

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTICE

No. 609/D(T)/2018/KSERC

Dated, Thiruvananthapuram, 01.08.2019.

In exercise of the powers conferred under sub-sections (1) & (2) of Section 181 of the Electricity Act, 2003, (Central Act 36 of 2003) read with sub-section (3) thereof, the Kerala State Electricity Regulatory Commission hereby publishes the following draft Regulations of the Kerala Electricity Supply (Amendment) Code, 2019, for information of persons likely to be affected thereby. Any objections or suggestions thereon may be forwarded to the Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, C.V.Raman Pillai Road, Vellayambalam, Thiruvananthapuram - 695010 on or before 31.08.2019. Objections and suggestions received on or before the said date shall be considered by the Commission before finalization of the said draft regulation.

By order of the Commission,

Secretary

(DRAFT)

THE KERALA ELECTRICITY SUPPLY (AMENDMENT) CODE, 2019

1. Short title and commencement.- (1) These Regulations may be called the Kerala Electricity Supply (Amendment) Code, 2019.

(2) This shall come into force from the date of publication of the same in the Official Gazette.

2. Amendment of the Code, - In the Kerala Electricity Supply Code, 2014 (hereinafter referred to as the Code),-

- (i) In Sub-regulation(1) of Regulation 11 of the Code, the words “except in the case of consumers billed on the basis of contract demand” shall be added at the end;
- (ii) In the Code, the proviso to sub Regulation(1) of Regulation 11 shall be substituted, namely,

“Provided that a low tension consumer who, as on the date of implementation of the Kerala Electricity Supply Code, 2005, had a *sanctioned connected load* exceeding the limit of 100kVA, may be permitted, subject to realisation of low voltage supply surcharge, to operate with the same *sanctioned connected load* at the same voltage level of supply until an upward revision of connected load is sought for by the consumer.”;

- (iii) After Sub-regulation (2) of Regulation 11 of the Code, the following provisos shall be added, namely,-

“Provided that the consumers existed on the date of implementation of Kerala Electricity Supply Code, 2005, and who were permitted to operate at low tension upto a connected load of 150kVA in accordance with clause (b) of sub Regulation(5) of Regulation 4 of the Kerala Electricity Supply Code, (Fourth Amendment) Regulations 2008 shall be allowed to operate at the same voltage level and contract demand as on the date of implementation of the Code, subject to realization of low voltage surcharge until an upward revision of contract demand is granted on application submitted by the consumer or becomes otherwise necessary.”

“Provided further that the contract demand for an Industrial consumer in Industrial parks except in multi storied buildings shall be limited to 150kVA in low tension subject to payment of low voltage surcharge in which their LT metering point shall be at the transformer point”

- (iv) In the Code, for Sub-regulation (2) of Regulation 49, the following sub Regulation shall be substituted, namely,

“(2) The total connected load of such colony or residential complex or commercial complex or high rise building shall for the purpose of this regulation be the estimated connected load as per the scheme approved by the Electrical Inspector or certified by an Architect or a Licensed Engineer or a Licensed Electrical Contractor or computed as per norms approved by the Commission on the basis of the plinth area constructed, as the case may be.”;

- (v) In the Code, for Sub-regulation (5) of Regulation 49, the following sub Regulation shall be substituted, namely,-

“(5) The development authority or the promoter or the builder or the developer or such other person, as the case may be, who constructs such colony or complex or high rise building under the clauses (a), (b) and (c) of sub Regulation(1) above, shall, at his cost, construct the required internal distribution network including the service line, transformer, switchgear, metering cubicles etc., as per the detailed scheme approved by the Electrical Inspector, for receiving power from the licensee and for distributing it and shall handover the metering cubicle before the commencement of supply of electricity. The internal distribution network including the transformer and switchgears and the underground service line cable in the case of indoor transformers are to be constructed and maintained by the development

authority or the promoter or the builder or the developer or any other person who has constructed the colony or residential complex or a commercial complex or an Industrial complex or a high rise building”;

- (vi) In Sub-regulation (1) of Regulation 50 of the Code, in column No. (i), for the words “constructed area” the words “plinth area constructed” and in column No.(ii), for the words “1500 watt per 10 square metre of the constructed area” the words “1000 watt per 10 square metre of the plinth area constructed” shall be substituted;
- (vii) In Sub-regulation (3) of Regulation 72 of the Code, shall be substituted with the following namely,
“(3) If the adjustment of interest is delayed, interest at 1.5 times the bank rate shall be payable for the delayed period.
- (viii) In the first proviso to Regulation 81 of the Code, for the words “five working days” the words “seven working days” shall be substituted;
- (ix) In the Code, for clause (c) of the sub Regulation(4) of Regulation 95, the following clause shall be substituted namely,-

“(c) the applicant shall remit the labour charges and material charges required for shifting the electric line or electric plant as estimated by the licensee as per the cost data approved by the Commission from time to time as per the Regulation 33 of the Kerala Electricity Supply Code, 2014.”

- (x) In the Code, for Sub-regulation (1) of Regulation 97, the following Sub-regulation shall be substituted namely,-

“(1) If it is found that the consumption of power of a consumer has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate tariff category.”

