

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : **Shri. Preman Dinaraj, Chairman**
Shri. S. Venugopal, Member
Shri. K. Vikraman Nair, Member

Petition OP 52/19

In the matter of : Scheme for the One Time Settlement of arrears
of KSEB Ltd

Petitioner : M/s. Kerala State Electricity Board Limited

Petitioner represented by : Sri. Sasankan Nair, DCE (TRAC), KSEB Ltd.
Sri. K.G.P Nampoothiri, EE, KSEB Ltd.
Sri. Rajesh.R, AEE (TRAC), KSEB Ltd.
Sri. Binu Sasi S, AO, KSEB Ltd.
Sri. Baiju. P.G, Sr.Supdt., KSEB Ltd.
Sri. Binu.D, Supdt., KSEB Ltd.

Order dated 17.09.2019

1. KSEBL filed a petition before the Commission for the approval of “the Scheme for One Time Settlement Scheme (OTS 2019) proposed from 01.08.2019’ with the following prayers,
 - (i) To approve the OTS sanctioned after the period of OTS 2018, for collecting an amount of Rs. 41.24 lakh.
 - (ii) To approve the proposed OTS 2019 scheme proposed in the petition.
2. The summary of the petition filed by KSEB Ltd is given below.
 - (i) The Commission, vide the approval dated 30.05.2018, granted approval for OTS 2018 w.e.f 01.06.2018. As requested by KSEB Ltd, the Commission granted approval for extending the scheme up to 31.12.2018.
 - (ii) As on 31.12.2018, KSEBL collected an amount of Rs. 96.39 crores including interest under OTS 2018. The summary of arrears collected under OTS 2018 is given in the table below,

Amount collected under OTS- 2018 as on 31.12.2018				
Sl. No.	Particulars	Principal Amount (Rs.)	Interest (Rs.)	Total (Rs.)
1	LT Consumers	5,62,27,177	1,51,22,969	7,13,50,146
2	HT/EHT Consumers	11,05,82,979	2,26,14,224	13,31,97,203
3	Total LT & HT	16,68,10,156	3,77,37,193	20,45,47,349
4	Government Depts. (KWA)	73,90,00,000		73,90,00,000
5	Government Department (Health)	2,04,00,000		2,04,00,000
6	Total amount paid by Govt.	75,94,00,000		75,94,00,000
7	Grand Total	92,62,10,156	3,77,37,193	96,39,47,349

As above, KSEB Ltd could collect an amount of 96.39 crore under OTS 2018 as against the meagre amount of Rs 7.06 crore collected under OTS 2016.

The amount of arrears collected includes Rs. 75.94 Crores remitted by the Government in respect of the arrears of Kerala Water Authority and Health Department. The Government as per order dated 14.01.2019 has ordered to take over current charge arrears of KWA up to 30.09.2018 and ordered to settle an amount of Rs.1329.69 crores (principle Rs 1062.98 crore and interest Rs 263.71 crore) including interest in 4 equal installments with budgetary support.

- (iii) After the expiry of the OTS 2018 scheme on 31.12.2018, several request from consumers received for resettlement of arrears under OTS - 2018 Scheme. In anticipation of getting approval of Hon'ble Commission, KSEBL has considered such proposals also and collected an amount of Rs.41.24 lakh as on date over and above the amount of Rs.96.391 Crore already collected as on 31.12.2018 under OTS – 2018 scheme.
- (iv) The total outstanding arrears as on 31.12.2018 is around Rs. 2645.90 Crores (including the arrears of KWA and health department amounts to 1068.27 crore, ordered by the Government take over through budgetary support). This includes,
- Arrears of Rs 455.49 crore under litigation.
 - Arrears from LT consumers amount to Rs 1068.19 crore and Rs 1577.71 crore from HT consumers.
 - Rs 1525.74 crore due from State PSUs including KWA and Rs 94.44 crore due from State Government departments.
 - Rs 645.98 crore due from private consumers including Rs 286.19 crore held under litigation.

Out of it, the Government, vide the order GO (Rt) No. 10/2019/Power dated 14.01.2019, has ordered to adjust / takeover the arrears amounts to 1326.29 crore (Rs 1062.98 crore and its interest amounts to Rs 263.71 crore) of KWA over a period of four years. Further, the Government also ordered to takeover Rs 5.29 crore due from Health departments.

Accordingly, the net arrears as on 31.12.2018. excluding the arrears of KWA and Health department ordered to adjust/takeover by the State Government is about Rs 1577.63 crore.

- (v) KSEB Ltd received many requests from the consumers with the arrears to settle them through OTS Scheme. Considering the long outstanding arrears and on considering the request of consumers including the Government Departments, Public Sector Undertakings, Local bodies and private consumers, KSEBL evolved a scheme for settlement of arrears under OTS, as OTS 2019, proposed to be implemented from 01.08.2019 onwards.

