

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

PRESENT: Shri. C. Balakrishnan Chairman.
Shri. C.Abdulla, Member
Shri. M.P.Aiyappan, Member

March 26, 2007

Petition DP No. 33	Dy.No. 01435 dated 13-12-06	Service Station Owners Association, Vice President K.A.Gangadharan, Prompt Service Station, Main Road, Payyannur P.O Kannuar District, Kerala Kerala State Electricity Board, Represented by its Secretary, Vaidyuthi Bhavanam, Thiruvananthapuram 695 004	Petitioner Respondent
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1. Background

1.1 The petitioner Service Station Owners Association is an association of owners of service stations engaged in water washing of vehicles. They do not conduct any repair of motor vehicles. From 1999 onwards they have been categorized under Commercial Tariff under LT VII (A). The petitioner vide their representation to the KSE Board dated 19-01-2004 requested for the restoration of tariff to industrial category. KSE Board informed the petitioner on 27-03-2004 that Kerala State Electricity Regulatory Commission is the appropriate authority to determine the tariff. Accordingly the petitioner submitted an application before the Commission on 19-01-04. In response to the application the Commission informed the petitioner that a sitting will be held on 17-03-04 at Thiruvananthapuram and directed the petitioner to appear before the Commission.

1.2 The petitioner appeared before the Commission and made a submission of the financial difficulties faced by the members of Service Station Owners Association because of the application of Commercial Tariff in the place of industrial tariff applied earlier. The representatives of the Board were also present for the sitting.

1.3 Thereafter the petitioner submitted another memorandum dated 31-05-04

reiterating the grievances mentioned in letter dated 19-01-04. The Commission vide letter dated 14-06-04 informed the petitioner that the case of the petitioner will be considered at the time of rationalization of tariff.

1.4 Another petition was submitted by the petitioner before the Commission on 23-05-05. In response to the same the Commission vide letter dated 30-05-05 informed the petitioner that the copy of the memorandum has been forwarded to Kerala State Electricity Board for remarks

1.5 The petitioner has approached the Hon High Court vide W.P.(C) No 18294 of 2006 requesting relief by directing the Commission to pass orders changing the electricity tariff of service stations from LT- VII (A) to LT -IV.

1.6 The Court on the Judgement of W.P (C) No 18294 dated 4-10-2006 directed the Kerala State Electricity Regulatory Commission to consider and pass orders on the representation of the petitioner dated 23-05-05 in accordance with law after affording an opportunity of being heard to the representatives of the petitioner and the second respondent Kerala State Electricity Board within 3 months from the date of production of copy of judgement.

1.7 The Advocate of the petitioner forwarded a copy of the Judgement vide letter dated 28-10-2006 which was received in the office of the Commission on 1-11-2006.

1.8 The Commission vide letter No KSERC/WP(C) No 18294/2006(80) dated 15-11-2006 directed to file petition before the Commission as per Kerala State Electricity Regulatory Commission (Conduct of Business) Regulations, 2003 remitting the petition fee of Rs 10,000.00

1.9 The petitioner filed the petition on 10-12-06 requesting for changing the category of Service Stations from LT -VII (A) Commercial to LT -IV Industries pointing out the following:-

1.9(a) It is pointed out in the representation that the work of service stations includes repairing, washing, service denting, welding, painting, body repair and other allied works also. Since all these works can be carried out only using machines and hence these units shall be categorized under industrial tariff.

1.9(b) In the case of workshops which undertake all the works except washing, LT IV Tariff is applied. But service stations are categorized under LT VII (A). Washing is not a Commercial activity.

1.9(c) Service Stations of Kerala are denied a benefit enjoyed by small scale industries from year 1955 based on Karvey Committee Report. This action is legally and morally inappropriate.

1.9(d) The Government is extending SSI benefit to Service stations. All other benefits given to SSI units are also extended by the Government to Service Stations such as subsidy, margin money loan, space in industrial estates, relief in interest paid and tax concessions. Even KSEB is giving all the concessions applicable for SSI s except tariff.

1.9(e) The rates of Tariff for Commercial consumers are as under:

0 – 200 Units	Rs 5.65
201-400 Units	Rs 6.25
401-600 Units	Rs 6.95
601-1000 Units	Rs 7.50
Above 1000 Units	Rs 8.25

As the consumption increases, the rate increases. It is not possible to charge increased rate from customers when the tariff rates increase. Hence in the place of this un scientific tariff, uniform rates as for other industries shall be implemented for service stations.

1.9(f) Service Stations use machines which consume more electricity like Air Compressor, Car Washer, Hoist Lift, grease pump, Tyre inflator, Vacuum cleaner, Pneumatic Tools, Oil Spray Gun etc. Since the connected load comes in the range 7 kVA to 30 kVA the fixed charge itself comes to Rs. 700 to Rs. 3000. Small service stations cannot bear this expenditure. Earlier the rate was Rs 45/kVA but during the revision by the last Government the rate was increased to Rs 100/kVA and this was unjustifiable. After the new tariff was implemented many service stations were closed and the remaining ones are at the verge of closure. For majority commercial consumers using only fan and lights, the fixed charges are in the range Rs 100 only.

