

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

PRESENT: Sri.T.M. Manoharan, Chairman
Sri. K.Vikraman Nair, Member
Sri. S. Venugopal, Member

Petition No. 1775/CT/15, 1904/CT/15 and 1542/CT/15/KSERC

In the matter of clarifications sought for on the applicability of tariffs notified for agriculture.

- Petitioners**
1. Kerala State Electricity Board Limited,
Thiruvananthapuram
 2. The Wayanad Coffee Growers Association,
Kalpetta, Wayanad District
 3. Association of Planters of Kerala,
Thiruvananthapuram

Order dated 04.02.2016

1. In the letter No. TRAC-II/AEE4/ GEN-09/ 15-16/1891 dated 08.06.2015, KSEB Ltd has requested before the Commission to issue a clarification on the tariff applicable to the cultivation of mixed crops. KSEB Ltd has submitted that as per tariff order effective from 16.8.2014, the tariff applicable to agricultural purpose using electricity for pumping, dewatering and lift irrigation for cultivation of food crops such as cereals, pulses, vegetables, and fruits comes under LT VA tariff and supply used for the plantations of cash crops come under LT IV A tariff. KSEB Ltd has further submitted that, as per the information received from field offices, many consumers who had availed electric connection under agriculture tariff earlier, are engaged in mixed crop cultivation including food crops and cash crops. The tariff for above connections were earlier given under agriculture tariff, which was changed at section offices to LT-IV Industrial tariff on the grounds that, 'at premise where electricity is being used for multiple purposes, then highest tariff among them will be charged on the connections till separate connection is availed for each

purpose. But it is not practical to have separate connection for the cultivation of food crops and for the cultivation of cash crops in a mixed crop cultivation area. Board vide its order dated BO (FTD) No. 1360/2015 dated 04-06-2015 has ordered that, the electric connection availed for irrigation purposes for mixed crop activity including plantations crops like nutmeg, coffee, pepper etc along with food crops like coconut farms, vegetables, cereals etc shall be charged under LT V(A) agriculture tariff, if the predominant agriculture activity is the cultivation of food crops including coconut farms, vegetables, cereals etc.

2. In letter dated 28.08.2015, the Wayanad Coffee Growers Association has submitted that, the electricity fixed charge for irrigation power in coffee farms has been substantially increased from Rs 6/kW to Rs 60/kW and the energy charge has also been increased from 150p / unit to 520 p/unit. They also submitted that, water is a critical element in the coffee cultivation and productivity. The coffee production is much dependent on its flowering and the flowering during Jan- March happens only if soil has sufficient moisture. In coffee cultivation, unlike many other crops, water requirement is principally needed during this blossom period, which is only 15-25 days in a year. Hence, 80-90% of the year's power consumption is only during this flowering window of a short 15-25 days in a year, whereas they have to pay hefty charges every month as fixed electricity charges though the electric motors remain largely unutilized. Hence, they requested to revise the fixed tariff rates for coffee cultivation by reverting back to the fixed tariff rates of LT-V. The energy charges have also been increased and requested to reduce it.
3. As per the submission made by the representative of coffee cultivators from Wayanad, they wanted to pump water from the available water sources for giving few blossom showers for inducing proper flowering of coffee plants, followed by few setting showers to ensure proper setting of coffee seeds after fertilization of flowers. They do not require pumping of water for irrigating yielding coffee plants. They require pumping of water only for giving artificial blossom showers and setting showers, that too, if they do not get sufficient

natural rains during the months of January and February. Further due to paucity of water sources in the vicinity, all the plantations in a locality cannot be given such artificial blossom and setting showers. Therefore keeping a permanent connection will result in payment of minimum charges and demand charges every month, while they use electricity for pumping only for few days in one or two months. In this case, the Commission may consider introducing seasonal tariff for the electricity connections for coffee plantations, similar to HT VI seasonal tariff.

