

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

**Present : Adv. A.J Wilson, Member
Shri B Pradeep, Member**

Petition: OP No. 21/2023

In the matter of : Petition seeking permission for a dedicated feeder from the upcoming 2.7 MW solar power plant at Cheeratamala (Malappuram) to the consumption point at Moulana Hospital, Ooty Road Perintalmanna subject to KSERC (Renewable Energy & Net Metering) Regulations, 2020/2022.

Petitioner : M/s Moulana Hospital, Perintalmanna

Petitioner represented by : Shri Edison P.J, Electro Controls
Shri. Fijo Jose, Electro Controls
Shri Abul Rasheed, Moulana Hospital
Shri Afsal, Moulana Hospital

Respondent : Kerala State Electricity Board Ltd (KSEB Ltd)

Respondent represented by : Sri. Rajesh, AEE
Shri Shine Raj, AE, TRAC
Smt Biji Christudas, AE, TRAC

First hearing on : 24.05.2023, 02:30 PM
Second hearing on : 20.06.2023, 11:00 AM

Venue : Court Hall of the Commission

Order dated 14.08.2023

1. The M/s Moulana Hospital (hereinafter referred as petitioner) filed a petition dated 25.03.2023 before the Commission with the following prayers :

“1. Permission should be granted to evacuate power from the 2.7 MW solar plant at Cheeratamala to the Petitioners Hospital premise at Perintalmanna using our dedicated feeder/ line.

2.The petitioner should be treated as prosumer who has installed a solar plant of capacity more than 1 MW for his own use at his own premise.

3.The licensee should be directed to give connectivity subject to Para 26(1-7) of Kerala State Electricity Regulatory Commission (Renewable Energy & Net Metering Regulations), 2020.

4.Any Other direction which the Honourary Commission feels necessary.”

2. The summary of the petition filed by the petitioner is given below.

- (1) The Petitioner M/s Moulana Hospital is an HT consumer of KSEB Ltd at Perintalmanna Malappuram District. The connected load of the petitioner is 906 kW and the Contract Demand is 750 kVA. The average monthly electricity bill of the petitioner is about 27 lakhs.
- (2) In order to reduce the power purchase bill, the petitioner installed a 2.7 MW ground mounted Solar Plant at their own land at Cheeratamala near Perintalmanna. The approximate distance between the hospital premise and the solar plant location is about 7.5 km.
- (3) The Petitioner submitted that as per the KSERC (Renewable Energy & Net Metering) Regulations, 2020 permits them to avail Open Access for evacuating power from the Solar Plant to the Petitioners Hospital premises at Perintalmanna.
- (4) KSEB Ltd vide the letter dated 11.01.2022 has granted permission to connect the 2.70 MW Solar Plant to the KSEB Ltd Substation at Malaparambu. The approximate distance between the location of the solar plant to the nearest KSEB Ltd substation at Malaparambu is about 9.5 km. For the evacuation of power, a dedicated line has to be constructed by the petitioner from the Solar Plant at Cheeratamala to the Malaparambu at the petitioners cost.
- (5) The petitioner further submitted that, since the petitioner premises to the solar plant is only 7.5 km, they could save the cost of construction of 2 km, if the Solar Plant is directly connected to the premises of the petitioner through a dedicated line. However, KSEB Ltd informed that it is not possible to construct a dedicated feeder from the solar plant to the premise of the consumer, and instructed that the power from the Solar Plant must be evacuated through the KSEBL substation at Malaparambu.
- (6) The petitioner, along with the Petition also submitted the route map of the proposed dedicated line from solar plant to hospital premise at Perintalmanna. It is also submitted that by using a dedicated line, the transmission and distribution loss associated with evacuating power from the solar plant to the consumer premises can be mitigated.
- (7) The Petitioner also submitted the brief description of the proposed dedicated line. The details are given below.
 - (i) Only covered conductor / ABC Conductor and UG Cable at certain key points of required cross section will be used subject to the State Grid Code.

