

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri. Preman Dinaraj, Chairman

OP 27/2020

In the matter of : Seeking approval for extending the OTS-2019 upto
31.12.2020

Petitioner : M/s. Kerala State Electricity Board Limited

Order dated 29.09.2020

1. KSEB Ltd, on 07.07.2020 filed a petition before the Commission with the following prayers.

“Hon’ble Commission may kindly accord sanction for extending the OTS-2019 scheme upto 31.12.2020 for considering the fresh application and also for settling any defaulters in the earlier settled applications freshly, applying the same terms and conditions of the OTS-2019 scheme”.

2. Summary of the petition filed by KSEB Ltd is given below.

- (1) Commission vide the Order dated 17.09.2019 in Petition OP 52/2019 approved the ‘One Time Settlement Scheme 2019- OTS 2019), of KSEB Ltd. The period of implementation of the OTS 2019 was from 01.10.2019 to 31.01.2020.

Subsequently, as requested by KSEB Ltd, Commission vide the order dated 22.11.2019, revised the period of implementation from 01.11.2019 to 29.02.2020. As per the OTS-2019, the last date for submitting the application for the scheme was 01.02.2020.

- (2) Meanwhile, KSEB Ltd conducted Vydyuthi Adalath at Revenue District level from 11.01.2020 to 27.02.2020 for redressing the complaints of public. The Adalath were conducted under the patronage of the Hon’ble Minister for Electricity.

Larger number of complaints were received for consideration in the Adalath. Since the Adalath was conducted till 27.02.2020, the application for settling the arrears received from 01.02.2020 to

27.02.2020 also settled in terms of the OTS 2019, in anticipation of the approval of the Commission.

KSEB further submitted that, vide the letter dated 23.03.2020 KSEB Ltd requested before the Commission to ratify the action of extending the OTS 2019 for settling the applications received under Vidyuthi Adalath 2020. The above request was pending before the Hon'ble Commission.

- (3) KSEB Ltd further submitted that, ,
' In the wake of Covid 19 Pandemic, several requests has been received from consumers that they could not remit the settled amount in OTS 2019 within the stipulated time and requested for giving extension for payment. Further, many new requests has also been received from Government institutions, PSUs, sick industries for settling their arrears under OTS. Hence inorder to mitigate the hardship faced by the consumer during Covid-19 Pandemic, KSEB Ltd requested to extend the OTS 2019 upto 31.12.2020 (further 10 more months from 01.03.2020)'

3. Commission admitted the petition and scheduled the first hearing on 21.08.2020 through video conference. Further, Commission vide the letter dated 07.08.2020 directed KSEB Ltd to submit the following details.

- (i) Details of arrears settled on the applications received from 01.11.2019 to 29.02.2020 (excluding the arrears collected through Vidyuthi Adalath 2020).
- (ii) Details of arrears settled under Vidyuthi Adalath 2020 on the applications received from 11.01.2020 to 31.01.2020.
- (iii) Details of arrears settled under Vidyuthi Adalath 2020 on the applications received from 01.02.2020 to 27.02.2020.
- (iv) Details of the amount settled in each Electrical Division under OTS and Vydhyuthi Adalath separately.

4. In compliance of the direction of the Commission, KSEB Ltd vide the letter dated 20.08.2020 submitted the following details.

- (i) **Details of HT & EHT arrears settled on the applications received from 01.11.2019 to 29.02.2020 (excluding the arrears collected through Vidyuthi Adalath 2020).**

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
(1)	(2)	(3)	(4)	(5)	(6) = (1)+(2)	(7)
Arrears with age more than 5 years	21	7	1,66,79,264	74,22,428	2,41,01,692	1,54,82,363
Arrears with age 2 to 5 years	-	-	-	-	-	-
Arrears with age 1 to 2 years	-	-	-	-	-	-
Others (pl specify)	-	-	-	-	-	-

(ii) **Details of HT & EHT arrears settled under Vydyuthi Adalath 2020 on the applications received from 11.01.2020 to 31.01.2020**

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
(1)	(2)	(3)	(4)	(5)	(6) = (1)+(2)	(7)
Arrears with age more than 5 years	1	1	23,96,317	1,41,026	25,37,343	9,30,835
Arrears with age 2 to 5 years	1	1	6,15,240	1,94,180	8,09,420	23,027
Arrears with age 1 to 2 years	1	-	-	-	-	-
Others (pl specify)	-	-	-	-	-	-