4. In petition No. 01542 dated 31.7.20.15, the Association of Planters of Kerala has submitted before the Commission to review / clarify that pumping of water for agricultural purpose such as watering of plants and bushes in plantations is chargeable only under LT V. The association has stated that KSEB Ltd has changed tariff of the Arrappetta Estate to LT IV from LT V in view of the tariff order effective from 16.8.2014. They have submitted that the said consumer and other similar consumers in their association are using water only for agricultural purpose. Under this circumstance they requested the Commission to issue a clarification on the matter
5. A hearing was conducted by the Commission on 30.10.2015 on the above representations submitted by KSEB Ltd, the Wayanad Coffee Growers Association and the Association of Planters of Kerala. The applicants were represented by Sri. B. Pradeep, Deputy Chief Engineer, KSEB Ltd, Sri. Prasanth Rajesh, President, Wayanad Coffee Growers Association, Sri. Ajith B.K, Secretary, Association of planters of Kerala.
6. After carefully examining the requests of the applicants the Commission is of the view that a clarificatory order is required to dispel the ambiguities if any on the applicability of agricultural tariffs notified by the Commission as per its order dated 14.08.2014.
7. As per the prevailing 'Schedule of Tariff and Terms and Conditions for Retail supply of Electricity by KSEB Ltd and all other licensees' applicable from 16-08-2014, the electricity used for agriculture purposes availing supply at LT

voltage level are categorized under LT-V(A) and LT V(B) tariff , and availing supply at HT are categorized under HT-III(A) and HT-III (B).

Details of the purpose of agricultural usage under each category (LT- V(A), LT- V(B), HT-III(A) and HT-III(B) are extracted below.

(1) LT- V (A) AGRICULTURE

Tariff applicable to agricultural purpose using electricity for pumping, dewatering and lift irrigation for cultivation of food crops such as cereals, pulses, vegetables and fruits.

(2) Low Tension – V - Agriculture (B) {LT -V (B)}

Tariff applicable to agricultural purposes such as poultry farms, silk worm breeding units, livestock farms, combination of livestock farms with dairy, Aquaculture, floriculture, tissue culture, sericulture and mushroom culture, fish farms including ornamental fish farms, prawn farms ,other aqua farms, rabbit farms, piggery farms, agricultural and floricultural nurseries, hatcheries, cheenavala consumers without fish farming and egger nurseries.

(3) HIGH TENSION – II - GENERAL (B) {HT –II (B)}

Tariff applicable to all classes of consumers listed in LT-VI (F) category availing supply of electricity at high tension.

(4) HIGH TENSION –III AGRICULTURE (A) –{HT – III (A)}

Tariff applicable to the classes of agricultural consumers listed in LT-V (A) category, availing supply of electricity at high tension.

8. While fixing the agricultural tariff as per the order dated 14.08.2014, the Commission had no intention to deprive the farmers engaged in traditional cultivation practices from the concessional tariff applicable to agriculture. Agriculture is primary sector, which deserves strong support. Therefore in many other states, electricity for agriculture is given unmetered and free. The State Governments pay the electricity charges of agriculture consumption to the distribution licensee by way of subsidy or any other financial subvention. The total consumption of electricity for agriculture in Kerala is only less than 3% and revenue from agriculture tariff is about 1.5%. From the tariff structure specified by the Commission, it is abundantly clear that the Commission intended to retain the concessional tariff to agricultural sector as a whole. At the same time, the Commission wanted to distinguish the electricity used for

irrigation or for dewatering in traditional cultivation practices from the modern agricultural and allied activities such as tissue culture, floriculture, mushroom farming, animal husbandry, livestock development, fish farming, prawn farming, ornamental fish farming, piggery etc. because such allied agricultural activities cater to a different need of the society and do not use electricity for irrigation or dewatering purposes.

