

## **KERALA STATE ELECTRICITY REGULATORY COMMISSION THIRUVANANTHAPURAM**

Present: Shri. T.M.Manoharan, Chairman  
Shri. S. Venugopal, Member  
Shri. K.Vikraman Nair, Member

**In the matter of Petition for re-categorization of 'Call Centers' under LT-IV (B)  
IT/ITES category**

Applicant : Electronics Technology Parks - Kerala ( Technopark),  
Park Centre, Technopark campus,  
Thiruvananthapuram

: Represented by  
Sri. Einstein E.V,  
Assistant Manager, Technopark

### **Order dated 22.3.2017**

1. M/s Technopark, had filed a petition before the Commission on 4.11.2016 for re-categorization of call centers under LT IV (B) IT/ITES category. In the petition, M/s Technopark has submitted as follows.

(i) M/s Liscom Solutions and Services Private Limited, is an electricity consumer of KSEB Ltd, engaged in the activities connected with IT and IT enabled services. Though they are engaged in IT&IT enabled activities, KSEB Ltd had raised electricity bill to them at LT-VII(A) Commercial tariff instead of LT-IV Industrial tariff, citing the reason that, the call centers are included under LT-VII(A) Commercial category as per the tariff orders approved by the Commission from 01-12-2007. The CGRF and Electricity Ombudsman upheld the decision of the KSEB Ltd citing the tariff order of the Commission.

(ii) Aggrieved by the Tariff order, M/s Liscom Solutions and Services Private Limited preferred WP(c) No. 8902/2013 before the Hon'ble High Court,

challenging the tariff order issued by the Commission, mainly based on the following.

- (a) As per the IT policy declared by the Government, it is made clear that IT and IT enabled services will be charged under LT-IV. Hence categorization of call centers under LT-VII A is against the policy of the Government.
  - (b) Government has not denied or taken away benefits for IT/ITES industries as is evident from the IT policy declared in the year 2012. But despite the promises made, the IT enabled service of 'Call Centers' is included in a higher tariff.
  - (c) The petitioner has started their unit in Kerala only because of the concessional power tariff declared as per policy of the Government.
- (iii) Hon'ble High Court vide the judgment dated 24<sup>th</sup> September 2014 has disposed of the writ petition, directing the petitioner M/s M/s Liscom Solutions and Services Private Limited to approach the Government with a proper representation, seeking directions to the KSERC with respect to modification of the Tariff Orders, to the extent in tune with the declared policy and incentive scheme, within two weeks from the date of receipt of copy of this judgment. The Government shall consider such representation if any received and shall pass appropriate orders, after affording opportunity of personal hearing to the petitioner at the earliest possible, at any rate within a period of three months from the date of receipt of such representation.
- (iv) As directed by the Hon'ble High Court, M/s Liscom Solutions and Services Private Limited submitted a representation before the Power Department, Government of Kerala on 28-10-2014 and the power department forwarded the same to the IT department in Government of Kerala.
- (v) In the meanwhile, based on the petition filed by KSEB Ltd, the Commission had introduced separate category LT-IV (B) IT & ITES exclusively for IT/ITES establishments. Further, the Commission vide the tariff order dated 14-08-2014 has introduced a separate tariff category LT-VI (F) tariff category and the 'Call Centers' are classified under LT-VI(F) category.
- (vi) M/s Liscom Solutions and Services Private Limited again filed a Writ Petition W.P. (C) 31268 of 2015, citing that, the Government has not

issued proper direction to the KSERC to include the call centers under industrial tariff applicable to IT and IT enabled services. The Government through an affidavit pleaded before the Hon'ble High Court that, the Government undertakes to place the declared policy in the matter of tariff applicable to IT and ITES units before the Commission. Hon'ble High Court disposed the petition with the following directives.

“ 2<sup>nd</sup> respondent (State Government) shall file necessary documents/ representations before the 5<sup>th</sup> respondent (KSERC) declaring the policy of the Government which shall be considered by the 5<sup>th</sup> respondent Commission and an appropriate order shall be passed within a period of two months from the date of receipt of the representation”.