(iii) **Details of HT & EHT arrears settled under Vydyuthi Adalath 2020 on the applications received from 01.02.2020 to 27.02.2020**

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
(1)	(2)	(3)	(4)	(5)	(6) = (1)+(2)	(7)
Arrears with age more than 5 years	2	-	-	-	-	-
Arrears with age 2 to 5 years	-	-	-	-	-	-
Arrears with age 1 to 2 years	2	-	-	-	-	-
Others (pl specify)	-	-	-	-	-	-

(iv) **Details of amount settled in HT & EHT category under OTS-2019**

Name of Division	Number of requests received	Amount involved in 7 settled cases	Number of cases settled	Age of settled cases	Amount settled	Amount received in KSEBL accounts
SOR	21	4,06,10,399	7	5 Years and above	2,41,01,692	2,41,01,692

(v) **Details of LT arrears settled on the applications received from 01.11.2019 to 29.02.2020 (excluding the arrears collected through Vydyuthi Adalath 2020).**

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
(1)	(2)	(3)	(4)	(5)	(6) = (1)+(2)	(7)
Arrears with age more than 5 years						
Arrears with age 2 to 5 years						
Arrears with age 1 to 2 years						
Others (pl specify)						
Total		2907	3,03,16,236	1,09,24,716	4,12,00,959	2,26,97,892

(vi) Summary of the amount settled under OTS 2019

Sl No	Particulars	No. of consumers	Actual arrear (Rs)			Amount settled under OTS (Rs)		
			Principal	Interest	Total	Principal	Interest	Total
1	LT total	2907	3,88,65,757	3,36,22,608	7,24,88,365	3,03,19,236	1,09,24,716	4,12,43,952
2	HT total	7	1,77,05,608	2,29,04,791	4,06,10,399	1,66,79,264	74,22,428	2,41,01,692
	Grand total		5,65,71,365	5,65,27,399	11,30,98,764	4,69,98,500	1,83,47,144	6,53,45,644

KSEB Ltd further submitted that, in the case of LT consumers, the year wise details of the OTS-2019 and Vidyuthi Adaltah 2020 called for by the Commission have been forwarded to all field offices for urgent report and the same will be submitted as soon as the details are received from field offices.

5. First hearing on the petition was held on 21.08.2020 through video conference. Summary of the deliberations during the hearing is given below.

(1) Sri. Suresh, Executive Engineer, presented the petition on behalf of KSEB Ltd, as follows.

- (i) KSEB Ltd has been taking earnest efforts for the collection of the arrears through the OTS Scheme -2019 approved by the Commission.
- (ii) Requests for consideration for settling of arrears received during the Vidyhuthi Adalath held under the patronage of Hon'ble Minister of Electricity was considered and all eligible applications were settled as per the terms and conditions of OTS 2019 in anticipation of the approval of the Commission.
- (iii) However, due to the Covid-19 pandemic, the consumers availed the facility of OTS even could not remit the settled amount under OTS-2019. Further many consumers requested for extension of the OTS-2019. Inorder to mitigate the hardships faced by consumers during Covid-19 pandemic, KSEB Ltd requested before the Commission to extend the OTS-2019 upto 31.12.2020.

(2) Sri. Satheesh. A.R, President, HT&EHT consumers association submitted the following.

- (i) The Association extends full support for the OTS Scheme in general, and offered their co-operation and support for settling of arrears held under court cases.
- (ii) KSEB Ltd may give wide publicity for the OTS Schemes.
- (iii) KSEB Ltd may also refrain from filing unnecessary litigations against the consumers.

- (3) Smt. Prini Peter and Sri Rajesh J Kuruvila representing Carborandum Universal, also extended full support for the OTS Scheme. Sri Prabhakaran, HT&EHT Association submitted that the extension of OTS in the present situation of Covid 19 is a welcome step. He added that more publicity may be given and the scheme be made more attractive.
- (4) Based on the deliberations during the hearing, the Commission directed the petitioner KSEB Ltd to submit the following, latest by 09.09.2020.
- (i) Age wise details of the arrears settled under Vydyuthi Adalath held from 11.01.2020 to 27.02.2020.
 - (ii) Division wise details of the arrears collected in the format specified by the Commission.
6. In the meanwhile, Kerala CBSE School Management Association vide the letter dated 19th August 2020 submitted before the Commission that, huge arrears of electricity charges had accrued during the pendency of the litigation before the Hon'ble High Court and Hon'ble Supreme Court in the matter of tariff applicable to self financing educational institutions, which is ultimately decided in favour of KSEB Ltd. However, due to Covid 19 pandemic and consequent lockdown, most of the CBSE/CSE schools were facing financial difficulties and unable to pay the huge arrears. The Association requested before the Commission to consider their grievances and permit them to settle the arrears under OTS by avoiding interest and making payments in installments.