9. The agricultural sector in Kerala is facing very serious problems due to paucity of agricultural labourers and prohibitively high wage rates for agriculture labour. Further the large fluctuations in the price of agricultural produce such as coconut, rubber, pepper, cardamom, tea, coffee etc have been causing irreparable damage to the agricultural sector. Vagaries of climate as well as pests and diseases add to the woes of the farmers. The State and Central Governments have been taking many ameliorative steps to support the agricultural sector.
10. Coconut and paddy had been traditionally the most important crops of Kerala. It is also believed that Kerala state has been named after coconut tree which in Malayalam, is called 'kera vrisksha'. This traditional crop is facing server problems due to,-
 - (i) Extensive viral disease of coconut trees
 - (ii) Paucity of labourers engaged in plucking and processing of coconut.
 - (iii) Paucity of labourers engaged in traditional cultivation and reaping of paddy.
11. Inter cropping or mixed cropping among coconut trees with nutmeg, cocoa, clove, pulses, tapioca, plantain, banana, ginger, turmeric, pepper, chilly and various locally grown vegetables depending upon the soil and availability of water for irrigation, has been a traditional practice of cultivation in the State. Coconut and the intercrops as pointed out above, are crops which require irrigation for better yield. In many areas, water is pumped from ponds or wells or tube wells or reservoirs or rivers for cultivating coconut and the intercrops.
12. Similar is the case with areca nut cultivation. Areca nut trees are either grown as pure crop or intercrop among coconut plants. The intercrops as indicated in the case of coconut are raised among areca nut plants also.

13. In the case of cultivation of paddy in the water logged kole areas, dewatering is absolutely necessary. Where ever sufficient irrigation facility is not available for multiple cropping of paddy, rotation of crops by pulses, gingelly etc., is also adopted.
14. Electricity at concessional agricultural tariff was being allowed for lift irrigation or dewatering or pumping of water for the traditional crops like coconut, areca nut, paddy etc with or without intercropping or mixed cropping as indicated above. The Commission has not intended to disturb the above arrangement or to deprive the farmers from the concessional agricultural tariff which was being allowed to them for their traditional cultivations.
15. In the tariff notification there is no expression which authorizes the licensee to determine the crop pattern based on predominantly cultivated crop. The expression predominantly cultivated crop is liable to be misinterpreted, if number of plants is used as criterion for determining the predominant crop. In a coconut plantation, the standard number of trees per acre may be 80 to 100, if the coconut trees are planted in such a way that their leaves do not overlap. The number of inter crop plants may be much higher, except in the case of nutmeg inter-planted in coconut gardens. Therefore the cultivation of traditional crops like coconut, areca nut, paddy etc. should be given electricity for irrigation or for dewatering purpose at LT V A Agriculture Tariff or at HT III A Agriculture Tariff, depending upon the voltage level at which supply of electricity is availed, whether or not the cultivations of such crops are as mono culture or with inter crops as mentioned above.
16. Now the expression 'plantations of cash crops' as appearing under the tariff categories of LT IV A has to be appropriately understood. For resolving the issues relating to the use of electricity for agriculture purpose, the Commission has carefully examined the relevant facts and statutory provisions. The word plantation, as per dictionary, means a large agricultural property dedicated to planting a few crops on a large scale. In the context of our State, the plantation of cash crops means an estate in which crops such as tea, coffee, cardamom, cinnamom and rubber are grown on large scale. As per the clause (44) of the Section 2 of the Kerala Land Reforms Act, 1963, the plantations are defined as follows,-

(44) "plantation" means any land used by a person principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamom (hereafter plantation) and includes:-

(a) Land used by the said person for any purpose ancillary to the cultivation of plantation crops or for the preparation of the same for the market;

(b) Omitted

(c) Agricultural land interspersed within the boundaries of the area cultivated by the said person with plantation crops, not exceeding such extent as may be determined by the Land Board as necessary for the protection and efficient management of such cultivation.

