 31.12.2021 -(LT & HT –Without Interest) in Crore									
Sl. No	Consumer	UPTO 6 MONTHS	6 TO 12 MONTHS	1 TO 2 YEARS	2 TO 5 YEARS	5 TO 10 YEARS	10 TO 15 YEARS	ABOVE 15 YEARS	GRAND TOTAL
									(Rs. In Crore)
1	GoK Dpts	30.29	12.03	13.99	13.70	5.72	25.34	17.28	118.35
2	State.PSUs	229.96	159.63	332.17	242.42	11.35	8.44	36.78	1020.74
3	Public Insttns	17.00	4.79	3.91	16.94	2.65	2.47	0.21	47.98
4	Local Bodies	3.43	1.11	1.17	0.79	0.55	0.35	0.18	7.58
5	Gol Dpts	2.33	0.07	0.03	0.06	0.12	0.34	0.04	2.98
6	Central PSUs	18.93	6.94	11.29	31.63	1.06	0.76	2.83	73.43
7	Domestic	336.29	26.30	11.89	6.77	4.73	4.80	3.70	394.48
8	Private Insttns	290.21	105.60	76.05	130.65	107.09	214.50	99.65	1023.76
9	CPP	4.14	0.64	3.27	0.63	4.44	7.97	42.96	64.05
10	Inter State	0.10	0.00	0.00	0.00	0.00	0.00	2.22	2.32
11	LICENSEE	2.57	0.04	0.00	0.00	0.81	10.88	0.00	14.30
12	OTHERS	0.62	0.03	0.04	0.12	0.17	0.16	0.02	1.16
TOTAL		935.87	317.19	453.83	443.71	138.69	276.00	205.84	2771.14

(vii) The Commission observed that, the arrear as 31.12.2021 is less than that as on 30.09.2021 by Rs 300 Cr. KSEB Ltd clarified that

due to Covid 19, some arrears had accumulated and disconnections were also kept pending at that time. Now, KSEB Ltd is taking efforts to realise the amount and consumers are remitting the arrear.

- (viii) KSEB Ltd submitted that, Kerala Water Authority(KWA), one of the State PSU is the major defaulter with an amount of Rs 817 crore. Further, Autokast Ltd another State PSU has an arrear of ₹52.00 crore, Kerala Ceramics Rs 21 Cr and Malabar Cements Rs 9 Cr etc. The arrear amount of Captive Power Plants was Rs 64 Cr.
- (2) Sri Nandakumar from Carborundum Universal Limited submitted that, the total arrears due to them was about 52 Cr with a principal amount of Rs 22 crore. This is based on the recent judgment of the Hon'ble Supreme Court. They are willing to settle the amount through OTS.
- (3) The Commission noted that, KSEB Ltd could not provide the split details of the age wise arrears as on date. The Commission directed KSEB Ltd to submit the split up details of arrears with supporting documents before the Commission latest by 28th of February 2021.
- (4) Sri. Sunil George, Finance Manager, Kerala Ceramics Limited (TKCL) submitted that the reconciled amount of arrear against them is Rs 7 Cr and not Rs 21 Cr as stated by KSEB Ltd. TKCL is working out different solutions to remit the balance amount. On the request of TKCL, the Commission clarified that preferential treatment cannot be given to any organization.
- (5) KSEB Ltd submitted that three month period is proposed for OTS 2022 for implementing the scheme. The Commission clarified that the OTS can be made available to the public for short duration only as per Regulation 136 of the Kerala Electricity Supply Code, 2014.
- (6) Based on the discussions in the hearing, the Commission directed KSEB Ltd to submit the following additional information to the Commission on or before 28th February 2022.
- (i) The details as directed by the Commission vide para 4(3) to be furnished in the given format
 - (ii) KSEB Ltd shall take up with the top management of institution including Govt institutions/department who had high arrear to realise arrears to the maximum
 - (iii) Age wise details of the arrear amount including spilt up data showing the principal and interest amounts for arriving at the present amount of arrear shall be submitted by 28.02.2022.
 - (iv) The details and reasons in difference in principal amount due and collected in OTS 2021.
4. In compliance of the directions of the Commission, KSEB Ltd vide letter dated 25.02.2022 submitted the following details.

- (1) The details of HT consumers, whose arrears were settled under OTS 2021.
- (2) The arrear list of State Government departments with HT connections. The total arrear amount of this category is Rs 39.67 crore.
- (3) The arrear list of State PSUs with HT connections. The total arrears of this category as on 31.12.2021 is Rs 749.27 crore, out of it Kerala Water Authority (KWA) alone contributes Rs 633.23 crore.
- (4) Arrear list of public institutions with HT connections as on 31.12.2021. The total arrear of this category is Rs 43.35 crore.
- (5) The arrear list of Central Government Departments with HT connections, The total arrears of this category as on 31.12.2021 is 0.26 crore only.
- (6) The arrear list of Central Public Sector Undertakings (CPSUs) with HT connections. The total pending arrears as on 31.12.2021 is Rs 65.28 crore, out of it Rs 53.16 crore is the pending arrear of Hindustan News Print Limited.
- (7) The arrear list of private institutions with HT connections. The total arrear as on 31.12.2021 is Rs 374.45 crore.
- (8) The arrears from captive consumers with HT connections. Total amount due is Rs 64.05 crore as on 31.12.2021.
- (9) The pending arrears with respect to inter-state sales as on 31.12.2021 is Rs 2.32 crore.
- (10) The arrears of licensees who purchase power from KSEB Ltd as on 31.12.2021 is Rs 14.29 crore. Out of it, the arrears of Kanan Devan Hills Plantations Limited alone contributes Rs 12.31 crore.