- (xi) In the Code, for Sub-regulation (4) of Regulation 97, the following Sub-regulation shall be substituted namely,-

“(4) Arrear or excess charges shall be determined based on the actual period of re classification or a period of twelve months whichever is lesser”

- (xii) In the Code, for Sub-regulation (5) of Regulation 97, the following Sub-regulation shall be substituted, namely,-

“(5) twelve monthly installments for the payment of the arrear charges determined under sub Regulation(4) above may be allowed on the request of the consumer without interest”

- (xiii) In the Code, the proviso to Sub-regulation (5) of Regulation 97 shall be omitted.
- (xiv) In Sub-regulation (2) of Regulation 125 of the Code, for the words “two billing cycles” the words “three billing cycles” shall be substituted;
- (xv) In Sub-regulation (7) of Regulation 130 of the Code, for the words “late payment penalty” the words “interest on late payment” shall be substituted;
- (xvi) In the title of Regulation 131 of the Code, the word “penal” shall be omitted;
- (xvii) In the Code, for clause (i) of Sub-regulation (2) of Regulation 149, the following clause with proviso shall be substituted, namely,-
“(i) entry and inspection by the assessing officer /officers of and above the rank of Sub – engineer of the licensee having jurisdiction in the area.
Provided that further proceedings under Section 126 of the Act shall be done only by the assessing officer as designated by the Government under the said section”
- (xviii) In the Code, the first proviso to Sub-regulation (3) of Regulation 152 shall be omitted;
- (xix) In the Code, the word “further” in the second proviso to the Sub-regulation (3) of Regulation 152 shall be omitted;
- (xx) In the third proviso to Sub-regulation (3) of Regulation 152 of the Code, for the word “also” the word “further” shall be substituted;
- (xxi) In the Code, for Sub-regulation (4) of Regulation 152, the following Sub-regulation shall be substituted, namely.-
“(4) The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection”;
- (xxii) In the Code, Sub-regulation (2) of Regulation 155, the following Sub-regulation shall be substituted, namely,-

“(2) The assessing officer /officers of and above the rank of sub – engineer of the licensee having jurisdiction in the area may inspect the premises of the consumer or inspect the equipments, gadgets, machine and devices found connected to the system and used or inspect the records maintained by the consumer or by any other person before initiating proceedings by the assessing officer for provisional assessment”

(xxiii) In the Code, for Sub-regulation (11) of Regulation 155, the following Sub-regulation shall be substituted, namely,-

“(11) It shall also be mentioned in the provisional assessment order that, if consumer does not wish to challenge the provisional assessment, he may accept such assessment and pay the assessed amount to the licensee within seven days of service of provisional assessment order as per subsection (4) of Section 126 of the Act”;

(xxiv) In the Code, Sub-regulation (12) of regulation 155 shall be omitted;

(xxv) In the Code, in the proviso to Sub-regulation (6) of Regulation 157, the words ‘seven days from the date of serving the final order’ shall be substituted by the words ‘thirty days from the date of such order’.

(xxvi) In the Code, Sub-regulation (9) of Regulation 157, the words ‘seven days’ shall be substituted by the words ‘thirty days’.

(xxvii) In the Code, Sub-regulation (17) of the Regulation 158, shall be substituted with the following.

“(17) In case the Appellate Authority holds that no case of unauthorised use of electricity is established, no further proceedings shall be initiated or continued by the licensee in this regard and the amount deposited by the appellant shall be refunded along with interest at the rate of **‘MCLR +200 base points’** per annum compounded every six months for the period from the date of deposit till the amount is refunded.

(xxviii) In the Code, Sub-regulation (18) of the Regulation 158 shall be substituted with the following.

“(18) In case the amount payable as determined by the appellate authority is less than the amount already deposited by the consumer at the time of filing the appeal, the excess amount shall be refunded along with interest at the rate of **‘MCLR +200 base points’** per annum compounded every six months from the date of such deposit till the date of refund.”

(xxix) In Sub-regulation (8) of Regulation 160 of the Code, for the words “amount as per the provisional assessment order” the words “assessed amount” shall be substituted.

By order of the Commission,

SECRETARY

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Explanatory Memorandum

Sub: Kerala Electricity Supply (Amendment) Code, 2019

1. The Kerala State Electricity Regulatory Commission (hereinafter referred to as “the Commission”) notified the Kerala Electricity Supply Code (hereinafter referred to as the Supply Code), 2014, vide its notification dated 31.01.2014. The Regulation 165 of the Supply Code empowers the Commission to amend, alter or modify any provisions of the Supply Code or remove any error or defect in the Supply Code on suo-motu or on the recommendation of the Electricity Supply Code Review Panel(ESCRP).

The Regulation 166 of the Supply Code empowers the Commission to set up an ESCRP. The Regulation 169 of the Supply Code specifies the functions of ESCRP. The Regulation 170 of the Supply Code specifies the procedure for the review of Supply Code. The Regulation 171 of the Supply Code specifies the procedure for amendment of the Supply Code, after completing all procedures including prepublication, conducting public hearing and publishing the final amendment in official gazette etc.

