

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

**Present:     Shri. Preman Dinaraj, Chairman**  
**Adv. A.J Wilson, Member (Law)**

**Date of Hearing                     : 04.03.2021**

**OP No 09/2021**

In the matter of                     : Petition filed by M/s Chandy's Homes seeking LT Contract Demand based Tariff for common connection of 'residential apartments'.

Petitioner                             : Sri. Mathew Kuruvila,  
  Managing Director, Chandys Homes,  
  Tall County Apartments, Manganam, Kottayam.

Petitioner represented by         : Sri. Sabu C T

Respondents                         : Kerala State Electricity Board Limited

Respondents represented by : 1. Sri. K.G.P Nampoothiri, Executive Engineer  
  2. Asst: Engineer, Electrical Section, Puthupally.

**Order dated 17.03.2021**

1. M/s Chandy's Homes, filed a petition dated 22.01.2021 before the Commission with the following details.

- (1) In Tall County, a Multi- Storeyed Apartment Building, in Manganam, Kottayam under Electrical Section, Puthuppally, the common connected load is 217.6kW with a maximum demand less than 100 kVA. The transformer installed there is of 1600KVA capacity, for a total connected load above 2000 kW.
- (2) The above premises got a common connection with additional surcharge of Rs 94,394/per month.
- (3) Petitioner prays before the Commission to get the common connection with demand based LT tariff.

The petitioner produced a copy of the demand raised by Electricity Section Office, Puthuppally, KSEB Ltd.

2. The Commission admitted the petition as OP No. 09/21, and forwarded a copy of the petition to KSEB Ltd for their comments. KSEB Ltd vide letter dated 03.03.2021 submitted its comments and its summary is given below.
  - (1) The petitioner is an LT electricity consumer of KSEB Ltd under Electrical Section, Puthuppally, Kottayam. The petitioner applied for LT connection to the common facilities in Tall County Apartments. The total connected load was 242kVA (217.6KW) excluding pumps. Since the connected load of the common facilities is more than 100 kVA, the applicant has to pay low voltage surcharge for availing supply at LT, and the service connection was effected on 16.10.2020.
  - (2) There was no optional demand based tariff for the LT domestic consumers, hence prima facie the petition filed by the petitioner is not maintainable.
  - (3) The petitioner in the petition prayed for having LT demand based tariff for domestic connections, which is not provided in the prevailing Tariff Order issued by the Commission. Tariff determination including tariff revision exercise is initiated as per Section 64 of the Electricity Act, 2003. Hon'ble Supreme Court and APTEL has clarified that the tariff determination process is a quasi legislative process. Therefore, the petitions of individual consumers against the Tariff Order after the expiry of the time limit prescribed in the Regulations cannot be considered as the same can disturb the delicate balance achieved by the tariff revision process.
  - (4) The petitioner's plea for having LT demand based tariff can only be seen as an individual request which is against the prevailing Tariff order. The adjudication of dispute by the Commission under Section 86(1)(f) does not cover individual complaints of consumers. This position has been set out very clearly by the Hon'ble Supreme Court and Hon'ble APTEL in various judgments.
  - (5) As per Section 64 of EA-2003, an application for determination of tariff under the Section 62 need to be submitted by a generating company or a licensee. Since the petition does not come under the status of a generating company or licensee, there is no locus standi for the petitioner to file this petition. Hence, the issues raised by the petitioner for revision in Tariff cannot be considered in a petition like this.
  - (6) Hon'ble Commission as per the Order dated 30.03.2020 had extended the prevailing Tariff Order upto 31.03.2021 or till the date of effect of the new Tariff Order. Since the date of extension nearing completion, it is felt that the apprehensions of the petitioner in the above petition can be considered in the next tariff revision process which is on the onset.

(7) KSEBL prayed before the Commission to reject the petition.

3. The Commission held the hearing on the petition through video conference on 04.03.2021. Sri. Sabu C T represented Chandy's Homes and presented the petition on behalf of the petitioner. Sri. K.G.P Nampoothiri, presented the comments on behalf of the Respondent KSEB Ltd. Summary of the deliberations during the hearing is given below.

(1) The petitioner availed LT power connection for meeting the common service loads for the Tall County Residential Apartments at Manganam Kottayam. Though the connected load of the common service is 217.6 kW, the actual contract demand is less than 100 kVA. KSEB Ltd has been billing the common load of the apartments based on connected load based tariff and also levying low voltage surcharge as per the Tariff Order issued by the Commission.

The petitioner requested KSEB Ltd to bill them under demand based LT tariff instead of connected load based tariff, so that the low voltage surcharge can be avoided. However, KSEB Ltd refused the same citing that the demand based tariff is not available to the domestic connections.