- (ii) The dedicated line will not crisscross the distribution lines of more than one sub-station of the Licensee (Respondents).
 - (iii) The electric poles of the Licensee (Respondents) will be used for mechanical support only.
 - (iv) An isolating facility will be provided at the Petitioner premise with access to the Respondent's personnel to switch off power to the solar plant in the case of an emergency.
 - (v) The Petitioner being a HT Consumer of KSEB Ltd with dedicated feeder at Perintalmanna sub-station, the Respondents have full control over the upcoming dedicated line.
- (8) The Petitioner also submitted that they are not proposing to use the transmission and distribution network of KSEB Ltd and also the entire cost of proposed dedicated feeder will be borne by the petitioner. Hence the petitioner requested to treat them as a prosumer and the premise of the Solar Plant at Cheeratamala be treated as same premise. The Petitioner also requested to grant permission for banking of power as per the Regulation 26 of KSERC (Renewable Energy & Net Metering) Regulations, 2020
3. KSEB Ltd vide the counter affidavit dated 22.05.2023 submitted the following;

- (1) The petitioner is establishing solar plant of 2.7MW capacity, at their own land located at 7.5 km from the hospital premises. The petitioner proposes to wheel the electricity generated from the plant to the hospital premises by drawing a dedicated line. The petitioner also requested to treat them as prosumer who had installed a plant for his own use.
- (2) The KSERC (Renewable Energy and Net Metering) Regulations, 2020 (hereinafter referred as RE Regulations,2020) clearly defines the prosumer and premises of prosumer.

The solar plant of the petitioner is located at a different land from where the petitioner had taken the electric connection and hence the separate land where solar plant is located cannot be considered under the definition of premise of consumers/prosumers. Accordingly, the petitioner could not be considered as a prosumer in compliance of the RE Regulation 2020. The petitioner can only be categorized as a captive consumer/ Independent renewable power generator.

- (3) The petitioner have a connected load of 906 kW and contract demand of 750 kVA, which is connected to the network of KSEB Ltd through dedicated feeder. The CUF of the solar plant is 21% and the annual generation will be around 5 MU. However, at present annual consumption of the petitioner is 3.72 MU only and out of it the consumption during Zone 1 is 2.19 MU only. The consumption of the petitioner is much less than generation from the installed solar plant and it will necessitate to inject the surplus energy to KSEB Ltd at the APPC rate. Hence the argument of petitioner that the no sale of electricity is not valid.

KSEB Ltd further submitted that permitting the petitioner to lay his own distribution network will cause safety hazards as KSEBL does not have any control on such network. Hence, KSEB Ltd had proposed for connecting the solar plant with the nearest substation of KSEB Ltd.

- (4) KSEB Ltd submitted that if a dedicated line is drawn directly from the solar plant to the Moulana Hospital, then the petitioner would have the option of two sources for drawing power, one from KSEB Ltd and other from the solar plant. The supply should not be extended to the single premises through two separate feeders with separate sources as there is always danger with two feeder supplies at single premises if there is no sufficient mechanism to segregate the load. The petitioner has not mentioned any sanction from the Electrical Inspectorate nor the details of connection arrangement provided in the consumer premises for catering both the sources in the petition.
- (5) KSEB Ltd further submitted that petitioner relaying to the need of dedicated feeder is for evading from the Open access charges. However, the petitioner as part of drawing the dedicated line, propose to use the existing electric poles of the licensee for mechanical support of the dedicated line.

Further, drawing a dedicated line of the petitioner through the electric poles of the licensee have safety concerns and also will have an effect on the future expansion work of the licensee.

The Section 9 of the EA-2003 allows the captive consumer to construct, maintain or operate a captive generating plant and dedicated transmission line. Further, the 2nd proviso of the above Section states that no license shall be required for the supply of electricity generated from a captive generating plant to any consumer subject to the regulations made under sub-Section (2) of section 42 of the EA-2003. However the sub Section 2 of section 42 refers to the matter of providing open access to the consumers. Hence, the evacuation of captive generating plant of a consumer to its premises is meant to be done through the network of the licensee.

4. The first hearing on the petition was conducted on 24.05.2023. Shri Edison P.J, Electro Controls appeared on behalf of the Petitioner. Sri. Rajesh, AEE, represented the Respondent KSEB Ltd. The deliberations during the hearing are summarized below.

- (1) During the hearing the petitioner submitted the following;
 - (i) The Petitioner, M/s Moulana Hospital is a 400 bed multi-specialty referral hospital situated at Ooty Road in the heart of Perintalmanna Municipality in Malappuram District. The Petitioner is an HT consumer with a connected load 906 kW and Contract Demand of 750 kVA. The yearly electricity consumption of the

petitioner is about 40 Lakhs units. The average monthly electricity bill of the petitioner is about 27 lakhs.