The Commission vide the letter dated 25.08.2020, directed KSEB Ltd to submit its remarks on the request of the Kerala CBSE School Management Association.

7. KSEB Ltd vide the letter dated 23.09.2020 submitted the age wise details of the arrears collected under OTS-2019 and also the division wise details of the arrears collected during the Vydyuthi Adalath conducted during 11.01.2020 to 27.02.2020. Its summary is given below.

(i) Details of Arrears settled under OTS-2019 (from 1.11.2019 to 29.02.2020) (excluding the arrears collected through Vydyuthi Adalath 2020)

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
1	2	3	4	5	6=4+5	7
Arrears with age more than 5 years	360	337	1,99,90,827	96,97,931	2,96,88,758	1,97,85,184
Arrears with age 2 to 5 years	2568	2536	2,70,07,673	86,49,213	3,56,56,886	1,83,95,071
Arrears with age 1 to 2 years						
Others (Please specify)						
Total	2928	2873	4,69,98,500	1,83,47,144	6,53,45,644	2,26,97,892

(ii) Details of Arrears settled under Vydyuthi Adalath 2020 on the applications received from 11.01.2020 to 30.01.2020

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
1	2	3	4	5	6=4+5	7
Arrears with age more than 5 years	96	66	72,12,082	14,27,450	86,39,532	29,23,264
Arrears with age 2 to 5 years	43	31	37,50,431	11,10,389	48,60,820	8,64,245
Arrears with age 1 to 2 years	12	7	1,74,018	7,043	1,81,061	1,187
Others (Earth fault case,cable TV, installments)	17	10	7,81,424	71,259	8,52,683	347
Total	168	114	1,19,17,955	26,16,141	1,45,34,096	37,89,043

(iii) Details of Arrears settled under Vydyuthi Adalath 2020 on the applications received from 01.02.2020 to 27.02.2020

Particulars	Applications received (Nos)	Applications settled (Nos)	Principle amount settled (Rs.)	Interest settled (Rs.)	Total(Rs.)	Rebate on interest allowed (RS)
1	2	3	4	5	6=4+5	7
Arrears with age more than 5 years	39	25	29,58,191	11,93,981	41,52,172	17,46,124
Arrears with age 2 to 5 years	109	87	16,23,551	1,38,609	17,62,160	82,387
Arrears with age 1 to 2 years	16	14	2,90,770	97,181	3,87,951	20,006
Others (street light case, installments)	12	7	12,51,104	14,896	12,66,000	1,46,021
Total	176	133	61,23,616	14,44,667	75,68,283	19,94,538

8. The Commission conducted second hearing on the petition on 24.9.2020 through video conference. The list of participants in the hearing is attached as Annexure-2. Summary of the deliberations during the hearing is given below.

(1) Sri. Suresh, Executive Engineer presented the following during the hearing.

(i) Due to the Covid-19 pandemic and resulting financial crisis, large number of consumers were defaulting in making payment of electricity charges. Accordingly, the total accumulated arrears of electricity charges as on 31.08.2020 is more than Rs 2000.00 crores.

(ii) KSEB Ltd has been collecting the details of the arrears of the schools and colleges under Kerala School Management Association from the field offices and it will be submitted to the

Commission separately. Kerala School Management Association requested to KSEB Ltd also to consider their request for settling the arrears under OTS. Once the Commission grant approval for extending the OTS till 31.12.2020, KSEB Ltd may consider their request favorably.

- (2) Sri Prabhakaran representing HT & EHT Association submitted that implementation of OTS will be helpful in the settlement of arrears to a large extent. KSEB Ltd may give wide publicity to the scheme in social media and also in other visual media.
- (3) Sri A R Satheesh, president of HT&EHT Electricity Consumers Association offered their whole hearted support for the collection of arrears from the defaulting consumers. The Association requested KSEB Ltd to provide the list of the HT&EHT consumers to them so that, they can pursue the members of their Association to pay the past arrears and to avail the OTS facility.

