

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

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

**OP No 37/2020**

First Hearing on :29.12.2020  
Second hearing on : 28.01.2021

In the matter of : Petition filed in compliance of the judgement of the Hon'ble High Court dated 16-10-2018 in Writ Appeals WA Nos.1448 & 1482 of 2017 for determination of tariff of individual consumers..

Petitioner : Kerala State Electricity Board Ltd.

Petitioner represented by: Sri.K.G.P.Nampoothiri, Executive Engineer

Respondents : 1. Sri. Mujeeb Rehman.A, Proprietor, The Xtra Food Products, Aroorkutty.  
2. Sri Radhakrishnan. T. K, Rayiga House, Thenhilapalam P.O.

Respondents represented by : 1.Sri. Mujeeb Rehman.A  
2.Sri.Radhakrishnan. T.K

**Daily Order dated 02.02.2021**

1. Ms. KSEB Ltd (the petitioner), on 18.11.2020, filed a petition before the Commission with the following prayers.

*"The Hon'ble Commission may be pleased to allow the Applicant to realise the reasonable expenditure incurred for providing electric supply **to the respondents as well as all similarly placed applicant/consumers** as per the methodology described*

*under paragraph 10.19 of this application in order to meet the ends of justice as held by the Hon'ble High Court. "*

2. KSEB Ltd submitted that, the petition is filed in compliance of the judgment of the Division Bench of the Hon'ble High Court dated 16.10.2018 in Writ Appeal Petitions WA No. 1448 of 2017 and 1482 of 2017. The relevant portion of the judgment of Hon'ble High Court is extracted below.

*"5. Regulation 35 speaks of expenditure for extension or upgradation or both of the distribution system to be borne by the licensee. Regulation 37 speaks of expenditure for service line, plant etc., for providing supply. We are of the opinion that the distinction is insofar as the expenditure incurred for extension or upgradation of the distribution system has to be under Regulation 35. We do not get a clear definition of the plant from any of the enactments or the Regulation. Though in general terms transformer is a plant; it is also a part of the distribution system. Hence the expenditure incurred for installation of a dedicated transformer is for the purpose of upgradation of the distribution system which is covered under Regulation 35 and 36. We also notice that the requirement for an additional dedicated transformer arises from the finding of the Board under Regulation 36 of the Supply Code. Hence the provision applicable insofar as reimbursement of expenditure is Regulation 35.*

*6. Though the learned Single Judge found the case of the units covered by Regulation 35; it was also found that the Board has to meet the expenses. Regulation 35 as extracted in the judgment of the learned Single Judge itself indicates that the expenditure would be borne by the distribution licensee which can be recovered from the consumers through Tariff as approved by the Commission. The Board hence would have to approach the Commission for the purpose of determination of higher Tariff in the case of the writ petitioners who have a dedicated transformer set up for their demand/additional demand. This would not in any way affect the general Tariff determination for the individual respondents which has to be under that category of the consumer; as brought out by the Commission, periodically. The writ petitioners would have to pay the Tariff under such general Tariff determination Order but would also have to pay the additional amounts for the purpose of setting off the expenditure incurred by the Board, for which the Board has to approach the Commission and the Commission has to decide on the amounts with reference to the expenditure incurred; with notice to the units. In such circumstances, the Board has to install the transformer at their costs and then approach the Commission for determination of individual Tariffs with respect to the two units.*

*7. The Judgment of the learned Single Judge is interfered with to the above extent. The respondents shall give consent to the Board for fixation of Tariff as indicated herein above, in their individual cases for the purpose of reimbursement of expenses on which the Board shall carry out installation of the transformer and then approach the Commission for fixation of Tariff. Even when the matter is pending before the Commission, the writ petitioners shall pay Tariff on the general fixation by the Commission under the category in which they are covered."*

3. Commission admitted the petition as OP 37/2020 and hearing was conducted through video conference on 29.12.2020. Based on the deliberations during the first hearing conducted on 29.12.2020, the Commission directed the petitioner M/s KSEB Ltd to submit the following latest by 11.01.2021;

- (1) Details of the estimate including split up details, and the basis of cost of the transformers installed at Arookutty and Cheelari.
  - (2) Whether the entire cost of the transformers is proposed to be recovered from the respondents alone?
  - (3) Date of service connection effected to the respondents.
  - (4) Details of the present loading of the transformers (number of service connections so far effected from these transformers and the spare capacity available as of now).
  - (5) Whether the respondents has given consent as per the Judgment of the Hon'ble High Court dated 16.10.2018 for reimbursement of the expenses at the tariff approved by the Commission?. If so, provide a copy of the consent before the Commission.
4. In compliance of the directions of the Commission, KSEB Ltd on 27.01.2021, submitted the following details and its summary is given below.