Analysis and Decision

5. The Commission has examined in detail the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2022' as per the provisions of the Electricity Act, 2003, Kerala Electricity Supply Code, 2014 and other facts and circumstances of the case and has arrived at the following observations and decisions:
6. The Regulation 136 of the Kerala Electricity Supply Code, 2014, permits the distribution licenses to formulate and implement schemes for settlement of long pending arrears, with the prior approval of this Commission. The relevant Regulations is extracted below:

"136. Recovery of arrears and its limitation.-

- (1) The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due.*
- (2) The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice.*
- (3) No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due*

unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied.

(4) If the consumer fails to remit the amount of arrears with interest on or before the due date indicated in the bill or in the demand notice, the licensee may disconnect the supply of electricity after giving notice and initiate proceedings for the recovery of the arrears in accordance with the relevant legal provisions.

(5) The licensee may formulate a scheme for one-time settlement of long pending arrears and implement the scheme with prior approval of the Commission:

Provided that such one-time settlement schemes shall be open only for short duration.”

As extracted above, as per the Regulation 136(5) of the Supply Code, 2014, KSEB Ltd as the distribution licensee has to formulate and suggest suitable scheme for settlement of the long pending arrears due from the consumers for short durations.

7. **The Commission hereby clarify that, ‘various clauses in the OTS 2022 including the guidelines for settling of arrears of cases under litigation’ shall not involve any reduction, decrease, waiver or any discounts in the principal amounts.**
8. The Commission has examined in detail the terms and conditions proposed by KSEB Ltd for settling the arrears under OTS 2022 and decide the following:

I. Terms and conditions

(1) Clause-1. Eligibility

KSEB Ltd’s proposal

*Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2022. ie; arrear resulted from demand raised prior 01.01.2020. **The actual date in which the amount became originally due will be taken for assessing eligibility under the Scheme.** The scheme will be open to those cases also where RR action has been initiated and those pending before courts. However, the cases once settled under previous OTS, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be eligible to be considered under this Scheme.*

Decision of the Commission

As per the approved OTS 2021 and the proposed OTS-2022, the consumers with age of arrears more than two years are eligible for settlement under the OTS scheme. However, in the OTS 2022, KSEB Ltd proposed that the actual date in which the amount becomes originally due will be taken for assessing eligibility. KSEB Ltd submitted that, this clause was suggested to consider the arrears of Self Financing Institutions based on the judgment of the Hon’ble Supreme Court dated 20th February 2020 in Civil Appeal No. 8350 of 2009 and similar cases.

The arrears of Self Financing Institutions pertains to the period from November 2007. However, the demand for the arrears were raised subsequent to the judgment of the Apex Court dated 20.02.2020. Hence, though the arrears pertains to the period from November 2007 onwards, the age of the arrears from the date of issue of the supplementary bill subsequent to the Judgement of Hon'ble Supreme Court was less than two years only.

Commission noted the proposal of KSEB Ltd in detail. Subsequent to the Judgment of the Hon'ble Supreme Court dated 20.02.2020, Hon'ble High Court vide the Judgment dated 24.08.2020 in WP(C) No. 17434 of 2020 ordered that, the consumers with litigation has to pay interest also along with the principal from the date from which the principal become due for payment. **Hence, once the consumers come forward for settling the arrears including principal and interest under OTS, they may be permitted under the scheme as suggested by KSEB Ltd. However, the Commission hereby clarify that, the above relaxation in eligibility criterion shall be made applicable only for settling the arrears resulting as per the Judgements of the Hon'ble High Court or Hon'ble Supreme Courts.**

(2) **Clause -2. Period of the scheme**

Proposal of KSEB Ltd

KSEB Ltd proposed the period of the scheme as follows.

"The scheme shall be open from 01.01.2022 to 31.03.2022".

Decision of the Commission

KSEB Ltd proposed three month period from 01.01.2022 to 31.03.2022 for the implementation of OTS 2022. However duly considering the time taken for approving the OTS 2022 after completing the deliberations including the appraisal of the details submitted by KSEB Ltd and public hearings, delay in getting the additional details from KSEB Ltd, the Commission decided to open the scheme only from 21.03.2022.

Further the proviso to Regulation 136(5) of the Kerala Electricity Supply, Code 2014, provided that, "One time settlement will be open only for short duration". Considering the provisions of the Kerala Electricity Supply Code, 2014, the Commission decided to limit the period of operation of OTS 2022 from 21.03.2022 to 20.05.2022 (2 months).

Hence KSEB Ltd shall modify the Clause-2 of the Terms and Conditions as follows.

"The scheme shall be open from 21.03.2022 to 20.05.2022."

(3) **Clause-3. Time Schedule of the Scheme.**

Proposal of KSEB Ltd.