Mr. Satheesh also pointed out that, in the case of industries, which had already closed down, KSEB Ltd has been raising demand charges for the original contract demand through the such closed down industries had requested for reduction in contract demand. This has resulted in accumulating the arrears of closed down industries and such industries could not remit such huge arrears. He cited the example of Binani Zinc to highlight his point.

KSEB Ltd pointed out that, as per the CEA Metering Regulations, CT/PT has to be changed in line with reduction in contract demand. However the closed industries are not in a position to change the CT by making additional investments. Without changing the CT, KSEB Ltd could not reduce the contract demand, since this will results in metering errors.

Mr. Satheesh raised concern on the remarks of the KSEB Ltd. At present, all the HT & EHT consumers have installed 0.2 S class meters and these meters can record 5% of the normal energy consumption accurately. Insisting on the closed down industries to change the CT/PT by making additional investment is neither feasible not implementable.

The Commission welcomed the HT&EHT Association offer to help KSEB Ltd in collecting the arrears of the members of the Association.

Analysis and Decision

9. The Commission has examined the petition filed by KSEB Ltd for seeking the approval for extending the OTS-2019 upto 31.12.2020, 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.

10. Based on the deliberations on this issue, the Commission is of the option that, prima-facie, it is not correct to raise the demand charges on the closed down industries at the original contract demand even after their request for reduction in contract demand. The Commission suggested that KSEB Ltd may constitute a technical expert committee with representatives of HT&EHT Association to study this issues, and refer the metering error and associated issues of 0.2 S class meters when recording low demand of the consumers, especially for closed down industries. KSEB Ltd may consider raise up the minimum demand charges for such closed down industries only for the revised contract demand, which is actually the recorded demand in the meter.
11. 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. It is also specified in the said Regulation that, OTS schemes shall be open only for short duration.

12. Based on the petition filed by KSEB Ltd, and also as per the provisions of the Supply Code, 2014 and other Rules and Regulations in force, the Commission vide Order dated 17.09.2019 approved the OTS scheme 2019. Initially the period of implementation of the scheme was from 01.10.2019 to 31.01.2020. However, as requested by KSEB Ltd, the Commission vide Order dated 22.11.2019, revised the period of implementation from 01.11.2019 to 29.02.2020. Similar OTS scheme was approved in previous years also with period of implementation for a short duration for four months.

Further, as per the terms and conditions of the OTS scheme, last date for filing application for settling the arrears under OTS was one month prior to the last date of the scheme. Accordingly, the last date for filing applications under OTS 2019 was 01.02.2020.

KSEB Ltd vide their affidavit dated 23.03.2020 submitted that, during the Vydyuthi Adalath conducted from 11.01.2020 to 27.02.2020, all the applications received for settling the arrears under OTS were considered and eligible applications were settled under OTS 2019 Scheme in anticipation of the approval of the Commission.

13. The Commission noted the details of the arrears collected by KSEB Ltd under OTS-2019 including the arrears collected under Adalath from 11.01.2020 to 27.02.2020. Its details are given under paragraph-7 above, and its summary is given below.

Summary of the Arrears collected under OTS 2019 including the arrears collected through Vydyuthi Adalath

Sl No	Particulars	Principal	Interest	Total
		(Rs.Cr)	(Rs. Cr)	(Rs. Cr)
1	Arrears collected under OTS-2019 (excluding the arrears collected through Adalath)	4.700	1.835	6.535
2	Arrears collected through Adalath from 11.01.2020 to 31.01.2020	1.192	0.262	1.453
3	Arrears collected through Adalath from 01.02.2020 to 27.02.2020	0.612	0.144	0.757
	Total	6.504	2.241	8.745

The total arrears collected through OTS 2019 excluding the arrears collected through Vydyuthi Adalath was only Rs 6.535 crore. Further, the total arrears collected through Adalath conducted from 11.01.2020 to 31.01.2020 was Rs 1.453 crore and from 01.02.2020 to 27.02.2020 was Rs 0.757 crore. Commission noted that, out of the total arrears of around Rs 1459.00 as on 30.06.2019, the arrears collected through OTS 2019 was only Rs 8.745 crore, which is just 0.60% of the pending arrears of KSEB Ltd, where as in the previous year 2018, KSEB Ltd could collect Rs 96.39 crore as arrears including interest through OTS 2018. KSEB Ltd must seriously look into the reasons for the poor response of the consumers in availing the facility under OTS 2019 for past arrears.