As per the procedure specified under Regulation 170 of the Supply Code, the incumbent distribution licensee of this State, KSEB LTD has proposed to amend and modify some of the Regulations in the Supply Code and forwarded the same to the ESCRP. A copy of the proposal of KSEB Ltd is marked as **Annexure 1** to this memorandum. The Electricity Ombudsman of the State also suggested certain proposals for amendments and forwarded the same to the ESCRP. A copy of the proposal of Electricity Ombudsman is given as **Annexure 2** to this memorandum. The Staff of the Commission also proposed certain amendments before the ESCRP for consideration and a copy of the same is marked as **Annexure 3** to this memorandum. The proposals for amendment by KSEB LTD, Electricity Ombudsman and the Staff of the Commission were discussed in detail by ESCRP in its meetings held on 21.02.2018 and 22.02.2018. The recommendation of the ESCRP on these proposals is marked as **Annexure 4** and **Annexure 5** to this memorandum.

2. The ESCRP submitted its recommendations of the proposed amendments before the Commission as per the Sub-regulation 6 of the Regulation 170 of the Supply Code for approval. The Commission has examined the recommendations of the ESCRP in detail. The opinion of the Commission on

the recommendation of the ESCR and the draft amendment approved for prepublications is discussed in the following paragraphs.

(i) **Amendment to Sub-regulation (1) of Regulation 11 of the Supply Code**

The Regulation 8 of the Supply Code specifies the maximum load (connected load or contract demand) that can be connected at different supply voltages. The Regulation 11 of the Supply Code deals with the limits of connected loads and contract demand for new LT connections. The prevailing Sub-regulation (1) of Regulation 11 of the Supply Code specifies as follows,

“11(1)The maximum connected load permissible for low tension three phase category shall be limited to 100kVA:

Provided that a low tension consumer who, as on the date of implementation of the Kerala Electricity Supply Code, 2005, had a sanctioned load exceeding the limit of 100kVA, may be permitted, subject to realisation of low voltage supply surcharge, to operate with the same sanctioned load at the same voltage level of supply until an upward revision of connected load is sought for by the consumer.”

The Electricity Ombudsman suggested that in order to get clarity, the following word shall be added at the end of Regulation 11(1) *“except in case of demand based billing consumers.”*

The ESCR recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

As per the prevailing tariff order in force, the LT Consumer having a connected load above 20kW is billed under Time of the Day(ToD) Tariff on the basis of contract demand. For other categories, the billing is done on the basis of the connected load. However the consumers under LT VI (A), LT VI (B), LT VI (C),LT VI (E),LT VI (F),LT VI (G), LT VII (A) and LT VII (C) with connected load above 20 kW have the option to opt for Optional Demand Based Tariff. In such cases, such consumers are also billed on the basis of contract demand in kVA basis instead of connected load in kW basis. So, LT IV Industrial consumers and LT Consumers who opt for Optional Demand Based Tariff is being billed on the basis of contract demand instead of connected load. Hence the Commission decided to approve the proposed amendment recommendation by ESCR.

- (ii) As suggested by the electricity ombudsman, in the proviso to Sub-regulation (1) of Regulation 11 of the Code, the ESCRP proposed to substitute the words “*sanctioned load/connected load*” with the words “*sanctioned connected load*” *wherever it occurs*”. Since this does not have any material change on the Supply Code, the Commission approves the proposal.
- (iii) **Amendment to Sub-regulation (2) of Regulation 11 of the Supply Code**

The Electricity Ombudsman proposed to insert the following proviso under *Sub-regulation (2) of the Regulation 11 of the Supply Code*.

“Provided that the consumers existed on the date of implementation of Kerala Electricity Supply Code, 2005, and who were permitted to operate at low tension up to a connected load of 150 kVA in accordance with clause (b) of Sub-regulation (5) of Regulation 4 of the Kerala Electricity Supply Code, 2005 shall be allowed to operate at the same voltage level and contract demand as on the date of implementation of Supply Code, 2014, subject to realization of low voltage surcharge until an upward revision of contract demand is granted on application submitted by the consumer or becomes otherwise necessary.

Provided further that the contract demand for an industrial consumer in Industrial parks except in multi storeyed buildings shall be limited to 150 kVA in low tension subject to payment of low voltage surcharge in which their LT metering point shall be at the transformer point.”

The ESCRP recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

The Commission vide the Kerala Electricity Supply Code (Fourth Amendment) Regulation, 2008 has allowed the consumer existing as on date of implementation of Kerala Electricity Supply Code, 2005 to operate in LT up to a load of 150kVA. Further Regulation 9 of the Supply Code 2014 permits the consumer availing supply at voltage lower than the supply voltage specified under the Regulation 8 of the Supply Code by paying low voltage supply surcharge at the rate approved by the Commission. Hence the Commission decides to approve 1st proviso to the Sub-regulation 2 of the Regulation 11 of the Supply Code, as recommended by ESCRP.

The Industrial Parks in the State are developed for facilitating industrialization by providing necessary infrastructure for the industrialists coming to establish industries in the park. The basic infrastructure including the infrastructure for electricity distribution within such industrial parks are being developed by the developer. In most of the cases, the basic infrastructure providers are Government agencies. Usually, industrial consumers only avail supply with the park. Considering these aspects in details, the Commission is of the view that in order to attract investments in industrial parks, the load limit for availing supply at LT may be increased from 100 kVA to 150 kVA.

Accordingly, the Commission approves the proposal recommended by ESCRP.