Time schedule of the scheme

01.01.2022 -	Intimating consumer about the scheme.
01.01.2022 -	Acceptance of application.
10.01.2022 -	Commencement of issue of demand notice
25.03.2022 -	Last date of accepting application form
31.03.2022 -	Last date to issue of demand notice and remittance of first installment by the consumer

Decision of the Commission

KSEB Ltd shall modify the 'time schedule of the scheme' duly incorporating the 'period of the scheme' as approved under Clause-2 above, as follows.

Time schedule of the scheme

21.03.2022 -	Intimating consumer about the scheme.
21.03.2022 -	Acceptance of application.
30.03.2022 -	Commencement of issue of demand notice
16.05.2022 -	Last date of accepting application form
21.05.2022 -	Last date to issue of demand notice and remittance of first installment by the consumer

(4) **Clause-4. The Scheme**

Proposal of KSEB Ltd

KSEB Ltd proposed the scheme as follows.

"The Scheme:

The Consumer will be eligible to get reduced rate of interest as mentioned below. The Interest can be remitted in six equal monthly instalments. However, the Principal portion of the arrear shall be remitted in lump sum along with first instalment of interest."

Decision of the Commission

The Commission has examined the clause in detail and decide to approve the same as proposed by KSEB Ltd.

(5) **Clause-5. Reduced interest rates**

Proposal of KSEB Ltd

KSEB Ltd proposed reduced interest rate @4% for arrears with age more than 15 years, 6% interest for arrears of age between 5 to 15 years, and for the arrears having age between 2 to 5 years the interest rate proposed is average of the previous 6 months MCLR of 1 month tenure notified by SBI. KSEB Ltd claimed that no further interest will be levied for payment of interest portion in instalment up to 6 months.

Decision of the Commission

The Commission after examining the 'reduction in interest rate proposed by KSEB Ltd decided to approve the interest rate for the OTS as follows.

- (1) Age of arrears above 15 years- 4% (as proposed by KSEB Ltd).
- (2) Age of arrears between 5 years to 15 years- 6% (as proposed by KSEB Ltd).
- (3) Age of arrears above 2 years and below 5 years-

In the OTS 2022, interest rate proposed for age of arrears 'above years and below 5 years' is average of the previous 6 months MCLR of 1 month tenure notified by SBI.

The Commission noted that, the average of the previous six month MCLR of 1 month tenor notified by SBI prior to 15.01.2022 is 6.65% only. **Hence the Commission approves an interest rate of 6.65% per annum for arrears of age between 2 to 5 years.**

(6) Clause -6, Full settlement option:

Proposal of KSEB Ltd

KSEB proposed that,

"Consumer may also remit the entire principal amount and total reduced interest in one lump sum. In such cases a rebate of 2% on interest amount (total reduced interest amount) would be granted.

Decision of the Commission

The Commission examined the proposal of KSEB Ltd in detail. The Commission hereby clarify that, KSEB Ltd shall not allow any reduction in interest rate from the rate approved under clause (5) above.

However the rebate of 2% on the total interest amount arrived at the interest rate approved under clause (5) may be allowed for full settlement option.

(7) Clause-7, Instalment for principal amount

Proposal of KSEB Ltd

In certain deserving cases, (Government departments, Public undertakings, Government institutions, local bodies, other deserving consumers with long pending arrears) installment will be provided after the approval of the concerned

Deputy Chief Engineer/Full time Directors of KSEBL. Six equal monthly installments shall be provided on the principal amount by Deputy Chief Engineer of the concerned circle office and for installments above 6 and upto 18, the approval of the Full Time Directors is needed. Such equal monthly installments upto 12 will bear an interest rate of 12% per annum and for above 12 installments upto 18 will bear an interest rate of 14%.

Decision of the Commission

The Commission considered the above proposal. The Commission notes that the intent of any OTS is to collect the maximum dues within limited time. Hence the scheme itself is open only for two months. The Commission is of the view that if this clause is permitted, it shall delay the recovery process for period as long as 18 months which is not the intension of this scheme. **Hence the Commission does not agrees to this proposal and this clause shall be deleted.**

(8) Clause 8, Dismantled connections,

Proposed by KSEB Ltd

Dismantled connections :

The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling except for minimum guarantee/rental liability cases. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.

Decision of the Commission

The Commission examined the clause in detail and decided to approve the clause as below with modifications.

“8. Dismantled connections :

The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.”

(9) Industrial units/ plantations with different spells of closure (intermittent period of closure)

Proposals of KSEB Ltd

“Industrial units/Plantations with different spells of closure (intermittent period of closure):

The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure.”

Decision of the Commission

The Commission examined the clause in detail and agrees to the KSEB Ltd proposal in OTS 2022.

(10) Clause-10 Revenue Recovery action cases

Proposal of KSEB Ltd

10.Revenue Recovery action cases:

The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.

Decision of the Commission

The Commission examined the clause in detail and allow to retain the same as proposed by KSEB Ltd in OTS 2022.

