

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No.1/1/KERC-2005/IV

Dated, Thiruvananthapuram, December 14, 2005.

KERALA ELECTRICITY SUPPLY CODE (FIRST AMENDMENT) REGULATIONS, 2005

STATEMENT OF OBJECTS AND REASONS

In exercise of powers conferred under Section 181 of Electricity Act, 2003 (Central Act 36 of 2003), and all other powers enabling it in this behalf, and after previous publication, the Kerala State Electricity Regulatory Commission hereby makes the following regulations to amend the Kerala Electricity Supply Code, 2005, hereinafter referred to as “ the principal regulations”, namely. -

1. Short title and commencement. -(1) These regulations may be called the Kerala Electricity Supply Code (First Amendment) Regulations, 2005.

(2) These regulations shall be deemed to have come into force with effect from the date of publication in the official gazette.

2. Insertion of definitions in Clause 2. Definitions.- The following definitions shall be inserted in Clause 2 Definitions of the principal regulations.

(e1) “assessing officer” means an officer of State Government or Board or Licensee , as the case may be designated as such by the State Government;

(hh) “unauthorized use of electricity “ means the usage of electricity –

- (1) by any artificial means; or
- (2) by a means not authorized by the concerned person or authority or licensee; or
- (3) through a tampered meter; or
- (4) for the purpose other than for which the usage of electricity was authorized.

3. Insertion of Clause 8 (10). -After clause 8(9) of principal regulation the following sub clause shall be inserted as sub clause 8(10).

“8(10) Supply of electricity at a single point. -

(a) When Cooperative group housing societies which own the premises applies for electricity at a single point for residential purposes for making electricity available to the members of society residing in the same premises, the Distribution Licensee shall extend supply at the appropriate tariff and conditions as approved by the Commission. Provided that the provisions of this clause shall not in any way affect the right of a person residing in the housing unit sold or leased by such a Cooperative Group Housing Society to demand supply of electricity directly from the distribution licensee of the area on such terms and conditions as may be specified by the State Commission.

(b) When a person applies for electricity for residential purpose at a single point for making supply available to his employees residing in the same premises, the Distribution licensee shall extend supply at the appropriate tariff and terms and conditions approved by the Commission”.

4. Insertion of Clause 27A. -After Clause 27 of the principal regulations add the following clause.

“27A. Method of assessment of the electricity charges payable in case of unauthorized use of electricity and theft of electricity pending adjudication by the appropriate court.

(1) Unauthorized use of electricity.

(a) Assessment. – If on an inspection of any place or premises or after inspection of equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or any other person benefited by such use.

(b) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(c) The person on whom a notice has been served under subsection (b) shall be entitled to file objections, if any against the provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of electricity charges payable by such person.

(d) Any person served with the order of provisional assessment may accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him. In case the person deposits

the assessed amount, he shall not be subjected to any further liability or any action by any authority whatsoever.

(e) If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, it shall be presumed that such unauthorized use of electricity was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person occupier or possessor of such premises or place.

(f) The assessment under this section shall be made at a rate equal to one and a half times the tariff applicable for the relevant category of services specified in sub clause (e).

(2) Appeal to appellate authority

Any person aggrieved by a final order of assessment under sub clause 1(c) of Clause 27 A, may within 30 days of the said order, prefer an appeal in the form, verified in the manner and accompanied by the fee as specified in Kerala Electricity (Procedure for filing appeal before the Appellate Authority) Regulations, 2005

(3) Theft of electricity.-(a) If any person dishonestly taps , makes or causes to be made any connection with overhead, underground or underwater lines or cables, or service wires or service facilities of a licence or tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other devise or method which interferes with accurate or proper registration , calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted or damages or destroys an electric meter , apparatus equipment or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both. In a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use.

(b) Does not exceed 10 kW, the fine imposed on the first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than 6 times the financial gain on account of such theft of electricity.

(c) Exceeds 10 kW the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extent to five years and with fine not less than six times the financial gain on account of such theft of electricity.

(d) If it is proved that any artificial means or means not authorized by the Board or licensee exist for the abstraction, consumption, or use of electricity by the consumer, it shall be presumed, until the contrary is proved that any abstraction, consumption, or use of electricity has been dishonestly caused by the consumer.

(e) Any officer authorized by the State Government, may -

enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been , is being , or is likely to be used unauthorisedly.

search, seize and remove all such devises, instruments wires and any other facilitator or article which has been, or is likely to be, used for unauthorized use of electricity.

examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under theft of electricity and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(f) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

(g) No inspection, search and seizure shall be carried out in domestic premises between sunset and sunrise except in the presence of an adult male member occupying such premises.