- (vii) The Chief Secretary conducted a meeting on the issue with IT department and power department on 18-05-2016 and decided that, the IT department to move the KSERC for categorizing call centers under LT-IV tariff as they are an ITES entity. The IT department in Government, vide the letter dated 29-07-2016 directed M/s Technopark to file a petition before the KSERC for categorizing the 'Call Centers' under LT-IV Tariff as they are an ITES entity.

2. In the petition, M/s Techopark further submitted that,

- a. *Government has directed Technopark to file a petition before Hon'ble Commission for categorizing call centers under LT-IV tariff as they are an ITES entity in compliance with the judgement of Hon'ble High Court of Kerala in W.P.C. No. 31268/2015.*
- b. *IT enabled services refers to any service being offered with the use of IT infrastructure. Business Process Outsourcing Centres, voice/web/email based call centers etc. are defined under the ITES sector as per the IT policy published by Government of Kerala in the year 2001. The ITES services have also been defined in the manual for fiscal incentives for IT units published by the Government vide G.O (P)10/07/ITD, dated: 04-12-2007. As per clause 8.5 of the manual ITES is defined as any product or service that is provided or delivered using the resources of ICT. The manual also reaffirms that the benefits are for the IT industry in the entire Kerala and not restricted to any Government IT parks.*
- c. *IT policy 2007 of the Government of Kerala declared vide G.O(P)10/2007/ITD; dt: 14-06-2007 includes ICT (Information & Communication Technology) enabled services also. Call center therefore comes under ICT enabled services.*

- d. *As per the clause No. 11.2.1 of the IT Policy 2012 IT/ITES units, Government IT parks, certified private IT parks and Akshaya e-centers are entitled to power tariff under HT1 or LT-IV tariffs as applicable. Since 'Call Centers' are an ITES entity, LT-IV tariff is applicable to them.*
- e. *Since the 'Call centers' are already categorized under LT VI General (F) category as per the latest tariff schedule, Hon'ble Commission may please consider re-categorization of this category of consumers under LT-IV Tariff. In the meeting convened by Chief Secretary to Government on 18-05-2016, direction has been given to IT department to move to KSERC for categorizing call centers under LT-IV tariff as they are an ITES entity.*
- f. *As per the judgement dated 26<sup>th</sup> May 2016 in W.P.C.No.31268 of 2015 direction has been given to Electronics & Information Technology department, Govt. of Kerala to approach KSERC declaring the policy of the Government which shall be considered by KSERC and an appropriate order shall be passed within a period of two months from the date of receipt of the representation. (A copy of the judgement is attached herewith as Annexure-IV)*
- g. *Clause No. 30 of the Kerala Electricity Supply Code 2014 provides that "The Commission may classify and reclassify consumers into various tariff categories from time to time and determine tariff for different categories of consumers." "No additional category other than those approved by the Commission shall be created by the licensee." No additional charges other than those approved by the Commission shall be levied on the consumer." Therefore as per the direction from the Government, Technopark hereby approach Hon'ble Commission for reclassification/ Re-categorization of 'Call Centers' under LT-IV tariff category.*
- h. *'Call centers' are ITES entities providing employment to large number of people. As electricity is one of the major cost factors involved in the operation of the establishment, a cost escalation due to incorrect tariff classification will adversely affect the operational viability of the industry.*
- i. *As per the IT policies the Government has declared the IT policy by which it is made clear that IT and IT enabled services will be charged under LT-IV. Government has also confirmed that 'Call Centers' are ITES entity. Therefore, categorization of 'Call Centers' under commercial/ General tariff contravenes the declared policy of the Government.*
- j. *IT policy has been framed by the Government considering the interest of the State at large to augment revenue and employment opportunity, in consultation with experts in the field. The incentives/ benefits promised by*

*the Government should be considered by Hon'ble Commission while categorization/ fixation of tariff.*

- k. Section 62 of the Electricity Act 2003 empowers Hon'ble Commission to determine the tariff in accordance with the provisions of the Act. It is provided that under section 62 (b) Commission is bound to fix the tariff considering the nature of supply and the purpose for which the supply is required. When the nature and purpose with respect to the usage of energy is one and the same to all IT services and IT enabled services, there should not be any discrimination with respect to 'Call Centers'.*
- l. As per section 108 of the Electricity Act 2003, State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing. If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final. We request Hon'ble Commission to consider the policy and direction of the Government for re-categorization of 'Call centers' under LT IV category.*