(iv) **Amendment to Sub-regulation (2) of Regulation 49 of the Supply Code**

Based on the suggestion of the Staff of the Commission, the ESCRP recommended the following amendment to the Sub-regulation (2) of the Regulation 49 of the Supply Code.

“(2) The total connected load of such colony or residential complex or commercial complex or highrise building shall for the purpose of this Regulation be the estimated connected load as per the scheme approved by the Electrical Inspector or certified by an Architect or a Licensed Engineer or a Licensed Electrical Contractor or computed as per norms approved by the Commission on the basis of the plinth area constructed, as the case may be.”

Opinion of the Commission

Regulation 49 of the Supply Code specify the condition for providing electricity connection to high rise building, colony and to residential, commercial or industrial complex. Sub-regulation 2 of the Regulation 49 specifies the norms for estimating the connected load of a new building. As per the existing Regulation, the connected load has to be computed by the licensee as per the norms specified by the Commission under Regulation 50 of the Supply Code. Most often the electricity load requirement as per the scheme approved by the Electrical inspector or certified by an architect or a licensed engineer is higher than the load computed as per the norms approved by the Commission on the basis of plinth area constructed. So in such cases, when the developer requests for additional load on the basis of the

schemes certified by an architect or a licensed engineer, the licensee may find difficulty in creating necessary infrastructure for providing additional load. Considering this issue, the Commission proposes to approve the recommendation of the ESCRP.

(v) **Amendment to Sub-regulation (5) of Regulation 49 of the Supply Code**

ESCRP proposed to substitute the Sub-regulation (5) of the Regulation 49 of the Supply Code with the following

“(5) The development authority or the promoter or the builder or the developer or such other person, as the case may be, who constructs such colony or complex or high rise building under the clauses (a), (b) and (c) of sub Regulation(1) above, shall, at his cost, construct the required internal distribution network including the service line, transformer, switchgear, metering cubicles etc., as per the detailed scheme approved by the Electrical Inspector, for receiving power from the licensee and for distributing it and shall handover the metering cubicle before the commencement of supply of electricity. The internal distribution network including the transformer and switchgears and the underground service line cable in the case of indoor transformers are to be constructed and maintained by the development authority or the promoter or the builder or the developer or any other person who has constructed the colony or residential complex or a commercial complex or an Industrial complex or a high rise building”;

Opinion of the Commission

As per the existing provision of Sub-regulation (5) of Regulation 49 of the Supply Code, the developer shall, at his cost has to construct the required internal distribution network including service line, transformer, switchgears etc as per the schemes approved by the Electrical Inspector and has to hand over such internal distribution network created by the developer to the licensee before the commencement of the supply. The Commission is of the view that the internal distribution network including the transformer and switchgears constructed by the developer at his cost has to be maintained by him. The internal distribution network created by the developer at his own cost is not required to hand over to the licensee. Hence the Commission decided to approve the proposal for prepublication for getting views of the stake holders.

(vi) **Amendment to Sub-regulation (1) of Regulation 50 of the Supply Code**

Based on the suggestion of the Staff of the Commission, the ESCRP proposed to replace the word “*constructed area*” with the word “*plinth area constructed*” for estimating the connected load.

Further, under sub clause (ii) in Regulation 50(1) of the Code, in the norms for estimating the commercial loads, ESCRP recommended to change the existing norm @1500 watt per 10 square metre of the constructed area to 1000 watt per 10 square metre of the plinth area constructed.

Opinion of the Commission

The Commission noted the suggestion of the ESCRP. The proposal may help the licensee to estimate the realistic load requirement of a new consumer seeking electricity supply. The Commission approves the recommendation of the ESCRP.

(vii) **Amendment to Sub-regulation (6) of Regulation 67 of the Supply Code**

The Sub-regulation (6) of the Regulation 67 of the Supply Code specify the security deposit to be maintained by the Consumers with the licensee which is extracted below,

“(6) The consumer shall maintain with the licensee an amount at the rates specified below as security for the electricity supplied during the period of agreement:-

(a) three times the average monthly bill amount in case of consumers under bi-monthly billing system; and

(b) two times the average monthly bill amount in case of consumers under monthly billing system:

Provided that the consumer shall not be required to furnish any security for supply of electricity if the consumer opts to take supply through pre-payment meter.”

KSEB Ltd propose to insert a sub clause (c) under the Sub-regulation (6) of the Regulation 67 of the Supply Code as follows,

“In case of consumer who seeks service connection in leased property or who is not the owner of the property:

- i) *“three times the average monthly bill amount plus six months demand charge in case of consumers under bi-monthly billing system; and*
- ii) *“two times the average monthly bill amount plus six months demand charge in case of consumers under monthly billing system.”*

The ESCRP rejected the proposal of KSEB Ltd and recommended to direct the KSEB Ltd to work out the burden in recovering the arrears from dismantled consumers who were not the owners of the property and take up with ESCRP in future.

Opinion of the Commission

The Commission has examined the proposal of the KSEB Ltd to keep 6 months Demand Charges as security from consumers seeking service connection in leased property or from the consumers who apply for electricity connection is not an owner of the property.