(h) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply as far as may be to searches and seizure under this Act.

(4) Estimation of value of electricity abstracted, used or wasted or diverted

(a) Where it is prima-facie established to the satisfaction of the authorised Engineer of the Licensee that the Consumer or his agent, servant etc., has committed / is committing an offence in terms of section 135 of the Electricity Act 2003, such Engineer of the Licensee shall estimate the value of the electricity thus abstracted, used or wasted or diverted, for a period of six months or for such other period as may be deemed justified in the circumstance of any given case at one and half times the rate of Tariff applicable to such category of installation or at one and half times the normal Tariff applicable to the purpose for which the energy is abstracted, used or consumed or wasted or diverted,

which ever is higher and demand and collect the same by including the same in the next bill or in a separate bill. Such amount shall be deemed to be arrears of electricity charges.

(b) This is in addition to any criminal proceedings that may be instituted under the provisions of Electricity Act 2003. However no theft case shall be booked for breakage of window glass or seal of the energy meter when it is concluded that the consumption pattern for the last 12 months is reasonably uniform unless prima-facie evidence of theft of energy is made out.

(c) Neither failure to launch a prosecution nor the acquittal of the Consumer in any criminal case launched against him for committal of any offence under Electricity Act 2003 or such other provision, on the ground other than that the prosecution case is false, shall bar the proceedings under the above provision.

(d) Where any consumer or his agent or servant, etc., is/was found committing any of the offences mentioned above, the licensee reserves the right to disconnect the installation forthwith and without notice.

(e) Notwithstanding anything contained in CPC 1973, Deputy Chief Engineer of the concerned Circle of KSEB in the case of HT and EHT consumers and the Executive Engineer of the concerned Division in the case of other consumers may accept from any consumer or a person who committed or reasonably suspected of having committed an offence of theft of energy a sum of money by way of compounding for the offence as per Section 152 of the Act.

(f) On the payment of such sum of money, any person or consumer, if in custody in connection with that offence shall be discharged forthwith and no other proceedings shall be instituted or continued against such consumer or person in any criminal court.

(g) The acceptance of the sum of money for compounding of an offence shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure 1973. The compounding of an offence shall be allowed only in respect of the first offence committed by any person or consumer. Any person who is convicted of an offence punishable under the Electricity Act 2003 shall be debarred from getting any supply of energy for a period which may extend to two years but which shall not be less than 3 months. The charges as per Sub clause 4(a) shall be collected in addition to the above compounding charges. However, the supply may be restored at the discretion of the Licensee if the Consumer pays the penal charges demanded (compounding charges Plus charges as per sub clause 4 (a)) and takes such other action as may be directed by the Licensee.

(h) If any Consumer obstructs the Licensee's Engineer from inspecting the premises at any time, to which supply is being given, the Engineer of the Licensee may disconnect the supply forthwith and with out notice and such obstruction shall be a prime-facie proof of prejudicial use of electricity and shall make the Consumer liable to pay the penal charges as specified above.

(i) In case of prejudicial use of power supply, the Licensee should draw mahazar at the time of inspection when such prejudicial use is detected. The mahazar shall be drawn in the presence of the Consumer or his representative along with two other witnesses who shall sign the mahazar report. One copy of such report shall be handed over under acknowledgment of the Consumer or his representative.

5. Amendment to Clause 8(1)(c) substitute the clause 8(1)(c) in the principal regulations with the following :-

“ The cost estimates for LT consumers shall include the cost of service line and terminal arrangements at the premises of the applicant but shall not include the cost of meter, if connected load is below 50 kVA. For loads of 50 kVA and above connection shall be effected only after installation of separate transformer of adequate capacity , the cost of which shall be recovered from the consumer. In such cases the consumer shall provide the space for erecting such transformer.”

6. Clause No 8 (5) stands modified as:

“ Subject to sub-clause 1,2,3 and 4 in case of multistoried buildings having connected load below 50 kVA, Licensee shall provide service connection from the LT line. For loads of 50 kVA and above, connection shall be affected only after installation of separate transformer of adequate capacity by the owner/occupier.”

7. Amendment to Clause 25 (1)(g) Substitute the clause 25(1)(g) in the principal regulations with the following: -

“In the case of non payment of dues on electricity charges after giving not less than fifteen clear days notice in writing to the person.”