(11) Clause -11, Arrears under litigation : proposed by KSEB Ltd

Proposal of KSEB Ltd

The applications from LT consumers for settling arrears under litigation will be received by Senior Superintendent in the concerned section office. Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. However, District Level Committees (DLC) formed for this purpose will examine the matter on a case to case basis and settle the cases. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS, it shall be consolidated by Deputy Chief Engineers (District Headquarters) and placed before DLC. The committee shall interact with the consumers and propose settlement formula in compliance with the interest rates approved by the Hon'ble Commission. There will not be any financial limit to settle the cases. The decision of the Committee, if accepted by the party, will be implemented subsequent to the respective court allowing withdrawal of cases. Cases which cannot be settled by the District Level Committee shall be taken up with the Director (D&IT).

The District Committee shall comprise of the following members:

1. Deputy Chief Engineer, Electrical Circle in District Head quarters (Convener)
2. Deputy Chief Engineers of Electrical circle
3. Executive Engineers of Distribution Divisions
4. Assistant Executive Engineers of Electrical Subdivisions
5. Special Officer (Revenue) or his representative
6. Representative of Legal Advisor & Disciplinary Enquiry Officer

Applications for settlement of Arrears with litigation from HT consumers will be received at the office of SOR. The applications shall be processed by SOR and placed before the State Level (Expert) Committee. The State Level (Expert) Committee constituted as given below shall examine carefully the issues in such cases, shall interact with consumer and shall propose a settlement to Full Time Directors for decision. The State level Committee may also recommend review in the principal amount in genuine cases, the reasons shall be stated clearly in the Report.

The State Level Expert Committee shall comprise of the following members:

1. Chief Engineer (Commercial & Tariff)(Chairman)
2. Special Officer (R) (Convener)
3. Joint Secretary (Law)

4. Accounts Officer, Arrear Clearance Cell
5. T.A to Director (Dist & IT)

The guidelines to be followed by KSEBL as per the above OTS scheme for settling arrears which are entangled in court cases and similar issues is attached separately in Annexure 2.

Decision of the Commission

The Commission examined the proposal in detail. The Commission is of the considered view that, the arrears under litigation cannot be settled through negotiation. If any of the consumers under litigation intend to settle their arrears under OTS 2022, they have to withdraw the case in the Courts and approach the concerned authority of KSEB Ltd. **If requested by any consumer the concerned billing unit shall assess the amount payable that is principal amount and interest calculated under this scheme and formally communicate it to the consumer who wish to avail the scheme. This will ensure that there is equity between the licensee and the consumer, and the consumer has reliable assurance of settlement by paying the calculated amount subsequent to the withdrawal of the court cases.** The terms and conditions of the settlement shall be strictly as per the terms and conditions specified under OTS 2022 as above. No further negotiation is allowed. Considering the above, the Commission approve the Clause-11 as follows.

“Clause-11. Arrears under litigation.

*Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. **If requested by any consumer the concerned billing unit shall assess the amount payable that is principal amount and interest calculated under this scheme and formally communicate it to the consumer who wish to avail the scheme. This will ensure that there is equity between the licensee and the consumer, and the consumer has reliable assurance of settlement by paying the calculated amount subsequent to the withdrawal of the court cases.** Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS shall not be allowed to settle under OTS 2022. In all such cases the rate of interest shall be at the rate approved under Clause-5 above.”*

- (12) Clause-12. Receipt and processing of the Application for settlement.

Proposal of KSEB Ltd.

“Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. However request for more than 6 installments on principal amount shall be taken up with FTD through Director (D&IT). Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD with the recommendation of expert committee for settlement.

Decision of the Commission

The Commission examined the clause in detail and approve the same as follows.

“Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.

II. Guidelines for settling arrears entangled in court cases and similar issues by the District level committee as per OTS 2022:

KSEB Ltd proposed detailed guidelines for settling arrears entangled in court cases and similar issues by the District level committee as per OTS 2022. The Commission hereby modifies the title of the guidelines as **“Guidelines for settling arrears entangled in court cases as per OTS 2022:**

The Commission examined the various clauses in the guidelines. The observations and comments of the Commission on the various clauses in the guidelines is given below.

(13) “Clause 1. LITIGATIONS PERTAINING TO ASSESSMENTS MADE IN METER FAULTY CASES

“Proposal of KSEB Ltd

Probable situations and positions : *Back assessments for meter faulty cases are being effected in several cases, pursuant to RAO audit/AG audit. In a majority such cases assessments are issued for several months without any uniformity. In this context it is worth mentioning the fact that the licensee Board is bound to issue such assessments under Regulations 125 of the Kerala Electricity Supply Code, 2014 only. If the consumer was already issued with monthly/bi-monthly bills for average consumption, then the Board is not empowered to issue revised short assessments after taking into consideration the average consumption after the meter is replaced. This position has been clarified by the Kerala State Electricity Regulatory Commission vide clarification letter dated 30.05.2017 wherein it is clearly stated that “there is no provision for re-assessment of current charges for the meter faulty period by taking an average of subsequent meter reading, after realizing the electricity charges on the basis of average consumption of the past three billing cycles”. Moreover, as per Section 55(1) of the Electricity Act, 2003 “ No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority”.*

General guide line for settlement : *Back assessments for periods of meter fault, where regular bills were issued on average consumption is unlawful and is liable to be withdrawn. Hence litigations in such issues can be closed by withdrawing such demands.*