However, considering the efforts taken by the KSEB Ltd in settling the arrears under OTS 2019, the Commission hereby approve the arrears collected under OTS-2019 till 27.02.2020 including the arrears collected through Vydyuthi Adalath conducted from 11.01.2020 to 27.02.2020.

14. The Commission examined the prayer of the KSEB Ltd to extend the period of implementation of the OTS 2019 from 29.02.2020 till 31.12.2020. The request for KSEB Ltd is to extend the OTS 2019 for a further period of 10 months from 29.02.2020. This would tantamount to the OTS being kept open for 15 months which is contrary to Regulation 136(5) of the Kerala Electricity Supply Code, 2014. As already stated, the OTS scheme has been approved by the Commission as per the sub-Regulation (5) of the Regulation 136 of the Supply Code, 2014, wherein it is specified that OTS scheme shall be open for a short duration only. Accordingly the Commission has been approving the OTS for short durations only.

The Commission, further classifies that, the very purpose of the OTS was to collect the old outstanding arrears from the consumers by relaxing the payment terms to incentivise those who wish to participate in the Scheme. But such schemes should not act as an incentive to those who defaults in making payment of electricity charges, and further demoralize the consumers who pay electricity charges promptly. As per the provisions of the Electricity Act, 2003, and Supply Code 2014, KSEB Ltd is authorized to disconnect the electricity supply to the defaulting consumers by strictly following the procedure formalities specified in the Supply Code, 2014.

The OTS scheme under Regulation 136(5) of the Supply Code, 2014 was intended to encourage the consumers with arrears to make payments by availing the special schemes proposed by the licensee. Hence, if such schemes are approved for longer duration, the very purpose of OTS will be defeated. Further, Commission is not in a position to extend the OTS Scheme approved in the Year 2019 to the current year.

However, KSEB Ltd may, at its liberty propose a new OTS Scheme for the current year as 'OTS-2020' for short duration by complying Regulation 136(5) of the Supply Code, 2014. KSEB Ltd can also submit proposals along with the petition for settling the arrears of the defaulters in the earlier settled applications afresh. Commission can consider such schemes after completing the procedure formalities including public hearings.

Order of the Commission

15. The Commission, after duly considering the affidavit filed by KSEB Ltd dated 23.03.2020 and also the petition dated 07.07.2020 for extending the OTS 2019 upto 31.12.2020, as per the provisions of the Electricity Act, 2003 and Supply Code, 2014, hereby order the following.

- (1) Approve the arrears settled under OTS-2019 till 27.02.2020 and the entire arrears settled through Vidyuthi Adalath conducted from 11.01.2020 to 27.02.2020.

- (2) Request of KSEB Ltd to extend the period of implementation of the OTS 2019 till 31.12.2020 is not agreed to. However, KSEB Ltd may, at its discretion, file a fresh petition for approval of the OTS Scheme as per the provisions of the Electricity Act, 2003 and Supply Code, 2014.

Ordered accordingly.

**Sd/-
Preman Dinaraj
Chairman**

Approved for issue,

C R Satheeshchandran
Secretary (i/c)

Annexure 1

List of participants attended the hearing held on 21.08.2020

1. Mr Satheesh AR, HT & EHT Association
2. Mr Rajesh J. Kuruvila, Carborandum Universal Limited
3. Mr Nair Nandakumar P, Carborandum Universal Limited
4. Mrs Prini Peter, Carborandum Universal Limited
5. Mr Prabhakaran K V, HT & EHT Association
6. Sri Suresh Executive Engineer, K S E B Ltd.
7. Sri Rajesh R Assistant Executive Engineer, K S E B Ltd

Annexure 2

List of participants attended the hearing held on 24.09.2020

1. Sri. Prem Kumar P K, Deputy Chief Engineer, K S E B Ltd.
2. Sri Suresh Executive Engineer, K S E B Ltd.
3. Sri Rajesh R Assistant Executive Engineer, K S E B Ltd
4. Mr Satheesh AR, HT & EHT Association
5. Mr Prabhakaran K V, HT & EHT Association