- (ii) In order to meet the part of the electricity requirement, the petitioner is installing the 2.7 MW solar plants at their own land at Cheeratamala, which is about 7.5 km away from the consumption point. KSEB Ltd had granted the permission to connect the Solar plant at the nearest substation at Malaparambu, which is about 9.50 km from the solar plant.
 - (iii) The petitioner further submitted that, since the petitioner premises to the solar plant is only 7.5 km if the solar plant is directly connected to the premises of the petitioner through a dedicated feeder, construction cost of 2 km of dedicated line can be avoided. The dedicated feeder can be drawn through private land, and cross the railway line near Kozhikarakunnu and reach the premises of the petitioner with minimum disturbance of general public. However, KSEB Ltd rejected their proposal and directed the petitioner to connect the solar plant at the Malaparambu substation of KSEB Ltd.
 - (iv) If the solar plant is connected directly to the petitioner's premise, the petitioner can be treated as a prosumer and the petitioner is eligible for banking and accounting of the electricity generated from the plant as per the Regulation 26 of the KSERC (Renewable Energy and Net metering) Regulations, 2020.
 - (v) The petitioner further submitted that since, they had received the counter affidavit from respondent KSEB only on 24.05.2023, they requested to grant sufficient time to file the reply to the Counter affidavit submitted by the KSEB Ltd.
- (2) During the hearing, the Respondent KSEB Ltd submitted the following;
- (i) The petitioner has setup a solar plant of capacity of 2.7 MW on his own land at Cheeratamala near Perintalmanna. KSEBL had given approval for connectivity of the plant to the nearest substation at Malaparambu through 11 kV feeder after duly considering the reliability and safety aspects. However, the petitioner requested to amend the approval and requested to grant approval to evacuate power through a dedicated line from the solar plant to their premise. KSEBL denied the request of the petitioner considering that, a consumer cannot install a dedicated line for evacuating power from a generating station to their premise and also safety reasons.
 - (ii) KSEB Ltd also disputed the claim of the petitioner regarding the distance between the solar plant and the hospital premise. According to KSEB Ltd, the distance between the consumer

premise and the solar plant is about 12 km instead of the claim of 7.5 km by the petitioner.

- (iii) KSEB Ltd further clarified that, an interlinking switching station is situated within **600 m distance** from the solar plant. The interlinking switching station is connected to the 220 kV s/s at Malaparamba at one side, and 33kV substation at Pulamanthode on the other side. The solar plant can be connected at the interlinking switching station, so that there will be considerable savings in the construction of dedicated line (about 9 km). Further, there will be adequate redundancy since the switching station is interlinked to 220kV s/s at Malaparamba and 33kV s/s at Pulamanthode.

On a query to the Commission why KSEB Ltd proposed to connect the solar plant at the substation at Malaparamba, KSEB Ltd clarified that the petitioner specifically requested for a dedicated line to get uninterrupted power.

- (iv) KSEB Ltd further clarified that, the Commission vide the KSERC (Renewable Energy & Net metering) Regulations, 2022, has defined the prosumer and also the premise of a consumer. As per the provisions of the said Regulations, since the Solar Plant installed by the petitioner is at a different location at a distance of 7.5 km from the consumer premise, the petitioner cannot be treated as a prosumer.
 - (v) KSEB Ltd further submitted that drawing a dedicated line of the petitioner through the electric poles of the licensee have safety concerns and the licensee will not permit the same.
 - (vi) KSEB Ltd also submitted that as per the Electricity Act, 2003, the proposal of the petitioner cannot be considered as a dedicated transmission line.
- (3) Based on the deliberations during the hearing, the Commission vide the daily Order dated 25.05.2023 has directed the petitioner M/s Moulana Hospital and the respondent KSEB Ltd to comply the following.
- (1) *The petitioner shall file detailed rejoinder latest by 05.06.2023 with a copy to the respondent KSEB Ltd, on the counter argument filed by KSEB Ltd and also various issues raised by KSEB Ltd during the hearing including the **proposal of the licensee to connect the Solar Plant at the interlinking switching station located within 600 m from the Solar Plant.** The petitioner shall also submit the details of the legal provisions in the EA-2003 and Regulations enabling them to construct a dedicated line to evacuate the power from the 2.7MW Solar plant to their hospital premise.*

(2) *KSEB Ltd shall submit additional comments/details on the rejoinder of the petitioner, latest by 12.06.2023, with a copy to the petitioner.*

5. In compliance of the directions issued by the Commission, the petitioner vide the re-joinder dated 05.06.2023 submitted the following;