3. The Summary of the important provisions in the proposed OTS Scheme is given below.

- a) **Eligibility:** The consumer with arrears for more than one (1) year is eligible to apply for OTS – 2019. The Scheme will also be open to those cases where RR action is initiated and those which are pending before the Courts. However the cases once settled under the previous OTS and theft cases under Section 135 of the Electricity Act 2003 (except for Section 135 (1)(e)) will not be eligible for the scheme.
- b) **Period of Scheme:** The scheme will be open from 01.08.2019 to 30.11.2019.

The Full Time Directors (FTD) of KSEBL may consider the request made by Government, PSUs and Local bodies for a period of 6 months even after the expiry of the OTS period. Also the arrears held by litigation in respect of private consumers can also be considered by the FTD for an extended period of 6 months.

- c) **Interest rate:** For arrears below 5 year old, a reduced interest rate @ 8% instead of 18% for the entire arrears. For arrears more than 5 year old, the rate of interest will be 6% for the entire arrears.

The interest can be remitted in 6 equal installments, no further interest will be levied for payment of interest in installment up to 6 months. However the principal portion shall be remitted in lump sum along with 1st installment of interest.

- d) **Full settlement option:** Consumer has the option to remit the principle amount and total reduced interest in one lump sum. In such cases a rebate of **2% on interest amount** would be granted.
- e) **Further installment facility:** Installment facility will be available for the deserving cases, in such cases an interest @12% per annum will be levied up to 12 installments and interest @14% per annum will be levied for installments above 12 installments.
4. KSEBL further submitted that the initiative behind OTS - 2019 is to encourage the defaulted consumer to settle the dues by availing reduced interest rate. KSEBL expects that a number of long pending issues could be settled through the OTS scheme. Further, according to KSEBL, the proposal intends to reduce the bad debts reflected in its Book of accounts.
5. A comparison of the OTS 2018 scheme approved by the Commission and the OTS 2019 proposed by KSEB Ltd is given below.

Comparison of the OTS 2019 and OTS 2018 (approved by the Commission)

Sl No	Particulars	OTS 2019	OTS 2018 (approved by the Commission)
1	Eligibility	Consumers with arrears for more than one year	Consumers with arrears for more than two year
2	Reduced interest rate	Arrears below 5 years old, interest rate is 8%.	Arrears aged between 2 to 5 years- 8%
		For arrears more than 5 year old, interest rate - 6%	Arrears beyond five years- 6%
3	Rebate on Full settlement option	2% rebate on interest amount.	2% rebate on interest amount (on total reduced interest amount)
4	Instalment facility for principal amount	Upto 12 instalments @12% interest and above 12 instalments @14% interest	Six months instalment facility @12% interest for principal
5	Theft cases under Section 135 (1)(e) of the EA-2003 (unauthorised use of electricity)	Will be considered	Not considered

6. The Commission admitted the petition as OP 52.2019 and conducted public hearing on 20.08.2019 at the court hall of the Commission. Sri. K.G.P Nampoothiri, Executive Engineer, KSEB Ltd presented the petition on behalf of the petitioner and explained the details of the 'One Time Settlement (OTS) Scheme 2019. KSEB Ltd expected that, many consumers including private consumers, PSUs and the Government may avail the facility for settling the arrears at reduced interest rates. During the hearing the Commission has

directed the petitioner to submit the age wise details of the pending arrears. KSEB Ltd vide the letter dated 29.08.2019 has submitted the same as given in the Table below.

Age wise details of arrears as on 30.06.2019

Sl. No.	Name of the Department	Age of arrears					
		Upto 6 months	6 to 12 months	1 to 2 years	2 to 5 years	More than 5 years	Total
1	State Govt Departments	6.60	12.54	6.90	18.00	45.90	89.93
2	State PSUs	39.89	114.74	5.14	12.18	72.60	244.55
3	Public Institutions	1.97	17.32	2.50	4.29	3.41	29.48
4	Local bodies	1.62	0.65	1.26	0.36	0.87	4.76
5	Central Govt departments	4.33	0.06	0.10	0.05	0.54	5.09
6	Central PSUs	8.39	14.32	5.21	21.78	4.59	54.29
7	Domestic	247.12	3.32	5.87	2.89	13.88	273.08
8	Private Institutions	108.27	66.73	49.12	45.99	410.88	681.00
9	Captive power plant	0.00	0.00	0.00	0.00	58.31	58.31
10	Inter state	0.00	0.97	2.61	0.00	0.00	3.58
11	Licensees	0.00	0.00	0.84	0.00	14.36	15.20
12	Others	0.08	0.03	0.03	0.02	0.04	0.21
TOTAL .		418.26	230.69	79.57	105.56	625.38	1459.47

The arrears as on 30.06.2019 is excluding the principal of Rs 1062.98 crore from KWA as on 30.09.2018, taken over by the State Government vide the order GO (Rt) No. 10/2019 dated 14.01.2019.

Analysis and Decision

7. The Commission has examined the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2019' as per the provisions of the Electricity Act, 2003, the provisions in the Kerala Electricity Supply Code, 2014 and the Tariff orders approved by the Commission from time to time.
8. KSEB Ltd has been following the accrual system of accounting and accordingly, as soon as the licensee raise invoice to the consumers for the electricity charges payable, the amount due from the consumer is accounted as revenue of the licensee, irrespective of whether the consumer remits the electricity charges or not as per the invoice in time. Accordingly, it is the need and responsibility of the KSEB Ltd to collect the arrears from the consumers, which is already accounted for as its revenue.