#### **Conclusion**

*'Call Centers' are establishments providing IT enable services to it's clients. Entrepreneurs may be encouraged by the benefits declared by the State Government for starting their units. On the contrary, the published tariff schedule approved by Hon'ble Commission is not providing the benefits as promised by the Government. The tariff categorization may be rationalized to remove discrimination, difficulty to the consumers. Hon'ble Commission may please consider the facts mentioned in this petition, direction from Government, Court Judgements etc. and re-categorize the 'Call Centers' which is in the LT VI General (F) category as per the Schedule of tariff, terms and conditions of supply with effect from 16-08-2014 onwards to LT IV (B) IT/ITES category as they are an ITES entity.*

#### **Prayer**

*Technopark Prays before Hon'ble Commission to consider the facts mentioned in this petition and Re-Categorize 'Call Centers' to LT IV (B) IT/ITES Tariff Category.*

3. The Commission, directed the petitioner to present the matter at any of the venue on public hearing on tariff determination initiated by the Commission on

suo-motu basis scheduled from 27-12-2016 to 17-01-2017. Sri. Einstein E.V, Assistant Manager, Technopark presented the case in the public hearing at Trivandrum, on 17.1.2017.

4. KSEB Ltd, vide the letter No. TRAC-II/ GL-154/ Call Centre/16-17/ 3596 dated 23-01-2017 had submitted before the Commission the following comments on the petition filed by M/s Technopark on re-categorisation of 'Call Centers'.

*“ As per the prevailing tariff order issued by the Hon’ble Commission, the Call Centres are categorized under LT VI (F) tariff. The petition is seen filed by M/s Technopark for re categorizing the same under the LT IV (B) category in light of the directions issued by the Government of Kerala pursuant to the Judgment dated 26.05.2016 of the Hon’ble High Court in WP (C) No. 31268/2015 filed by M/s Liscom solutions.*

*The contentions raised in the above petition for re categorization is that as per the State Government IT policy declared in the year 2007 and 2012, the IT and IT enabled services are entitled to power tariff under HT I or LT IV Industrial tariffs as applicable. More over as per the classification made by the Government, the call centres are included under IT enabled service category, which are to be considered under Industrial tariff as per the Government IT policy.*

*As per section 86 & 62 of the Electricity Act, 2003 the Hon’ble KSERC is empowered for the tariff determination and tariff re categorization of electricity of consumers within the state. As per the above the Commission is bound to fix tariff considering the nature of supply and the purpose for which the supply is required. Here, in the above case, it is observed that even though the call centres are an IT enabled one, the main purpose of usage is found to be Tele calling Services. The Hon’ble Commission in examining the above only has rightly classified the same under LT VI (F) category. As per section 62(3) of the Electricity Act, the State Commission can differentiate between the tariffs based on purpose for which supply is required. It is not binding for the State Commission to follow the categorization of consumers for tariff purpose decided by the Government or other utilities.*

*In this regard, it may further be noted that the ‘automobile service stations’ which has been classified as a service Industry by the Industries Department has been categorized under the Commercial tariff in the prevailing tariff order. Here also the Hon’ble Commission has categorized*

*the same under commercial tariff going by the purpose for which the supply is used for and not based on the classification done by the Industries Department.*

*In this context, it may further be observed that earlier, the Government as per the order dated 11.07.1986(G.O (P) No. 224/86/GAD) treated tourism as an Industry. As per the above, the hotels and restaurants coming under their specification will be given industrial tariff on their electric connections. However, at the time the above concession was implemented, the Hotels and restaurants were categorized under commercial tariff. Here, the Government direction as above, has been implemented by the Government by paying the subsidy amount (difference between commercial and Industrial tariff) directly to the consumers. The consumer has been remitting the whole bill amount under commercial tariff at KSEB and based on the statement issued by the Board the consumer has been claiming subsidy directly from the Government as per the policy decision.*