1.9(g) Works connected with automobiles have to be under one roof. Because of the high tariff rate other works cannot be taken up. So the machine capacity couldn't be fully utilized. If categorized under industrial tariff many other works could be taken up and the business could be expanded giving employment to thousands of unemployed youth.

1.9(h) It is very common in Kerala that vehicles are washed in streams, ponds, public taps. Even when there is shortage for drinking water this practice continues. In recent times because of the high electricity tariff many of the service stations were closed and the number of new ones coming were very few. Since environmental pollution and diseases pose a problem in the society because of the unlawful use of rivers and public taps, service stations which operate legally bound by the rules of Pollution Control Board should be encouraged by the Government and KSE Board and the society considering the commitment to future generation.

1.9(i) The present policy will hamper industry since all over India especially in the neighboring States of Tamil Nadu, Karnataka and Pondichery Service Stations are categorized under industrial tariff. It is understood that the tariff is :- fixed charge Rs. 30/HP and energy charge Rs 4/Unit. Since many Districts in Kerala share boundary with neighboring states of Tamil Nadu and Karnataka cannot compete with service stations there because of the low electricity tariff there. When service Station industry expands in neighboring states with chain of service stations creating lot of job opportunities, in Kerala the service stations are getting closed due to financial crisis because of the high rate of electricity tariff.

1.9(j) In many parts of the State under the guise of workshop service stations are in operation and these units influencing KSEB officials are availing industrial tariff. Body building and repairing units also run service stations. Big dealers and service centers also run service stations and misuse industrial tariff. Portable Car Washer operating on single phase are available in market in plenty and is being extensively used in two wheeler workshops, houses and other industrial establishments and service stations paying high electricity charges could not compete with them. Many service stations were closed. Many who were unable to pay back the loan and under threat of revenue recovery proceedings are on the verge of committing suicide. Other units are also on the verge of closure. These shall be convinced If a study is undertaken state wise.

1.9(k) The new generation vehicles are having long term warranties. They are serviced at recognized service centers. For service after certain Kilometers also packages are available including washing. Service Stations depend on old vehicles and their numbers are coming down day by day. There are days having not even single vehicle for servicing.

1.9(l) Most of these service stations work only from morning to evening. Since the working is under day light there is no additional burden for the Board.

1.9(m) Majority of service stations were established as self employment projects taking loan from banks and other financial institutions and registering as SSI units. It is a cumbersome work to wash the vehicles. From morning till evening wearing damp clothes cleaning work has to be carried out by removing filth from bottom of vehicle and its chassis. A visit to a service station will convince any one about this. Tariff for Gold Showrooms is applied to an industry doing the work of scavenger. It is not common sense and this has to be considered by the Commission.

1.9(n) Comparatively land having high value, building. Machinery, electrical, plumbing, pollution control arrangements, ramp, well etc requires huge investment. Non steady income, only one car can be serviced at a time, on some days no work, limit to the maximum work, even if chances are there it cannot be utilized, all these are peculiar to this industry. Difficult conditions of work, difficulty in continuing the work and non availability of workers and also this type of work affects the health of workers new and new entrants to this industry is not much. Due to the stringent pollution control regulations, treatment of polluted water and other wastes requires machinery requiring heavy investment. In a workshop a skilled worker can work using hand tools whereas in a service station work can be carried out only using machines.

1.10 Because of the exorbitant electricity charges the problems faced by service stations in the state are recorded in the above paragraphs are brought to the attention of the commission. Any one who looks at the problem in an impartial and realistic manner can realize that an illegal and morally non acceptable tariff is imposed on service stations. It is the need of the hour to protect industries which protect environment and engaged in operations with social commitment. It is learnt that after the formation of the Commission reduction in electricity charges were effected including to those for cinema theatres. It is humbly requested that by taking a compassionate stand in re categorizing

service stations from luxury consumption category to the earlier sanctioned category of industry commission may be doing justice to thousands of service station owners and their families who earn their livelihood through this industry.

2. Hearings on the matter

In the pleadings on the public hearing conducted at Inspection Bungalow, KSEB , Kannur on 22-01-06 Service Station Owners Association stated as follows

2.1 There is no fixed income from this industry. The income depends upon the number of vehicles serviced in a day and it has wide variability. Totally dependant on electricity, the machines are highly power consuming. Vehicles having interstate permit avail the service station facilities in other neighboring states as the labor charges and electricity charges are very high in Kerala. Because of this the number of vehicles serviced comes down day by day.

2.2 Service Stations mostly work during day time only and hence there is no consumption during peak hours. Thus the cost of consumption will be lower. Hence the tariff charged should also be lower.

2.3 Now all major automobile companies have their own service centers and the number of service stations coming for service outside is coming lesser and lesser. This affects the income of Service Station Industry adversely. In Kannur itself 15 Nos Service Stations were closed down due to financial crisis.