9. The Regulation 136 of the Kerala Electricity Supply Code, 2014 deals with 'recovery of arrears and limitations. The relevant Regulation is extracted below for ready reference.

"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.

10. KSEB Ltd has filed the petition as per the sub-regulation (5) of Regulation 136 of the Kerala Electricity Supply Code, 2014.
11. The Commission has examined the 'Terms and Conditions of the OTS 2019' given as Annexure-3 of the petition and noted the following.
- (i) Eligibility criterion

As per the proposal, the consumers with arrears of more than one year is eligible for the scheme, i.e., for settling the arrears at the reduced interest rate. Since the prevailing market rate of interest rate is higher than the interest rate of 8% proposed under OTS, this may give wrong signals to the consumers who promptly remit the electricity charges by availing short term borrowings.

Hence, the Commission here by directs that, the consumers with arrears for more than two years only are eligible to apply for the scheme. The terms and conditions shall be modified accordingly

- (ii) Theft cases booked under Section 135(1)(e) of the Electricity Act, 2003

KSEB Ltd propose to include the amount booked under theft cased under Section 135(1)(e) of the Electricity Act, 2003 under OTS 2019. The Commission examined the proposal in detail and noted that, it is not appropriate to settle the amount booked under Section 135 of the Electricity Act, 2003, since the theft cases has to be settled as per the procedure specified in Section 135 of the Electricity Act, 2003. Hence, the amount booked under Section 135(1) (e) of the Electricity Act, 2003 cannot be include under OTS 2019. The terms and conditions of OTS 2019 shall be modified accordingly.

- (iii) Period of the scheme. KSEB Ltd proposed to include a provisions in the 'terms and conditions of OTS 2019', authorizing the Full Time Directors (FTD) of KSEB Ltd to consider the requests of Government, PSUs and local bodies, for a period upto six (6) months after the expiry of the OTS period.

The Commission examined the proposal and is of the view that it is not fair and proper to keep the period of settlement open ended. However, proposals, if any, from the State Government, PSUs and Local bodies received after the OTS period for settling the arrears can be considered by the Commission on case to case basis for approval, if petition is filed accordingly.

- (iv) The interest rate proposed for the settlement of arrears outstanding less than 5 years is 8%. Considering the prevailing benchmark interest rates of State Bank of India (SBI), the proposed interest rate is very low. The Commission is of the view that, the minimum interest rate for settling the arrears outstanding up to 5 years may be fixed at the previous six month average MCLR rate notified by SBI, from the date of implementation of the OTS 2019. The clause 5 of the 'terms and conditions of the OTS 2019' shall be modified accordingly.
- (v) The period of the OTS scheme may be revised as 'from 01.10.2019 to 31.01.2020' instead of '01.08.2019 to 30.11.2019'.
- (vi) As per the clause-7 of the 'terms and conditions of OTS 2019', unlimited installment facility is proposed for remitting the principal amount at the interest of 14%. The Commission is of the view that such unlimited installment facility will defeat the very purpose of OTS. Hence, installment facility for remitting the principal amount may be limited to '18 monthly installments' at the interest rate of 14%.

Further as per the clause-7 of the 'terms and conditions of OTS 2019', upto 12 installments are proposed for remitting the principal amount at the interest rate of 12%. In order to get clarity on the period of installment

facility, the word '12 installment' may be substituted with the word '12 equal monthly installment'.

- (vii) KSEB Ltd is allowed to retain other terms and conditions proposed in the OTS 2019.
12. The Commission decided to approve the OTS 2019, with the modifications in the 'Terms and Conditions of One Time Settlement Scheme' as detailed above. Within one month after the closure of the OTS scheme 2019, KSEB Ltd shall submit the consumer wise details of the arrears settled under OTS 2019, with all particulars including the principal amount, age of the arrear amount settled under OTS, interest due, interest settled, installment facilities availed by the consumers etc.
13. The Commission has also examined the prayer of the KSEB Ltd to approve the OTS sanctioned after the expiry of the OTS 2018. KSEB Ltd has not submitted the consumer wise details of the arrears settled after the expiry of the OTS 2018. The Commission may grant approval of the same, once KSEB Ltd submit the consumer wise details of the arrears settled after the expiry of the OTS 2018, including principal amount, age of the arrear amount settled under OTS, interest due, interest settled and other relevant details.

Orders of the Commission

14. The Commission after examining the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2019' as per the provisions of the Electricity Act, 2003, the provisions in the Kerala Electricity Supply Code, 2014, hereby orders to approve the 'One Time Settlement Scheme 2019 (OTS 2019)', with modifications on the 'Terms and Conditions of OTS 2019' as detailed under paragraph 11 above.

The petition is disposed of accordingly.

Sd/-
K. Vikraman Nair
Member

Sd/-
S. Venugopal
Member

Sd/-
Preman Dinaraj
Chairman

Approved for issue

Sd/-
G Jyothichudan
Secretary