*Moreover, as per section 65 of the Electricity Act, 2003 the State Government can provide tariff subsidy to any class of consumers on the tariff approved by the State Commission and can direct the distribution licensee to charge the consumer at a lesser tariff than the same approved by KSERC. However, as per the section 65, such a direction of the State Government can be operative only if the State Government provides the revenue short fall on account of such direction as advance cash subsidy.*

*In view of the above, it is intimated that the tariff assigned by the Hon'ble Commission on the Call Centres is fair based on the purpose of usage and if the Government needs to give concession on the tariff fixed by the Commission then the same can be given in compliance to section 65 of the Electricity Act, 2003.*

## **Analysis and Decision**

5. The Commission examined the issues raised by M/s Technopark in the petition dated 04-11-2016 and the counter arguments submitted by KSEB Ltd on the subject petition considering the Electricity Act 2003, Tariff notification dated 14.8.2014 issued by the Commission, Government Policies and facts and circumstances of the case.

6. The main issue is on assigning appropriate electricity tariff for 'Call Centers'. As per the information available in the public domain, the 'Call Center' is defined as follows.

"A Call Center is a location or a place where customer telephone calls are answered by experienced and highly trained Customer Care Agents (CCA) using a sophisticated computer based software application, which helps the CCA in answering the customer queries."

"A Call Centre is a central contact point or a contact source for all types of customer interactions like telephone contacts, email based contacts, IVRS (Interactive Voice based Response System), etc, which aid a customer in receiving information regarding a product / service and even in resolving his problems on the same."

"A Call Center or a Contact Center is a part of any organization's CRM (Customer Relationship Management) Strategy, whereby the organization manages its customer interactions."

'Generally all call centers are fully automated with call handling software and auto dialer software. Using the CTI (Computer Telephony Integration) a customer can get either an automated response through the IVR (Interactive Voice Response) system or can be alternatively routed to a call center executive for getting a personal response.'

'Today most of the call centers have customer databases, which give full details on the customer who is calling on the telephone. This helps the executive attending him to give a more personalized service to the customer. Also the number of calls made by or to such a customer is also logged. This data is used to find out the quality of customer service of an organization and any pending queries being unanswered for the customer.'

7. Considering the nature of service offered by the 'Call Center', the Commission vide the tariff order dated 24-12-2007 had categorized the 'Call Centers' under LT-VII (A) Commercial Tariff. The Commission vide the tariff order dated 14-08-2014, has introduced a separate tariff category, LT-VI(F), the tariff of which is slightly less than that of LT-VII(A) commercial category, and included the 'Call Centers' under LT-VI(F). The prevailing tariff of the Call Centre is extracted below.

***" LT VI GENERAL (F)***

*Private hospitals, private clinics, private clinical laboratories, private X-ray units, private mortuaries, private blood banks, private scanning centers, computer training institutes, self- financing educational institutions (including hostels), private coaching or tuition centres, cinema studios, Audio/video cassette recording/duplication units, CD recording units, all construction works, installations of cellular*



*mobile communications, satellite communications, offices and / or exchanges of telecom companies, offices or institutions of All India Radio (AIR), offices or institutions of Doordarshan and other Television broadcasting companies, cable TV networks, radio stations, insurance companies, call centers, cinema dubbing and animation studios, hall marking centres.*

| <i>LT VI GENERAL (F)</i>               |            |
|--|------------|
| <i>Fixed charge (Rs/ kW per month)</i> |            |
| <i>Single Phase</i>                    | <i>60</i>  |
| <i>Three phase</i>                     | <i>120</i> |
| <i>Energy Charge (paise per unit)</i>  |            |
| <i>0 to 100 units per month</i>        | <i>580</i> |
| <i>0 to 200 units per month</i>        | <i>650</i> |
| <i>0 to 300 units per month</i>        | <i>720</i> |
| <i>0 to 500 units per month</i>        | <i>780</i> |
| <i>above 500 units per month</i>       | <i>900</i> |

8. Further, the IT and IT enabled services are generally included under Industrial category. The prevailing industrial tariff applicable to the IT and IT enabled services is extracted below.