**I. Details of the cost incurred for uprating the existing 100kVA transformer to 160kVA transformer to provide supply to the Sri. Mujeeb Rehman – first Respondent**

- (1) Total cost incurred.  
Cost of transformer (160KVA) and installation charges after adjusting the depreciated value of the existing transformer (100KVA)  
**= Rs.2,49,574.00**
- (2) The connected load of the respondent has been enhanced to 88 KW from the existing load of 63.05 KW **on 14.10.2020.**
- (3) Present loading of the transformer is as follows.
  - (a) Number of service connection effected = 62 Nos
  - (b) Total connected load = 166744 W (167 kW)
  - (c) There is no spare capacity available as of now.
- (4) The respondent has given consent to reimburse the expenditure incurred by KSEB Ltd at the tariff approved by the Commission as per the judgment of the High Court.
- (5) KSEB Ltd submitted that, since the uprating of the transformer was done for providing supply to the respondent-1, the entire cost is proposed to be recovered from the respondent-1.

**II. Details of the cost of the 100 kVA transformer installed at Chelari for providing supply to Sri. Radhakrishnan.T.K, Second Respondent.**

- (1) Total cost incurred.  
Cost of transformer (100KVA) **= Rs. 3, 85,192.00**

The respondent had remitted only an amount of Rs.50370/- while availing the connection as detailed below, which is exclusive of the above amount incurred by the Board.

1. Effecting 3 phase service connection (35 KW) = Rs.21750.00

2. Conversion of LT line 116m	= Rs.19140.00
3. Providing LT stay set	= Rs. 1750.00
4. LT pole insertion (3 phase)	= Rs. 7730.00
Total	Rs. 50370.00

- (2) KSEB td submitted that, since the work was undertaken by KSEBL to provide the service connection to Respondent- 2 and the entire amount of Rs. 3, 85,192/- is proposed to be realized from the respondent as ordered by the High Court.
- (3) The service connection to the respondent has been effected on **20.09.2019**.
- (4) The details of the present loading of the transformer is as follows;
- |  |                       |
|--|-----------------------|
| a. Number of service connection effected | = 15 Nos.             |
| b. Total connected load effected         | = 57427 W (57.427 W). |
| c. Spare capacity now available          | = 50 KVA              |
- (5) The respondent has given consent to reimburse the expenditure incurred by the Board at the tariff approved by the Commission as per the judgment of the High Court.

KSEBL further submitted that, KSEBL has claimed Rs. 4, 11,477/- from the second respondent in compliance of the Judgment. But on actual execution of the work, the same become Rs.3, 85,192/- and hence the claim may be read as Rs.3,85,192/- as against Rs.4,11,477/-.

5. Second hearing on the petition was conducted on 28.1.2021 at 11 AM through video conference. Sri K G P Nampoothiri, Executive Engineer, presented the matter on behalf of the petitioner KSEB Ltd. Sri. Sri Mujeeb Rahman presented on behalf of the respondent-1 and Sri. T.K. Radhakrishnan presented on behalf of the respondent-2. The summery of the deliberations during the hearing is given below.

- (i) In compliance of the directions of the Commission, KSEB Ltd submitted the details on 27.01.2021.
- (ii) KSEB Ltd incurred a total cost of Rs 2,49,574.00 for replacing the existing 100 kVA transformer with 160 kVA at Kadavuadavu under Electricity Section, Arookutty. The cost arrived at is after adjusting the depreciated value of the existing 100 kVA transformer, which was manufactured in the year 2010. The connected load of the Respondent-1 was enhanced from 63.05 kW to 88 kW on 14.10.2020. Since the existing 100 kVA transformer was replaced with 160 kVA for enhancing the load of the respondent-1, KSEB Ltd proposed to collect the entire cost from respondent-1.

KSEB Ltd also submitted that, the Respondent-1 had given consent to reimburse the expense at the tariff approved by the Commission as per

the Judgement of the Hon'ble High Court dated 16.10.2018 in WA 1448& 1482 of 2017.

So far 62 number of service connections was effected from the transformer, and no spare capacity is available now,

- (iii) KSEB Ltd incurred a total cost of Rs 3,85,192.00 for installing a new 100 kVA transformer at Kohinoor under Electrical Section Chelari. Service connections to the Respondent-2 was effected on 20.09.2019 with a connected load of 35 kW.