There is no rationale in allowing the licensee to keep securities more than that specified under clause (a) & (b) of Sub-regulation (6) of the Regulation 67 of the Supply Code, i.e., in case of bi-monthly billed consumers, the amount of security deposit to be maintained by the licensee is limited to three times the average monthly bill amount and in case of monthly billed consumers, the amount of security deposit to be maintained by the licensee is limited to two times the average monthly bill amount. The Commission approve the recommendations of ESCRP.

(viii) **Amendment to Sub-regulation (3) of Regulation 72 of the Supply Code**

KSEB Ltd has requested to delete Sub-regulation (3) of Regulation 72 of the Supply Code or amend the same to a lesser rate. The ESCRP not recommend the proposal of the KSEB Ltd.

Opinion of the Commission

The regulation 72 of the Supply Code deals with the interest on Security Deposit to be provided by the licensee to the consumer as per Section 47(4) of the Electricity Act. As per the Sub-regulation (1) of the Regulation 72, the licensee shall pay interest on security deposit to the

consumer at the Bank rate prevailing at the 1st April of the year. As per Sub-regulation (2) of the regulation 72 of the Supply Code the interest accrued during the financial year shall be adjusted in the energy bill of the consumer during the first quarter of the ensuing financial year. Further, as per the Sub-regulation (3) of the Regulation 72, if the adjustment of the interest is delayed, the interest at twice the bank rate shall be payable during the delayed period. KSEBL requested to delete the Sub-regulation (3) of the Regulation 72 or to amend the Sub-regulation (3) with a lesser rate. The Commission noted the request of KSEBL.

As per the provisions of the Electricity Act, it is mandatory for the distribution licensee to provide interest on Security Deposit maintained by the consumer with the licensee and as per the Regulation 47, the interest on security deposit accrued in financial year shall be adjusted on the energy bill of the consumer on the 1st quarter of the financial year. If there is laxity from the part of the distribution licensee, additional interest has to be provided for the delayed period. Considering the request of the KSEB Ltd, the Commission has provisionally approved to reduce the interest rate of the delayed period from “twice the bank rate” to “1.5 times the bank rate”.

(ix) **Amendment to 1st proviso to Regulation 81 of the Supply Code**

The Regulation 81 of the Supply Code deals with the sanction of load and issuance of demand note as per the table under the Regulation 81. The time line specified for the issue of demand note is 7 days from the date of receipt of the application form. However, as per the 1st proviso to Regulation 81 of the Supply Code, the licensee has to inspect the site of the prospective consumer within 5 working days from the date of receipt of application. KSEB Ltd propose that the time limit for inspection of the site may be changed to 7 working days instead of the 5 working days, since the licensee can issue the demand note on the date of the inspection itself as per the time line specified in the Regulation 81 of the Supply Code.

ESCRP recommended the suggestion of the KSEB Ltd.

Opinion of the Commission

The Commission decided to approve the recommendation of ESCRP.

(x) **Amendment to clause (c) Sub-regulation (4) of the Regulation 95 of the Supply Code**

The Regulation 95 of the Supply Code deals with the procedure for shifting electric line or electrical plant of the licensee on the request of the consumer. Further as per the clause (c) of the Sub-regulation (4) of the Regulation 95 of the Supply Code, the applicant has to remit the labour charges only for shifting the electric line or electric plant.

KSEB Ltd challenged the validity of the Regulation 95(4)(c) of the Supply Code before the Honorable High Court in WP 25552 of 2018. Honorable High Court vide the judgment dated 06.02.2019 has expressed its view that along with the labour charge the consumer has to bear the cost of the consumables and materials in connection with the alteration/shifting of electric line/plants. Otherwise it will add burden into the capital expenditure of the KSEB Ltd for the subsequent years thereby causing an increase in tariff, which has to be borne by the entire existing consumers of KSEB Ltd. Thus subsidizing certain consumers lead to a greater burden to all the consumers subsequently.

Opinion of the Commission

Based on the direction of the Honorable High Court, the Commission proposes the following amendments to clause (c) Sub-regulation (4) of the Regulation 95 of the Supply Code.

“(c) the applicant shall remit the labour charges and material charges required for shifting the electric line or electric plant as estimated by the licensee as per the cost data approved by the Commission from time to time as per the Regulation 33 of the Kerala Electricity Supply Code, 2014.”

(xi) **Amendment to Sub-regulation (1) of Regulation 97 of the Supply Code**

The Electricity Ombudsman suggested to substitute Sub-regulation (1) of Regulation 97 of Supply Code with the following,

“(1) If it is found that the consumption of power of a consumer has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suomotu reclassify the consumer under appropriate tariff category.”

The ESCRP recommended the suggestion of the Electricity Ombudsman.

Opinion of the Commission

The Regulation 97 of the Supply Code deals with the “Suo-motu reclassification of consumer category by the licensee”. The Sub-regulation (1) of Regulation 97 is extracted below for ready reference.

“97. Suo-motu reclassification of consumer category by the licensee. -
(1) *If it is found that a consumer has been wrongly classified in a particular category* or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo-motu reclassify the consumer under appropriate category.”

As extracted above, as per the existing provisions, wrong classification of the consumer by the licensee also included under suo-motu classification. Since the Regulation 152 of the Supply Code separately provides the provisions for rectifying the anomalies attributable to the licensee which are detected at the premises of the consumer, there is no rationale to keep the said provisions under Regulation 97. Further, the Regulation 153 and 154 of the Supply Code provides for the unauthorized use of electricity.