- (1) If a dedicated feeder is permitted to draw power from the solar plant to the hospital premises, they can import and export power simultaneously. Moreover, if they are not using the utilities of KSEB Ltd for import and export of power, they can be treated as prosumer.
- (2) The petitioner further submitted that, they have not proposed any third party sale from the proposed 2.7MW Solar Power Plant. However, RE Regulations, 2020, permits that the excess energy from the Solar Power Plant at the end of the settlement period is permitted to settle at the APPC rate by the licensee.
- (3) Petitioner submitted that the licensee can have the full control over the dedicated feeder. The dedicated feeder is connected to the Perintalmanna substation of KSEB Ltd and if required KSEB Ltd can switch off the dedicated feeder. Hence the contention of the respondent of safety hazard and lack of control on the dedicated feeder is frivolous and mislead the Commission.
- (4) The petitioner as a Captive Renewable Energy Generator have the non-discriminatory right to use the transmission, distribution system and associated facilities of the licensee for the purpose of carrying power from their captive generating plant to their drawal point. Although they are not using the transmission/distribution system of the licensee and their open access is limited to the use of the poles of KSEB Ltd for mechanical support of their cable.
- (5) The Section 42(2) of the Electricity Act-2003 stipulates that no surcharge should be levied on the Captive Generator for carrying the electricity to the destination for his own use. The petitioner further submitted that they are also adversely impacted by the import duty of 44 %(40% duty + 10% surcharge) on solar modules which came into effect on 01.04.2022.
- (6) The petitioner further submitted that if the Commission is not considering them as a prosumer, it is requested that the Commission may invoke the Regulation 65,66,67 of the RE Regulations, 2020 and may be pleased to waive the wheeling charges/transmission charges on the energy transmitted as a relief to the Captive Generator to make the project viable. Hence, it will also a great leap by the Commission in the promotion of renewable energy.
- (7) As per the Regulation 26,27 of the RE Regulations,2020 KSEB Ltd is liable to charge wheeling charges, transmission charges and grid support charges for the quantum of energy used during peak and off

peak periods. The petitioner further submitted that they are bound to pay the same and they are not intended to evade from the charges as contented by the respondent KSEB Ltd.

- (8) The petitioner further submitted that the contention of the petitioner that the dedicated line is an unwanted infrastructure is not correct. Since, this project is giving direct and indirect employment to hundreds of people. It is the duty of the Commission to promote investment and restructure Electricity Industry.
- (9) For the drawing of OH cables across the railway line, the petitioner requires the assistance of the respondent KSEB Ltd. Moreover, KSEB Ltd is obligated to assist the petitioner with the application to Indian Railways in accordance with EA-2003, Kerala Solar Energy Policy 2013 and Green Energy Open Access Rules-2022.
- (10) The Section – 9(2) of the EA-2003 allows the Captive consumer to construct, maintain, operate a captive generating plant and dedicated transmission line shall have the right to open access for the purpose of carrying electricity from the captive generating plant to the destination of his use. Hence the Commission is duty bound to permit it.
- (11) The petitioner further submitted that the purpose of the proposed dedicated transmission line is to save transmission/ distribution charges of ~₹1/unit and transmission/distribution loss of ~14% which they would have to pay if the power is evacuated through the network of KSEB Ltd. If the power is transmitted through the proposed dedicated feeder, the power loss will be less than 0.25% and also the petitioner can save more than ~1/unit on transmission/wheeling charges.
- (12) **Hence the petitioner submitted that, if the Commission waives off the transmission/distribution charges and the transmission/distribution losses, the petitioner would be happy to connect the 2.7 MW solar plants to the proposed interlinking facility.**

6. The KSEB Ltd vide the additional submission dated 14.06.2023 submitted the following;

- (1) Hon'ble ATPTEL vide judgment dated 25.03.2014 in Appeal No.48/2013 has observed that two parcels of land owned by a consumer which are not contiguous and are separated by a public road or street have to be treated as two premises. In this case the two premises are separated by public road. Hence, hospital premises of the petitioner and the land at which solar plant installed may be treated as two separate premises. As per the RE Regulations,2020 the petitioner does not belong to the category of prosumer.
- (2) KSEB Ltd submitted that permitting the petitioner to draw dedicated line can cause major safety issues while maintenance in the KSEB Ltd lines. In addition to this the switching off the solar plant to work on distribution

line other than that of the petitioner would lead to litigations due to loss of generation.