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(14) **Clause-2 .DISPUTES PERTAINING TO MINIMUM GUARANTEE**

Proposal of KSEB Ltd

“ Probable situations and positions: *The concept of Minimum Guarantee is no longer in existence and there are certain isolated instances of disputes pertaining to the same subject matter which had its genesis based on the previous regulations. Many of such demands are presently tied up in litigations. Most of such installations might have already become self remunerative with a few exceptions.*

General guide line for settlement: *In cases where the installations have become self remunerative, demands already issued can be revoked. The benefit of reduced interest rate for age wise category as per the OTS-2022 scheme can invariably be extended to the consumers in such cases.*

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(15) **Clause (3). DISPUTES REGARDING UNCONNECTED MINIMUM (UCM)**

Probable situations and positions: Unconnected Minimum is the offshoot of the erstwhile regulation and there are a few disputes/ litigations still pending on it. By placing reliance upon whether the infrastructure has become self remunerative bills already issued can be withdrawn, recording genuine and convincing reasons. Whereas, if the infrastructure is being erected for the sole purpose of the party in dispute and if the same is still remaining unutilised, the party is legally bound to remit the said amount.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. Reduction in interest shall be considered at the interest rates as per the OTS-2022 scheme.

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(16) **Clause-4. INSTANCES OF PART PAYMENTS**

Proposal of KSEB Ltd

“Probable situations and positions: *It has come to the notice of the Board that certain consumers have defaulted payments after remitting a portion of the disputed figure or after remitting a few instalments. In some cases, they have*

already availed amnesty like OTS and have become defaulters again. Several such cases may be lying entangled in litigations.

General guide line for settlement : Such issues can be reopened in appropriate cases and can rework the out standings based on the present guidelines/schemes. Whereas, if the arrear is already settled completely and remitted in full under any of the previous schemes, the same shall not be re-opened.”

Decision of the Commission

Commission examined the proposal in detail. The Clause-1 of the terms and conditions of the OTS-2022 clearly specifies the eligibility criterion for availing OTS 2022, which is extracted below for ready reference.

“1. Eligibility.

*Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2022. ie; arrear resulted from demand raised prior 01.01.2020. **The actual date in which the amount becomes originally due will be taken for assessing eligibility.** The scheme will also be open to those cases where RR action has been initiated and those pending before courts. However the cases once settled under previous OTS, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme.”*

The present proposal contradict the eligibility criterion approved as above. Further the proposal tantamounts to rewarding defaulters who availed the previous OTS Scheme while denying those consumers who paid their dues as per the previous Scheme. Hence this clause cannot be allowed. Hence the Commission doesnot approve this Clause-4 of the guidelines and is delted.

(17) Clause-5. Disputes pertaining to Mobile Towers.

Proposal of KSEB Ltd.

“Probable situations and positions: For a while the High Court of Kerala was flooded with writ petitions regarding the penalisation connected with mobile towers. Having regard to the directive of the Hon'ble High Court in its various judgments, the Board has issued an exhaustive Board Order dated 16.04.2016 and a good majority of those disputes have already been settled based on the guidelines stipulated in the said BO.

General guide line for settling The same dictum can invariably be employed to settle the remaining such disputes, if any.

Decision of the Commission

Commission examined the proposal in detail. The Commission notes that based on the directives of the Hon'ble High Court of Kerala, KSEB Ltd had issued an exhaustive BO dated 16.04.2016. Further nearly six years have elapsed since the issue of this BO.

The Commission is of the considered view that there is no further justification in giving one more chance to these consumers.

Hence the Commission directs to delete this Clause.

(18) **Clause-6. DISPUTES CONNECTED WITH WRONG APPLICATION OF MULTIPLICATION FACTOR**

Proposal of KSEB Ltd

“Probable situations and positions: *Instances of detection of wrong application of multiplication factor at a later date and its consequential back assessment has led to several legal wrangles. In such cases the licensee is well within the legal frame work to back assess the consumer notwithstanding the time span.*

General guide line for settling: *Reduction in interest rate based on age wise category as per the OTS-2022 scheme and with suitable instalments for interest payment.*

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(19) **Clause-7. MATTERS CONNECTED WITH REVENUE RECOVERY ACTIONS**

Proposal of KSEB Ltd

“Probable situations and positions: *Revenue recovery is the extreme legal measure resorted to by the Board to realise its pending arrears. It is a time consuming process. In certain instances, it might have ended up in litigations and a consequent stalemate. In some other cases, the correct address of the defaulter may be untraceable even after earnest efforts and the arrear would be unrecoverable by lawful means.*

General guide line for settlement: *The settlement authority can explore the possibility of a potential settlement by negotiating with the debtor by offering considerable reduction in interest rate based on the rates approved in the OTS-2022 scheme. In instances where correct address remain untraceable the same may immediately be brought before the notice of the Board to get the outstanding figure written off after due diligence, for ensuring sanitization of the debt burden.”*

Decision of the Commission

Commission examined the proposal in detail. The Commission is of the considered view that, the matters connected with the Revenue Recovery actions cannot be clubbed with the OTS 2022. Hence the Clause-7 of the guidelines is hereby deleted.