Duly considering all these aspects, the commission has approved the suggestion of the ESCRP

(xii) **Amendment to Sub-regulation (4) of Regulation 97 of the Supply Code**

The Electricity Ombudsman proposed to substitute the Sub-regulation (4) Regulation 97 of the Supply Code with the following,

“(4) Arrear or excess charges shall be determined based on the actual period of re classification or a period of twelve months whichever is lesser”

The ESCRP recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

Sub-regulation (4) of Regulation 97 of the Supply Code deals with the collection of arrears or excess charges on account of suo-motu reclassification of the consumer by the licensee on account of change in tariff consequent to a revision of tariff order or by exceeding the

consumption limit of the tariff categories specified in the tariff order. It is the responsibility of the licensee to reclassify the consumers as soon as the revision of the tariff order effected by the Commission or as when the load of the consumer has exceeded the load limit specified in the Regulation. Further as per the prevailing metering system followed by the licensee, the staff of licensee is visiting the premises of the consumer once in every 2 months in case of bi-monthly metering system and once in every month in case of monthly billing system. Accordingly, the licensee can re-classify the consumers within a maximum time limit of one year from the date of the tariff order and/or from the date the consumption of the consumer exceeds the limits specified in the Supply Code, 2014.

Considering the above, the Commission approves the suggestion of the Electricity Ombudsman to limit the period of arrears to actual period of reclassification or a period of 12 months whichever is shorter.

(xiii) **Amendment to Sub-regulation (5) of Regulation 97 of the Supply Code**

The Electricity Ombudsman suggested to substitute the Sub-regulation (5) Regulation 97 of the Supply Code with the following,

“(5) twelve monthly installments for the payment of the arrear charges determined under sub Regulation(4) above may be allowed on the request of the consumer without interest”

The ESCRP recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

As stated earlier, it is the responsibility of the licensee to reclassify the consumer and levying the electricity charges as per the order issued by the Commission, and the delay in re-classification not on account of the fault of the consumer. Hence, the licensee has to allow reasonable time to the consumer to remit the electricity arrears accumulated without interest, due to the re-classification of the tariff category subsequent to the tariff order issued by the Commission. So it is reasonable that, adequate installment facility has to be provided to the consumers to pay the arrears without interest, in addition to normal electricity charge. Hence the Commission approves the recommendation of the ESCRP.

(xiv) **Amendment to Sub-regulation (2) of Regulation 125 of the Supply Code**

The Electricity Ombudsman proposed to change the words “*two billing cycles*” with “*three billing cycles*” in Sub-regulation (2) Regulation 125 of the Supply Code,

The ESCRP recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

The Regulation 125 of the Supply Code deals with the procedures for billing in the case of the defective or damaged meter. As per the Sub-regulation (2) of Regulation 125, the licensee has to replace the defective or damaged meter within a maximum period of two billing cycles. As per the Section 55 of the Electricity Act, it is the responsibility of the licensee to provide supply to a consumer through a correct meter. Accordingly, the licensee is responsible to have adequate stock of meters to replace the defective/damaged meter installed at the premises of the consumer within the time limit specified in Regulation. Most often there is shortage of meter with the licensee. The licensee has to take due care and caution to have sufficient meter in stock for providing new electricity connection on request as per Section 43 of the Electricity Act and also for replacing the defective and damaged meters. However, considering the present procedural delays in procuring the meters in bulk, the Commission proposes to approve the recommendation of the ESCRP in this regard.

(xv) **Amendment to Sub-regulation (7) of Regulation 130 and Regulation 131 of the Supply Code**

KSEB Ltd propose to change the words “late payment penalty” with “interest on late payment” in Sub-regulation (7) of Regulation 130 of the Supply Code and the title of the Regulation 131 of the Supply Code “payment of bills and penal interest for belated payments” with “payment of bills and interest for belated payments”

Opinion of the Commission

The Commission accepts the proposal since there is no material change on the account of this suggestion.

(xvi) **Amendment to clause (i) of Sub-regulation (2) of Regulation 143 of the Supply Code**

KSEB Ltd proposed to substitute the clause (i) under the 2nd proviso of Sub-regulation (2) of Regulation 143 of the Supply Code with the following,

“i) the demand charge or fixed charge for a period by which the total duration of the agreement falls short of lock in period.”

The ESCRP not recommend the proposal submitted by KSEB LTD.

Opinion of the Commission

The Regulation 143 of the Supply Code deals with the termination of agreement for supply of electricity. It is also specified under Sub-regulation 1 of Regulation 143 that the lock in period of the LT connection is 1 year from the date of agreement and in case of HT and EHT category the lock in period is 2 years from the date of agreement. Sub-regulation 2 of Regulation 143 permit the consumer to terminate the agreement before the expiry of the lock in period however in such case the consumer has to pay demand charges or fixed charges for a period of 6 months or the period by which total duration of agreement fall short of 1 year, whichever is lower.