3. KSE Board has not participated in the public hearing. But they have informed their statement vide letter No KSEB/TRAC/COMP@/46/03/814 dated 28-02-2007. It reads as follows:-

3.1 As per tariff notified dated 1st November 2002, automobile Service Stations are categorized under LT-VII (A) Commercial tariff and Work Shops are categorized under LT-IV Industrial Tariff. The Commission may take note of the fact that the above tariff has been approved by the Commission and has been followed uniformly throughout the State by the Board.

3.2 The Commission had issued orders approving ARR and ERC for the previous years with same tariff structure. Like the previous years and also for current year 2006-

07, ARR and ERC for the forthcoming year 2007-08 is prepared by the Board considering revenue receipts from sale of power based on the prevailing tariff.

3.3 The same Association/ their regional units who have filed the petition had come up with similar claims during public hearings held on inviting comments upon the ARR and ERC for 2007-08 submitted by the Board. During the public hearings held in connection with the approval of ARR and ERC for the year 2007-08 many other consumers / associations also have raised similar demands for the change from existing tariff structure. This is only one among many such demands and therefore an individual petition for tariff change may not be entertained at this stage as such an act may invite exodus of similar claims from others, which will be damaging to the Board and so also to the entire consumers.

3.4 There were few petitions filed before the Hon. High Court of Kerala on this matter. Hon. High Court of Kerala vide Judgment dated 11th January, 2005 in WP© No 31353 of 2004 (G) has in principle accepted Boards categorization of service stations and workshops under LT-VII (A) and LT-IV tariff respectively.

3.5 As per tariff notification dated 1st November, 2002, LT IV (Industrial) tariff is applicable to 'automobile workshops using power mainly for production and/or repair. Similarly LT-VII (A) Commercial tariff is made applicable to service stations.

3.6 The petitioner has listed activities like welding, repairing, painting, body repair etc being taking place in service station. The Commission may take note that such activities are related to workshop activities and are not part of servicing activity. In such cases where there is a combination of workshop activities and vehicle servicing activities, the consumer can always segregate the activities and get benefit of industrial tariff for workshop part since segregation of loads and availing separate connection is allowed. A copy of the Board order in this regard dated 30-05-2005 issued taking into consideration of Hon High Court's Judgment dated 11th January, 2005 in WP © No. 31353 of 2004(G) is submitted.

3.7 Hon Commission may take note of the fact that all automobile service stations use mainly water as their main consumable. The Kerala Water authority another utility of the State Government, has not categorized such Service Stations under industrial

category but under category 'NON DOMESTIC' applicable for all commercial category of consumers.

3.8 Kind attention of the Commission is invited to the directive issued by the Commission to the Board vide letter dated 13-02-2007 in the case of tariff applicable to Aerodromes, wherein it has been made explicit by the Commission vide order No KSERC /III/Tariff-Aerodrommes/07/71 dated 13-02-2007 that any tariff change can be considered during filing of tariff petitions and not on such individual case basis.

3.9 Hon Commission has issued similar directives in other such requests for tariff change made by other categories of consumers also vide Order No 2/30/KERC/2003/267 dated 30-08-2003 and order No KSERC/CTV Asso/2005/1254 dated 20-10-2005. Considering the above the present request of the complainant may not be considered until a tariff revision petition is brought before the Commission for consideration.

4. Commission's Findings

4.1 Vehicle Service stations are categorized under LT VII (A) as per Kerala State Electricity Board Low Tension (Other than public lighting) Tariff Order 1999 and has been continuing in the same category in 2001 and 2002 tariff orders. During the course of the public hearing conducted by the Commission, the petitioner pointed out that in certain parts of the State Service Stations are categorized under industrial category . Commission deputed the Consultant (Tariff) working with the Commission for a field inspection and from the field inspection it is noticed that all service stations inspected are categorized under LT-VII(A) Commercial Tariff.

4.2 In the State of Karnataka Service Stations are categorized under LT-3 Commercial Lighting, Heating and Motive power. The contention of the petitioner that service stations in neighbouring states are categorized under industrial tariff is not correct.

4.3 It may be true that the Service Station Industry is facing a crisis due to the many reasons mentioned by the petitioner. But as per Section 62 (3) of the Electricity Act, 2003

"The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to

consumers load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which supply is required or the geographic position of any area, the nature of supply and the purpose for which the supply is required”

Hence tariff can be fixed only according to these principles.

4.4 In the petition submitted by service station owners and during the course of hearing of the matter the petitioner has pointed out that they were using power for washing the vehicles during day time only which means that they are not using power during peak hours. The burden imposed on the system by this group of consumers is much lesser than that of other commercial type consumers. So the present categorization requires change.

5. Commission's Order

The Commission after examining the matter in detail decides that vehicle Service Stations classified under LT -VII(A) Commercial cannot be reclassified under LT- IV Industry as requested by petitioner. The Commission however considering all the above factors reclassifies vehicle Service Stations under LT-VII(C) Tariff. The Commission orders accordingly.

Sd/-
MEMBER(F)

Sd/-
MEMBER(E)

Sd/-
CHAIRMAN

Authenticated copy for issue

Secretary (in charge)