***LOW TENSION – IV (B) – IT and IT Enabled Services. {LT IV (B)}***

*Tariff applicable to Information Technology (IT) and IT enabled services including Akshaya-e-centres, computer consultancy services units, software services, data processing activities, desktop publishing (DTP), software development units and such other IT enabled services, but excluding call centers.*

| <i>LT - IV (B) IT and IT Enabled Services</i>                                   |            |
|---|------------|
| <i>(a) Fixed Charge</i>   |            |
| <i>(i) Connected load of and below 10kW (Rs. per consumer per month)</i>        | <i>100</i> |
| <i>(ii) Connected load above 10 kW (Rs. per kW or part thereof per month)</i>   | <i>60</i>  |
| <i>(iii) Connected load above 20 kW (Rs. per kVA or part thereof per month)</i> | <i>125</i> |
| <i>(b) Energy Charge (Paise/kWh)</i>  | <i>580</i> |

9. As extracted above, as per the prevailing tariff order, the Call Center is categorized under LT-VI (F) category for levying electricity charges.
10. The petitioner submitted that, as per the IT Policy 2007 of the State Government, IT enabled services (ITES) is defined as any product or service

that is provided or delivered using the resources of Information & Communication technology (ICT). Call center comes under ICT enabled service. Further, as per the IT policy 2012, the IT/ ITES units, Government IT parks, certified private IT parks and Akshaya e-centers are entitled to power tariff under industrial tariffs. Since 'Call Centers' are an ITES entity, they are eligible to get electricity tariff, applicable to IT and IT enabled industries.

11. In the affidavit filed before the Hon'ble High Court in writ petition WP(C) No. 31268 of 2015 by M/s Liscom Solutions and Services Private Limited against call centers categorized under LT-VI (F) category, the State Government submitted before the Hon'ble High Court that, the policy of the State Government is to provide industrial tariff to all IT and IT related units functioning in the State as a promotional measure. The State Government also submitted that, it is for the Commission to determine the tariff, and as matters stand now, call centers are classified under LT-VI F General Tariff. Further, it is stated that the Government undertakes to place the declared policy in the matter of tariff applicable to IT and ITES units before the Commission.
12. The Chief Secretary in the meeting on 18-05-2016, with the Principal Secretary, IT Department and Secretary, Power Department, decided that, the IT department should move KSERC for categorizing call centers under LT-IV tariff as they are an ITES entity. Accordingly, the IT department in Government of Kerala has directed M/s Technopark to file this petition for re-categorising the 'Call Centers' under IT/ITES category.
13. Duly considering the IT policy of the State Government, the Commission vide the order dated 30-04-2013 in OP No. 2 of 2013 and in the order dated 14-8-2014 in OP No. 9/2014, had formed separate industrial tariff category LT-IV (B) for IT and IT enabled services including Akshaya-e-centers, computer consultancy services units, software services, data processing activities, desktop publishing (DTP), software development units and such other IT enabled services. However, the 'Call Centers' are excluded from LT-IV (B) Tariff and include them under LT-VI-GENERAL- (F) category.
14. The issue raised in the petition to re-categorize the 'Call Centers' under LT-IV (B) IT/ITES category can be considered only in the next tariff revision exercise as per the Section 62(4) and Section 64(6) of the Electricity Act-2003.

Section 62 (4) of the Electricity Act 2003 provides that,

*(4) No tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year, except in respect of any*

*changes expressly permitted under the terms of any fuel surcharge formula as may be specified.*

Further, Section 64 (6) of Electricity Act 2003 provides as follows;

*(6) A tariff order shall, unless amended or revoked, shall continue to be in force for such period as may be specified in the tariff order.*

15. The Commission has already initiated the process of determination of tariff for the year 2017-18 on suo-motu basis. The Commission will be considering the issues raised in the petition along with the next tariff order for the year 2017-18.

#### **Orders of the Commission**

16. In view of the facts and circumstances explained above, it is found that the request of M/s Technopark for re-categorisation of 'Call Centers' under LT-IV (B) IT/ITES category can be considered in the next tariff revision.

The petition is disposed off accordingly.

Sd/-  
K.Vikraman Nair  
Member

Sd/-  
S. Venugopal  
Member

Sd/-  
T.M.Manoharan  
Chairman

Approved for Issue

Sd/-  
Santhosh Kumar. K.B  
Secretary