Now the KSEB Ltd suggested to modify maximum period of 6 months specified therein for levying demand or fixed charges if the agreement is terminated during the lock in period. The lock in period is specified to ensure that, the new consumers shall avail electricity supply at least for the lock in period, so that licensee can recover a part of the infrastructure cost incurred by the licensee during the lock in period.

Normally a consumer opts for termination of agreement due to their own reasons including financial difficulties etc. Since new consumers are added to the licensee every month, the licensee can re-allocate the load surrendered by such consumers to other prospective consumers.

Considering all these reasons the Commission not approve the proposal of KSEB Ltd in this regard.

(xvii) **Amendment to clause (i) of Sub-regulation (2) of Regulation 149 of the Supply Code**

KSEB Ltd proposed to substitute the clause (i) under the 2nd proviso of Sub-regulation (2) of Regulation 149 of the Supply Code with the following,

“(i) entry and inspection by the assessing officer/Inspecting officer /APTS or any other inspection squad of the licensee

Provided, further proceedings under Section 126 of the Act shall be done only by the assessing officer as designated by the Government under the said Section.”

The ESCRP recommend the proposal with modification as follows,

“(i) entry and inspection by the assessing officer /officers of and above the rank of Sub – engineer of the licensee having jurisdiction in the area.

Provided that further proceedings under Section 126 of the Act shall be done only by the assessing officer as designated by the Government under the said section”

Opinion of the Commission

The Commission examined the proposal of KSEB Ltd. The Regulation 149 of the Supply Code deals with power of officer authorized under Section 126 and Section 135 of Electricity Act to enter, inspect and initiate proceedings against theft, unauthorized use and other irregularities.

Sub-section 2 of Section 135 of Electricity Act empowers the State Government to authorize any officer of the licensee or the supplier as the case may be to enter, inspect, break, open and search any place or premises in which he has reason to believe that electricity is used unauthorizedly.

In exercise of its power conferred to the government by sub-section 2 of Section 135 of the Electricity Act the Government vide the SRO notification GOP No 21/2005/PD dated 16.07.2005 authorized the officers of and above the rank of Sub Engineer of Kerala State Electricity Board and officers of and above the rank of Assistant Electrical Inspector of the Electrical Inspectorate to exercise power and perform the function under the said section, within their respective jurisdiction.

However the Government is yet to designate the APTS wing or any other inspection wing of the KSEB Ltd to authorize under sub section 2 of the Section 135 of the Electricity Act.

Considering the above the Commission approves the recommendation of ESCRP in this regard.

(xviii) **Amendment to Sub-regulation (4) of Regulation 152 of the Supply Code**

The Electricity Ombudsman proposed to substitute Sub-regulation (4) Regulation 152 of the Supply Code with the following,

“(4) The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection”;

The ESCRP recommended the proposal of the Electricity Ombudsman.

Opinion of the Commission

Regulation 152 of the Supply Code deals with anomalies attributable to the licensee which are detected at the premises of the Consumer. The Sub-regulation 4 of the Regulation 152 provides for giving installment facility by the licensee for a maximum period of twelve months for the remittance of short collection of electricity charges with interest at the bank rate. The Electricity Ombudsman recommended to provide 12 months installment for the remittance of short collection of electricity charges without interest.

The Commission examined the suggestion of the Electricity Ombudsman. The Regulation 152 of the Supply Code deals with the anomalies attributable to the licensee which are detected at the premises of the consumer such as incorrect application of multiplication factor, incorrect application of tariff by the licensee even if there is no change in the purpose of use of electricity by the consumer.

Since the arrears assessed as per the Regulation 152 of the Supply Code is not due to the fault of the consumer, the licensee has to allow installment facility to the consumers to remit the principal amount without interest.

Hence the Commission also agrees with the suggestion of the Electricity Ombudsman that the licensee has to be given installment facility to the consumer to remit the short collection of arrears without any interest.

(xix) **Amendment to Sub-regulation (2) of Regulation 155 of the Supply Code**

KSEB Ltd suggested to substitute the Sub-regulation (2) Regulation 155 of the Supply Code with the following,

(2) The assessing officer/ Inspecting officer/APTS or any other inspection squad of the licensee may inspect the premises of the consumer or inspect the equipment, gadgets, machine and devices found connected to the system and used or inspect the records maintained by the consumer or by any other person before initiating proceedings by the assessing officer for provisional assessment.

The ESCRP recommended the proposal with modification as below,

“(2) The assessing officer /officers of and above the rank of sub – engineer of the licensee having jurisdiction in the area may inspect the premises of the consumer or inspect the equipments, gadgets, machine and devices found connected to the system and used or inspect the records maintained by the consumer or by any other person before initiating proceedings by the assessing officer for provisional assessment”

Opinion of the Commission

The opinion of the Commission is same as explained in clause (xvi) above. The Commission approves the changes as recommended by the ESCRP.

(xx) **Amendment to Sub-regulation (11) of Regulation 155 of the Supply Code**

KSEB Ltd suggested to substitute the Sub-regulation (11) of Regulation 155 of the Supply Code with the following,

“(11) It shall also be mentioned in the provisional assessment order that, if consumer does not wish to challenge the provisional assessment, he may accept such assessment and pay the assessed amount with the licensee within seven days of service of the provisional

assessment order upon him as per sub-section (4) of Section 126 of the Act.”

The ESCRП recommended the proposal of the KSEB Ltd.