It has been clarified in the explanation under the said definition that lands used for construction of office buildings, godowns, factories, quarters for work men, hospitals, schools and play grounds shall be deemed to be lands used for the purpose of the sub clause (a) above. The plantations of such cash crops do not come within the scope of land ceiling as per clause (e) of Section 81 of the Kerala Land Reforms Act, 1963. The word garden has been defined in the Kerala Land Reforms Act, 1963, as a land used principally for growing coconut trees, areca nut trees or pepper vines or any two or more of the same. It should also be noted that gardens as defined in the Kerala Land Reforms Act are not the categories exempted from land ceiling.

17. The Commission has also examined the provisions of Plantations Labour Act, 1951. The said Act applies to the following plantations,-

(a) To any land used or intended to be used for growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more and in which fifteen or more persons are employed or were employed on any day of the preceding twelve months;

(b) To any land used or intended to be used for growing any other plant, which admeasures five hectares or more and in which fifteen or more persons are employed or were employed on any day of the preceding twelve month, if after obtaining the approval of the Central Government, the State Government by notification in the official gazette, so directs.

In the said Act the word plantation has been defined as follows,-

Plantation means any plantation to which this Act, whether wholly or in part applies and includes offices, hospitals, dispensaries, schools, and any other premises used for any purpose connected with such plantation, but does not include any factory on the premises to which the provisions of the Factories Act, 1948 (63 of 1948), apply.

As per the provisions of Plantations Labour Act, 1951 the plantations have to be registered with the Inspector or Chief Inspector of Plantations appointed under the said Act. The employer namely, the Management of the plantations, has to provide for drinking water, latrines and urinals, medical facilities, canteens, crèches, recreation facilities, educational facilities and housing facilities for the labourers.

18. From the beginning plantations are being categorized under HT-I(A) Industrial tariff and so far, no dispute or problem relating to the said tariff categorization of plantations has been brought to the notice of the Commission. Till last tariff revision, there was no specific mention about the tariff applicable to the plantations availing supply at LT level. During the last tariff revision applicable from 16.08.2014 onwards, the 'plantation of cash crops' availing supply at LT level is included under LT-IV(A) Industrial category. It has been clearly stated in the tariff order that LT IV A tariff is applicable for the general purpose industrial loads which include the groups of industrial units mentioned thereunder. In the case of HT I A Industry tariff it has been stated that it is applicable to the industrial load of all classes of consumers listed in LT IV A category availing supply of electricity at high tension. In the case of cash crops like rubber, tea, coffee and cardamom, there is no practice of giving irrigation as a part of regular cultivation activity. It can also be seen that the plantation activities will include agricultural operations, processing of agricultural produce and providing statutory labour amenities such as drinking water, latrines and urinals, medical facilities, canteens, crèches, recreation facilities, educational facilities and housing facilities for the labourers. The tariff under LT IV A Industry and HT I A Industry are the common tariff of electricity for the use of the various activities related to plantation of cash

crops such as rubber, tea, coffee, cardamom and cinnamom, as explained above.

19. In the case of coffee plantation, there is a practice of giving artificial blossom showers and setting showers to improve the yield of coffee, when natural showers are not available during the months of January and February. This is purely a seasonal agricultural operation where pumping of water is required and it is possible only in the coffee plantations where water source is available. The coffee planters can be given agricultural connection for the above purpose, if applied for by them.
20. In view of the above facts and circumstances the following clarifications are given,-
 - (i) Supply of electricity at LT V (A) Agriculture tariff and HT III (A) Agriculture tariff shall be given to pumping of water for irrigation or dewatering purposes for the cultivation of crops such as coconut, paddy, areca nut, cereals, pulses, tubers, vegetables, fruits irrespective of whether such crops are grown as monoculture or mixed plantations.
 - (ii) Coffee cultivators who require electricity for pumping water for providing artificial blossom and setting showers for coffee plants may be given supply of electricity at LT V (A) Agriculture tariff since it is an agricultural operation.

K. Vikraman Nair
Member

S. Venugopal
Member

T.M.Manoharan
Chairman

Approved for issue,

Santhosh Kumar.K.B
Secretary