(20) **Clause-8. LITIGATIONS PERTAINING TO ASSESSMENTS FOR TEMPORARY EXTENSION UNDER LT VIII AND LT IIIB**

Proposal of KSEB Ltd

“Probable situations and positions: *It is a settled legal proposition that penalization for temporary extension on a daily basis (previously under the tariff category LT VIII and presently under the tariff category LT III B) is legally unsustainable. Time and again various judicial fora have turned down such assessments as having no statutory backing.*

General guide line for settlement: *In such cases revoke those assessments and issue fresh assessments in the respective tariff for which energy was used. Interest may be computed from the date on which such fresh assessments are issued, based on OTS-2022 rates of interest.”*

Decision of the Commission

Commission examined the matter in detail. KSEB Ltd not submitted the details of the 'litigations pertaining to assessment for temporary extension under LT-VIII and LT-IIIB and the justification for including such issues in OTS 2022.

Hence the Commission decide to delete this clause.

(21) **Clause 9(i) Power supply to temporary buildings and make shift establishments, during periods of disasters**

Proposal of KSEB Ltd

“Probable situations and positions : *The Board provides power supply to temporary buildings and make shift establishments, during periods of disasters. Emergency connections provided during the Tsunami disaster are examples. But the current charges and its consequential interest have accumulated as huge arrears in several cases. Similarly, the Board has undertaken some capital works and effected electric connection to certain disaster prone areas, for which no amount has been remitted into the Board's exchequer.*

General guide line for settlement *The settlement regime shall be instructed to take up the matter with the State Tsunami Cell/Disaster Management Authority/ concerned revenue authorities to get the arrears realised at the earliest. In such cases, interest can be reduced based on the present scheme.”*

Decision of the Commission

Commission examined the issue in detail. The issues can be settled separately and not as per OTS,2022. Hence the proposal is rejected.

(22) **Clause 9(ii) Pending arrears, Part remittances:**

Proposal of KSEB Ltd

“Probable situations and positions: In the cases of pending arrears, if some piecemeal interim remittances are made.

General guide line for settlement : Such figures can be reworked afresh by reassessing the principal amount on the date of remittance and suitable reductions can be effected in the principal and interest components. That means, interim remittance made previously may be adjusted as on the date of remittance against the interest calculated at OTS -2022 rates and the balance amount if any, to the principal.”

Decision of the Commission

The Commission examined the proposal in detail. The intent of the OTS is to sort out the disputes and genuine problem of the consumers in a time bound manner. The Commission note that in the case of settlement the principle adopted is to adjust the interest first and only on its complete recovery, adjustment is to be made towards the outstanding principle amount. However, the present proposal read as follows.

“Such figures can be reworked afresh by reassessing the principal amount on the date of remittance and suitable reductions can be effected in the principal and interest components. That means, interim remittance made previously may be adjusted as on the date of remittance against the interest calculated at OTS -2022 rates and the balance amount if any, to the principal.”

From the above it is clear that in the case of part remittance, both the principal and interest portion is proposed to be reduced simultaneously. Adjusting a portion of the principal amount without completely recovering the outstanding interest is not as per the prudent financial norms and hence cannot be agreed

Hence the Commission directs to delete this clause of the guideines.

(23) **Clause 9(iii) Leakage of electrical energy owing to wiring faults**

Proposal of KSEB Ltd

Probable situations and positions It is the bounden duty of the consumer to keep the electrical appliances and wiring in good condition. But there are many reported instances wherein exorbitant readings are shown due to leakage of electrical energy owing to wiring faults which is solely attributable to the consumer. The recent trend shows that many such disputes are being adjudicated in favour of the consumers by judicial/quasi judicial forum alleging

various technical/ legal reasons, thereby depriving the Board a fair share of revenue due to it. Having regard to the fate of such disputes.

General guide line for settlement : Those pending cases pertaining to the subject matter can be taken up for settlement through a fair process of negotiation and the settlement authority should exercise its reasonable discretion to rework the assessment up to a maximum of 50% reduction of the original assessment on a case to case basis, if such arrears qualify for being included in the OTS scheme. This shall not be taken as a norm and shall be made applicable only in the case of deserving consumers whose average monthly consumption is below 100 units.

Decision of the Commission

Commission examined the proposal in detail. Commission is of the considered opinion that such issues cannot be considered under OTS scheme. Hence the Commission directs to delete this clause.

(24) Clause 9(iv) Arrears of community drinking water schemes

Proposal of KSEB Ltd

“Probable situations and positions : Arrears of community drinking water schemes is another area of concern that require specific attention, as part of the OTS scheme. Such drinking water schemes are usually registered as a society with the beneficiaries as its members. The electric connection would be availed by the society. Once the society becomes defunct the Board cannot move further to realise the arrears as the society remains only in papers. Initiating revenue recovery action may also be practically impossible as the said society may no longer be in existence and legally it is impermissible to proceed against the individual members.

General guide line for settlement: In such cases a serious drive may be undertaken at the Subdivision level to meet the office bearers of the society alerting them of coercive-penal action from the part of the Board. Taking up the issue with the local self government concerned may also be resorted to. Reduced rates of interest can invariably be extended, if the arrear qualifies to be included in the OTS scheme.