Opinion of the Commission

Regulation 155 of the Supply Code specifies the “Provisional assessment under Section 126 of the Electricity Act, 2003”. Sub-regulation 11 of the Regulation 155 of the Supply Code provides that, if the consumer does not wish to challenge the provisional assessment under section 126 of the Electricity Act, he shall pay the amount within 7 days as per Sub-Section 4 of the Section 126 of the Electricity Act.

In the suggestion proposed by KSEB Ltd, if the consumer does not wish to challenge the provisional assessment amount under Section 126 of the EA-2003, he has to accept the provisional assessment order and deposit the assessed amount to the licensee. Accordingly, KSEB Ltd proposes to substitute the words “he shall pay the amount of provisional assessment” with “He may accept the order of provisional assessment and deposit the assessed amount with the licensee”. Since there is no material change in the content of the Regulation, the Commission approves the recommendation of ESCRП.

(xxi) **Amendment to Sub-regulation (6) of Regulation 157 of the Supply Code**

KSEB Ltd proposes to amend the proviso under Sub-regulation (6) of Regulation 157 of the Supply Code as following,

“Provided that the due date of payment shall be thirty days from the date of such order”

The ESCRП recommended the suggestion of the KSEB Ltd.

Opinion of the Commission

The Section 127 of the Electricity Act provides a time period of thirty days from the date of the final order to the aggrieved consumer to file an appeal against the final order before the Appellate Authority. Considering these provisions the Commission approves the recommendation of the ESCRП in this regard.

(xxii) **Amendment to Sub-regulation (9) of Regulation 157 of the Supply Code**

KSEB Ltd suggested to delete the Sub-regulation (9) of Regulation 157 of the Supply Code which is extracted below,

“(9) Any person served with the order of final assessment may accept such assessment and remit the assessed amount with the licensee within seven days of the service of the assessment order on him.”

The ESCRP recommended to amend the Sub-regulation (9) of Regulation 157 of the Supply Code as following,

*“(9) Any person served with the order of final assessment may accept such assessment and remit the assessed amount with the licensee within **thirty days** of the service of the assessment order on him.”*

Opinion of the Commission

The opinion of the Commission is same as explained in sub para (xxi) above.

(xxiii) **Amendment to Sub-regulation (17) of Regulation 158 of the Supply Code**

KSEB Ltd suggested to substitute the Sub-regulation (17) of Regulation 158 of the Supply Code, with the following,

“(17) In case the Appellate Authority holds that no case of unauthorised use of electricity is established, no further proceedings shall be initiated or continued by the licensee in this regard and the amount deposited by the appellant shall be refunded along with interest at the prevailing Bank Rate.”

The ESCRP not recommend the proposal of KSEB Ltd.

Opinion of the Commission

The existing Sub-regulation (17) of the Regulation 158 of the Supply Code provide that if the Appellate Authority hold that there is no case of unauthorized use of electricity and no further proceedings shall be initiated by the licensee in this regard. In such cases the amount deposited by the appellant shall be refunded by the licensee along with the interest at the rate of sixteen percent per annum compounded by every six months for the period from the date of deposit till the amount is refunded.

The Commission noted that sixteen percent interest is the rate provided under Sub-section (6) of the Section 127 of the Electricity Act

for a defaulting person making payment of the assessed amount under Section 126 of the Electricity Act by the assessing officer.

According to KSEB Ltd, the rate specified in the Sub-Section (6) of the Section 127 cannot be applied to the amount assessed by the assessing officer under Section 126 of the Electricity Act which is holding by the licensee.

The Commission noted the argument of the licensee. Any amount hold by the licensee, which is to be repaid to the consumer, can be treated as its short term fund for meeting its working capital requirements. Hence the licensee has to pay a slightly higher rate than the Bank rate proposed by the licensee.

Hence the Commission provisionally approves to provide interest for such amount at MCLR rate + 200 base points.

(xxiv) **Amendment to Sub-regulation (18) of Regulation 158 of the Supply Code**

KSEB Ltd suggested to substitute the Sub-regulation (18) of Regulation 158 of the Supply Code as following,

“(18) In case the amount payable as determined by the appellate authority is less than the amount already deposited by the consumer at the time of filing the appeal, the excess amount shall be refunded along with interest at the prevailing Bank Rate.”

The ESCRP not recommend the proposal of KSEB Ltd.

Opinion of the Commission

The Sub-regulation (18) of Regulation 158 of the Supply Code provides that the amount payable as determined by the Appellate Authority is less than the amount already deposited by the consumer at the time of filing of appeal, the licensee has to refund the excess amount along with the interest of sixteen percent per annum compounded by every six months for the period from the date of deposit till the amount is refunded.

KSEB Ltd suggested to reduce the interest rate interest rate to prevailing rate.

The Commission noted the argument of the licensee and its views are explained earlier under sub para (xxiii) above.

Accordingly, the Commission provisionally approves to provide interest for such amount at MCLR rate + 200 base points.

3. Based on the above, the draft amendment on Kerala Electricity Supply (Amendment) Code, 2019, is appended herewith. The Commission seeks comments and suggestions from all the stake holders and interested parties on the proposed draft amendment within 30 days from the date of notification.

By the order of the Commission

Secretary