As per the knowledge of the petitioner, there is no specific provisions in the Regulations and Orders issued by the Commission to deny common load of the residential apartments under the demand based tariff, which is available to the commercial consumers.

If there is any difficulty in billing the common load of the Tall County residential apartments at demand based tariff, the petitioner is willing to convert the service connections of the common load of the apartment under commercial category so that they can avail the demand based tariff.

(2) KSEBL submitted that, as per the prevailing Tariff Order, the common load of the residential apartment is billed under domestic tariff. Further, as per the provisions of the Supply Code, 2014, if the connected load/ contract demand of any consumer is more than 100kW/100 kVA, they have to avail connections at HT instead of LT. However, if a consumer having connected load/ contract demand more than 100 kW/100kVA continue to avail supply at LT, they have to pay low voltage surcharge at the rate approved by the Commission as per the Tariff Order issued from time to time.

The common load of the Tall County residential apartment of the petitioner is 217.6.kW, however the petitioner continue to avail supply at LT. Hence as per the provisions of the Supply Code, 2014, and Tariff Order dated 08.07.2019, the petitioner has to pay low voltage surcharge.

Further, as per the prevailing Tariff Order dated 08.07.2019, demand based tariff is not extended to domestic connections. Hence, the request of the petitioner to extend the demand based tariff can be considered as a request for modifying/amending the prevailing Tariff Order to extent the demand based billing to domestic category.

It is a settled position that, the tariff determination under Section 64 of the EA-2003 is a quasi legislature process. Hence, any modification or amendments in the Tariff Order can be made only after complying all the procedure formalities prescribed in the Regulations, including pre-publication and public hearings.

KSEB Ltd requested before the Commission to direct the petitioner to take up the issues during the next tariff revision process.

### **Analysis and Decisions**

4. The Commission examined the petition filed by Sri. Mathew Kuruvilla, Managing Director, Chandys Home, Kottayam, as per the provisions of the Electricity Act,2003 and Regulations notified by the Commission, and noted the following.
5. The prayer of the petitioner is to allow 'demand based LT tariff' to the common connection of the residential apartment namely 'Tall County Multi Storied Apartment Building' of Chandy's Homes, Manganam, Kottayam. The Commission examined the prayer of the petitioner as per the prevailing Tariff Order and Regulations in force, and noted the following.
  - (1) As per the prevailing Tariff Order dated 08.07.2019 in Petition OP No. 15/2018, the electricity tariff applicable to the common connection of the residential apartment buildings is 'domestic tariff'. Accordingly, domestic tariff is applicable to the Tall County apartments of the petitioner.
  - (2) As per the Regulation 8 of the Supply Code, 2014, the maximum connected load that can be connected at LT is limited to 100 kVA. Regulation 8 is extracted below for ready reference.

	<i>Maximum connected load</i>	<i>Maximum contract demand</i>
<i>Supply voltage</i>	<i>(for those without demand based metering)</i>	<i>(for those with demand based metering)</i>
<i>240 V(single phase)</i>	<i>5 kW</i>	
<i>415V(three phase)</i>	<i>100 kVA</i>	<i>100kVA</i>
<i>11 kV</i>		<i>3000 kVA</i>
<i>22kV</i>		<i>6000 kVA</i>
<i>33 kV</i>		<i>12000kVA</i>
<i>66 kV</i>		<i>20000kVA</i>
<i>110 kV</i>		<i>40000kVA</i>
<i>220 kV</i>		<i>&gt;40000 kVA</i>

However, though the connected load of the 'common load' of the residential apartment of the petitioner is 217.6kW, the common connection of the petitioner's building is connected at LT instead of HT.

As per the Regulation 9 of the Supply Code, 2014, the consumers availing supply at voltage lower than the one specified in Regulation 8 shall pay the low voltage surcharge at the rate approved by the Commission. As per the prevailing Tariff Order dated 08.07.2019, the low voltage surcharge is the difference between the demand charge at HT supply and the demand charge/ fixed charge at LT.

Accordingly, as per the Regulation-8 and Regulation-9 of the Supply Code, 2014, the petitioner has to pay low voltage surcharge at the tariff determined by the Commission from time to time.

### **Optional demand based tariff for LT connections**

- (3) The request of the petitioner is to allow the common connections of the residential apartments of the petitioner under demand based tariff. As per the prevailing Tariff Order dated 08.07.2019, demand based tariff is mandatory only for Industrial consumers at LT having connected load above 20 kW.