At present 15 nos of service connections have been effected from the transformer with a total connected load of 57.4kW, and spare capacity of 50kVA available as of now.

The Respondent-2 has given consensus to reimburse the expenditure incurred by KSEB Ltd for installing the transformer at the tariff approved by the Commission as per the Judgement of the Hon'ble High Court dated 16.10.2018 in WA 1448& 1482 of 2017.

- (iv) On a query by the Commission, whether KSEB Ltd is agreeable for collecting the cost from the respondents on proportional basis, on the basis of the connected load allocated to them out of the total capacity of the new transformers, KSEB Ltd replied that they are agreeable for the same provided the balance cost may be allowed to be submitted before the Commission at the time of truing up or allow to collect from other prospective consumers availing supply from the same transformer on proportional basis.
- (v) Sri. Mujeeb Rahman, representing respondent-1 submitted that, as per the Judgment of the Hon'ble High Court, KSEB Ltd can collect the cost of the transformer only if the transformer is installed as a dedicated transformer for supplying power to the consumer. However, in the present case, KSEB Ltd has given supply to 61 other consumers also from the same transformer and hence the transformer is not a dedicated one for the exclusive use of the respondent.

Further, as per the Regulation 35 of the Supply Code, 2014, the extension or upgradation or both of the distribution system upto and including the distributing main has to be borne by the licensee at their own cost. As per the Regulation 36, the respondent is bound to remit the expenditure for the above work only if the power requirement is above 1MW. As such the licensee is bound to give power supply from the existing transformer or by installing a new transformer at the cost of KSEB Ltd.

- (vi) Sri. T.K Radhakrishnan, representing the respondent-2 explained the difficulties faced by him in getting power supply for his small business. He further submitted that, as per the provisions of the Supply Code, 2014, KSEB Ltd has to provide supply to the respondent by installing a new transformer if required.

The respondent further submitted that, the people in the locality was facing voltage fluctuations and demanding for installation of a new transformer to improve the voltage in the area. He further submitted that, since his demand is only 40 kW, and KSEB Ltd is giving new connections from the balance capacity of the 100 kVA transformer, he could not bear the entire cost of the new 100 kVA transformer.

- (vii) On the issue raised by the respondents that, as per the Regulation 35 of the Supply Code, 2014 KSEB Ltd has to provide supply to the consumers by installing transformers at the cost of the KSEB Ltd, KSEB Ltd clarified that the division bench of the Hon'ble High Court as per the judgment dated 16.10.2018 in WA Nos 1448/2017 & 1482/2017 given detailed interpretation on Regulation 35 of the Supply Code, 2014 and the respondent also agreed to bound by the same. Further, the respondents are exempted from reimbursing the cost, the liability shall fall on the all the existing consumers of KSEB Ltd through tariff.

KSEB Ltd further submitted that, the present petition was filed in compliance of judgment of the High Court dated 16.10.2018 in Writ Appeal Petitions WA No. 1448 of 2017 and 1482 of 2017.

6. Based on the deliberations during the hearing, the Commission hereby directs the petitioner M/s KSEB Ltd and the respondents to comply the following.
- (i) KSEB Ltd shall share a copy of the additional details submitted before the Commission on 27.01.2021 with the respondents immediately for their comments.
  - (ii) M/s KSEB Ltd, shall further submit the following details on or before 10.02.2021, before the Commission, with a copy to the respondents.
    - (a) Whether there was any spare capacity available at the 100 KVA transformer under Electrical Section Arookutty when the respondent-1 filed application for enhancing the load?  
  
Provide the details with supporting evidence.
    - (b) When was the 100 kVA transformer (which was manufactured in 2010) installed at Arookutty, and the cost of the installation of the transformer as per the asset register of the KSEB Ltd and its depreciated cost at the time of capacity enhancement by new transformer.
    - (c) Actual cost for replacing the existing 100 kVA transformer with 160 kVA transformer as per the 'asset register' of KSEB td.
    - (d) Actual cost of installation of the new transformer at Kohinoor under Chelari Section.

- (iii) The respondents may submit its comments, if any, on or before 17.2.2021, with copy to KSEBL

**Sd/-**

Adv. A.J. Wilson  
Member (Law)

**Sd/-**

Preman Dinaraj  
Chairman

Approved for issue

C R Satheeshchandran  
Secretary ( i/c)