Note: Any request received from the consumer under the OTS-2022 scheme may be processed immediately and the final payable arrear amount after extending the benefit of the scheme may be intimated to the consumer for favour of taking a decision on joining the scheme.”

Decision of the Commission

The Commission is of the considered opinion that such issues can be settled separately with the concerned authorities. Hence the proposal is rejected.

9. Based on the above, the Commission has redrafted and approve the Scheme for notification. The licensee is hereby informed that no changes whatsoever in the Commission approved scheme enclosed herewith as Appendix shall be made. The revised 'Terms and Conditions of the OTS 2022 and the Guidelines for settling the arrears entangled in court cases as per OTS 2022 is enclosed as Appendix to this Order.

Orders of the Commission

10. The Commission after examining the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2022' as per the provisions of the Electricity Act, 2003, the provisions in the Kerala Electricity Supply Code, 2014, hereby orders as follows:
- (1) Approve the 'One Time Settlement Scheme 2022 (OTS 2022) as detailed in the preceding paragraph of this Order.
 - (2) Approve the 'Terms and Conditions of the OTS 2022 and the Guidelines for settling the arrears entangled in court cases as per OTS 2022'. A copy of the approved OTS 2022 along with Terms and Conditions and Guidelines for settling arrears entangled in court cases as per OTS 2022 is enclosed as Appendix to this order. KSEB Ltd shall ensure that only this approved Scheme is floated, all cases shall strictly settled as per Commission's approval now given, and no deviation whatsoever is made to this approved Terms and Conditions and guidelines.
 - (3) No reduction, discount, decrease, waiver shall be made in the principal amount i.e., the Fixed charge/ Demand charge plus energy charge due from the defaulting consumers under this Scheme.
 - (4) KSEB Ltd shall, within one month after the closure of the OTS 2022, submit the consumer wise details of the arrears settled under the scheme, with all particulars including the tariff category, principal amount, age of the arrears, amount settled under OTS, interest due, interest settled, instalment facilities availed by the consumers etc.

The petition is disposed of accordingly.

Sd/-
Preman Dinaraj
Chairman

Approved for issue

Sd/-
Secretary

Annexure 1

List of participants attended the hearing held on 18.02.2022

1. Mr Rajesh J. Kuruvila, Carborandum Universal Limited
2. Mr Nair Nandakumar P, Carborandum Universal Limited
3. Mrs Prini Peter, Carborandum Universal Limited
4. Mr Radhakrishnan K.R, Carborandum Universal Limited
5. Sri. Sunil George, Finance Manager, The Kerala Ceramics Limited
6. Sri Suresh, Executive Engineer, K S E B Ltd.
7. Sri Rajesh R Assistant Executive Engineer, K S E B Ltd

One Time Settlement Scheme (OTS-2022)

A. Terms & Conditions

1. Eligibility

Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2022. ie; arrear resulted from demand raised prior 01.01.2020. The actual date in which the amount becomes originally due will be taken for assessing eligibility. The scheme will also be open to those cases where RR action has been initiated and those pending before courts. However the cases once settled under previous OTS, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme. .

2. Period of the scheme:

The scheme shall be open from 21.03.2022 to 20.05.2022.

3. Time schedule of the scheme

21.03.2022 -	Intimating consumer about the scheme.
21.03.2022 -	Acceptance of application.
30.03.2022 -	Commencement of issue of demand notice
16.05.2022 -	Last date of accepting application form
21.05.2022 -	Last date to issue of demand notice and remittance of first installment by the consumer

4. The Scheme:

The Consumer will be eligible to get reduced rate in interest as mentioned below. The Interest can be remitted in six months time with equal installments. However, the Principal portion of the arrear shall be remitted in lump sum along with first installment of interest.

5. Reduction in Interests :

- (1) Age of arrears above 15 years- 4%
- (2) Age of arrears between 5 years to 15 years- 6%
- (3) Age of arrears above 2 years and below 5 years- 6.65%

For arrears of continuous nature, the entire arrear will be split agewise and the applicable rate of interest will be applied. ie; 4% rate for arrears above 15 years, 6% interest on arrears between 5 to 15 years, and 6.65% for arrears between 2 to 5 years.

No further interest will be levied for payment of interest portion in installment upto six months.

6. Full settlement option:

Consumer may also remit the entire principal amount and total interest at the rate specified in Clause 5 above in one lump sum. In such cases, a rebate of 2% on interest amount (total reduced interest amount) would be granted.

7. Installment for principal amount:

Deleted.

8. Dismantled connections :

The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months

after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.”

9. **Industrial units/Plantations with different spells of closure (intermittent period of closure):**
The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure.

10. **Revenue Recovery action cases:**
The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.

11. **Arrears under litigation :**

Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. If requested by any consumer the concerned billing unit shall assess the amount payable that is principal amount and interest calculated under this scheme and formally communicate it to the consumer who wish to avail the scheme. This will ensure that there is equity between the licensee and the consumer, and the consumer has reliable assurance of settlement by paying the calculated amount subsequent to the withdrawal of the court cases. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS shall not be allowed to settle under OTS 2022. In all such cases the rate of interest shall be at the rate approved under Clause-5 above.

12. **Receipt and processing of Application for settlement :**

“Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.