However, as per the General Condition 8 under Part-A. Low Tension (LT) Tariff schedule, approved along with the Tariff Order dated 08.07.2019, '**Optional Demand Based Tariff can be availed by consumers under LT VI General(A), LT VI General (B), LT VI General (C), LT VI General (E), LT VI General (F),LT-VI General (G), LT VII Commercial (A) and LT VII Commercial (C) as per the conditions in Annexure – F to this schedule.**'

The Annexure-F of the Tariff Order dated 08.07.2019 is extracted below.

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#### **OPTIONAL DEMAND BASED TARIFF**

- Eligibility** : *Optional Scheme for LT VI General (A), LT VI General (B), LT VI General (C), LT VI General (E), LT VI General (F), LT VI General (G), LT-VII Commercial (A) and LT VII Commercial (C) having connected load equal or above 20 kW.*
- Billing demand** : *Recorded maximum demand or 75% of the contract demand whichever is higher*
- Demand charges:** *Based on Rs./kVA of billing demand as per tariff mentioned in the table below.*

Consumer Categories	Tariff
	Rs./kVA of billing demand per month
LT VI General (A), LT VI General (B), LT VI General (C), LT VI General (E), LT VI General (F), LT-VI General (G), LT-VII Commercial (A) and LT VII Commercial (C)	220

Energy Charges: Existing energy charges of respective categories shall apply.

**Other conditions**

- (1) Consumers who opt for maximum demand based tariff may, at their option, install ToD compliant meters at their cost. Meters may also be installed at the cost of KSEB Ltd. If the consumers provide meters, it has to be got tested at the laboratory of KSEB Ltd or of the Electrical Inspectorate. It will be the responsibility of KSEB Ltd or other licensees as the case may be to ensure the accuracy of the meters after proper testing.
- (2) For those who opt for maximum demand based tariff, the contract demand shall be treated as connected load.
- (3) The consumers who opt for maximum demand based tariff shall declare the contract demand in kVA by executing a supplementary agreement showing the contract demand and details of connected load in their premises.
- (4) The consumers who opt for the new system may be allowed to revise upwards or downwards the declared contract demand within six months from the date of option without any conditions or charges. After this, the usual terms and conditions shall be applicable for changing contract demand.
- (5) The Billing demand shall be the recorded maximum demand or 75% of the contract demand whichever is higher. In case the billing demand exceeds the contract demand during normal or peak hours or 130% of the contract demand during night off peak hours, the demand charges for the excess demand shall be charged 50% extra.
- (6) The above scheme (optional demand based tariff) shall be effective till ToD tariff is made compulsory.”

As detailed above, as per the prevailing Tariff Order dated 08.07.2019, **Optional demand based tariff is not extended to domestic category. Hence, as per the prevailing Tariff Order dated 08.07.2019, the Commission cannot allow the common connections of the residential apartments to levy the electricity charges at demand based tariff.**

- (4) Next question is whether the Commission can revise or modify the tariff based on a request of a consumer after the Regulations have been notified without following the due procedures specified in the Electricity Act, 2003 and Regulations notified by the Commission.

As per the provisions of the Electricity Act, 2003, the tariff determination is a quasi judicial process. The Commission issued the present Tariff Order dated 08.07.2019, after pre-publication, stake holder consultation including public hearings at various places across the State. The Commission cannot revise or modify the Tariff Order without complying with the procedures prescribed under Section 64 of the Electricity Act, 2003 and the various Regulations notified by the Commission in this

regard. Hence, the Commission cannot consider the plea of the petitioner at this late stage to change the tariff of the domestic category from connected load based tariff to demand based tariff.

However, if the petitioner so desires, he can take up the issue of categorising the common connections of the residential apartments under the demand based tariff, during the next tariff revision exercise, the notice of which shall be published through print media for the information of the general public.

### **Orders of the Commission**

6. The Commission after detailed examination of the petition filed by Sri. Mathew Kuruvilla, Managing Director, Chandy's Home, Kottayam, as per the provisions of the Electricity Act, 2003 and Regulations in force, hereby orders the following.
- (1) Reject the petition filed by Sri. Sri. Mathew Kuruvilla, Managing Director, Chandy's Home, Kottayam to change the electricity tariff of the common connections of the residential apartments at demand based tariff, due to the reasons explained under paragraph 5 above.
  - (2) The petitioner, if desires so, can take up the issue raised, in the next tariff revision exercise, which is expected to commence in the next few months.

The petition disposed off.

**Sd/-**

**Adv. A J Wilson  
Member (Law)**

**Sd/-**

**Preman Dinaraj  
Chairman**

Approved for issue

**C R Satheeshchandran  
Secretary (i/c)**