13. **Publicity:**

The Public Relations Officer, KSEBL and Deputy Chief Engineers of Electrical Circles shall give wide publicity about the scheme in local newspapers, cable TV, FM radios etc; periodically till end of the scheme. The Senior Superintendent at Electrical Section Office and Special Officer (Revenue) at Corporate Level will be responsible for informing consumers with arrears about the scheme. Intimation shall be given to all such consumers clearly indicating the savings the consumer would get by opting the scheme. The Accounts Officer (Arrear Clearance Cell), O/o CIA shall intimate the details of the scheme directly to heads of all Government departments, PSUs, Government institutions and local bodies.

B. Guidelines for settling arrears entangled in court cases as per OTS 2022.

General:

The alarming accumulation of pending arrears has been a constant cause of concern for KSEB Ltd. A substantial share of such arrears is being held up in litigation before various Courts. This in turn precipitates huge revenue arrears in Board's accounts, which includes amounts that may be practically unrecoverable by any lawful means. The OTS schemes implemented

previously has been quiet effective as large no of arrears pending has been realized. In order to collect the maximum amount of arrears held up in litigation and other issues, the Board is introducing a new scheme named as OTS -2022. The present scheme covers all arrears which are more than two years but specifically **excludes theft cases booked under Section 135 of the Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003.**

As the judicial processes involved in resolving disputes are time consuming affairs and as the parties are at liberty to go for appeals, such disputes would be shuttling back and forth by way of appeals, remissions, de-novo disposals etc., and the Board would remain deprived of a fair share of its revenue by way of the predicament. Taking a serious view of the matter, the Board has decided to issue the following guidelines which is almost in line with the earlier guideline issued for OTS -2021.

1. **LITIGATIONS PERTAINING TO ASSESSMENTS MADE IN METER FAULTY CASES**

Probable situations and positions: Back assessments for meter faulty cases are being effected in several cases, pursuant to RAO audit/AG audit. In a majority such cases assessments are issued for several months without any uniformity. In this context it is worth mentioning the fact that the licensee Board is bound to issue such assessments under Regulations 125 of the Kerala Electricity Supply Code, 2014 only. If the consumer was already issued with monthly/bi-monthly bills for average consumption, then the Board is not empowered to issue revised short assessments after taking into consideration the average consumption after the meter is replaced. This position has been clarified by the Kerala State Electricity Regulatory Commission vide clarification letter dated 30.05.2017 wherein it is clearly stated that *“there is no provision for re-assessment of current charges for the meter faulty period by taking an average of subsequent meter reading, after realizing the electricity charges on the basis of average consumption of the past three billing cycles”*. Moreover, as per Section 55(1) of the Electricity Act, 2003 *“ No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority”*.

General guide line for settlement: Back assessments for periods of meter fault, where regular bills were issued on average consumption is unlawful and is liable to be withdrawn. Hence litigations in such issues can be closed by withdrawing such demands.

2. **DISPUTES PERTAINING TO MINIMUM GUARANTEE**

Probable situations and positions: The concept of Minimum Guarantee is no longer in existence and there are certain isolated instances of disputes pertaining to the same subject matter which had its genesis based on the previous regulations. Many of such

demands are presently tied up in litigations. Most of such installations might have already become self remunerative with a few exceptions.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. The benefit of reduced interest rate for age wise category as per the OTS-2022 scheme can invariably be extended to the consumers in such cases.

3. DISPUTES REGARDING UNCONNECTED MINIMUM (UCM)

Probable situations and positions: Unconnected Minimum is the offshoot of the erstwhile regulation and there are a few disputes/ litigations still pending on it. By placing reliance upon whether the infrastructure has become self remunerative bills already issued can be withdrawn, recording genuine and convincing reasons. Whereas, if the infrastructure is being erected for the sole purpose of the party in dispute and if the same is still remaining unutilised, the party is legally bound to remit the said amount.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. Reduction in interest shall be considered at the interest rates as per the OTS-2022 scheme.

4. INSTANCES OF PART PAYMENTS

Deleted.

5. DISPUTES PERTAINING TO MOBILE TOWERS

Deleted.

6. DISPUTES CONNECTED WITH WRONG APPLICATION OF MULTIPLICATION FACTOR

Probable situations and positions: Instances of detection of wrong application of multiplication factor at a later date and its consequential back assessment has led to several legal wrangles. In such cases the licensee is well within the legal frame work to back assess the consumer notwithstanding the time span.

General guide line for settling: Reduction in interest rate based on age wise category as per the OTS-2022 scheme and suitable installments can be considered in genuine cases.

7. MATTERS CONNECTED WITH REVENUE RECOVERY ACTIONS

Deleted.

8. LITIGATIONS PERTAINING TO ASSESSMENTS FOR TEMPORARY EXTENSION UNDER LT VIII AND LT IIIB

Deleted.

9. **GENERAL ISSUES**

Certain general issues that are relevant to the OTS scheme, but are not necessarily under litigation.

i) **Power supply to temporary buildings and make shift establishments, during periods of disasters**

Deleted.

ii) **Pending arrears, Part remittances:**

Deleted.

iii) **Leakage of electrical energy owing to wiring faults**

Deleted.

iv) **Arrears of community drinking water schemes**

Deleted.