- (3) KSEB Ltd further submitted that as per the Open Access Regulations, 2013 an embedded open access consumer can avail power from the distribution licensee or from any other person through open access without ceasing to be a consumer of the licensee. In this case, the petitioner propose to avail power from distribution licensee as well as from his own station. Thus, the petitioner can be treated as a 'Captive Consumer' only and not as an embedded consumer.
- (4) KSEB Ltd further submitted that, as per the Electricity Act, 2003 and the Electricity Rules, 2005, a power project is considered 'captive' if the own consumption of the entities is atleast 51% of the power generated from the captive plant and owns atleast 26% of the equity in the plant. However, the petitioner is yet to produce proof of ownership of the plant.
- (5) Since the capacity of the solar plant is less than 3MW (here 2.7MW), KSEB Ltd has given connectivity to the nearest substation at Malaparamba through 11 kV feeder. The power evacuation **at 11 KV is part of distribution system and not belong to transmission system.** However, the petitioner demanded to amend the approval to evacuate the power generated from the plant directly to the petitioners premise through a dedicated feeder. This is not acceptable to KSEB Ltd due to the following reasons;
 - (i) There is no provision in the EA-2003 to allow the captive generator to draw a 'dedicated distribution line' to evacuate power from a CPP.
 - (ii) The petitioner proposed to use the existing electric poles of the licensee for the mechanical support of the proposed dedicated line. The electric poles are part of the distribution asset of KSEBL, and the licensee had never given any kind of permission to the petitioner to use the electric poles.
- (6) KSEB Ltd further submitted that, as per the prevailing RE Regulations, 2020 and its amendments in the year 2022, the transmission charges, wheeling charges, losses in the transmission and distribution system cannot be waived off for evacuating power from a CPP. It will ultimately burden the ordinary consumers of the State.
- (7) KSEB Ltd further submitted that switching station with interlinking facilities are situated within 600 m distance from the solar plant. The switching station is connected to both the 220 kV s/s at Malaparamba and 33kV s/s at Pulamanthode through separate 11 kV feeders. The solar plant can be connected at the switching station so that there will be considerable savings in the construction of the 9 km long dedicated line.

Hence KSEBL requested that, the evacuation of the power from the solar plant of the petitioner may be allowed through the interlinking facility available at a distance of 600m from the solar plant.

7. The second hearing on the petition was conducted on 20.06.2023. Shri. Fijo Jose, Electro Controls, appeared on behalf of the Petitioner. Shri Shine Raj, AE, represented the Respondent KSEB Ltd. The deliberations during the hearing are summarized below.

- (1) The Petitioner submitted the following during the hearing;
 - (i) The petitioner M/s Moulana Hospital, submitted the brief background and the status of the 2.7MW Solar plant at Cheeratamala near Perinthalmanna. With the introduction of the import duty fixed @ 44% (40% duty and 10% surcharge), w.e.f 01.04.2022, the capital cost of the project has considerably increased than originally estimated. In order to alleviate this situation M/s Moulana Hospital proposed the evacuation plan directly to the hospital, where by they can save the transmission and wheeling charges and the losses associated with transmission and wheeling.
 - (ii) KSEB Ltd rejected the proposal of the petitioner to connect the solar plant with the consumption point of the petitioner through a dedicated feeder. Hence the petitioner filed the instant petition before the Commission.
 - (iii) The petitioner could convince KSEB Ltd that the distance between the Moulana hospital and the solar plant at Cheeratamala is 7.5 km only where as the distance between the solar plant and KSEBL substation at Malamparamba is 9.5 km wherein KSEBL originally granted permission for connectivity.
 - (iv) The petitioner further submitted that, they shall undertake the reconductoring of the existing lines etc.
 - (v) In regard to the query of the Commission the petitioner clarified that they will reconductor the existing line of 3.34 KM (Point A to B), with the covered conductor.
 - (vi) The Section- 9(2) of the EA-2003 allows the captive consumer to construct, maintain, and operate a captive generating plant and dedicated Transmission line for the purpose of carrying electricity from the captive generating plant to the destination, for his own use. In this case destination of use is Moulana hospital. Moreover, the petitioner had installed the solar plant primarily for the own use, therefore the petitioner is a Captive consumer.

- (vii) Petitioner further submitted that that, the total cost of the project is Rs 17.76 crore, out of it Rs 5.5474 crore is own fund and balance is loan from Canara bank.
- (viii) As per the RE Regulation 2020, Open Access is defined as non-discriminatory provision for the use of transmission lines or distribution lines or associated facilities of the licensee. Even though, the petitioner is not using the KSEB Ltd sub-stations or their transmission and distribution facilities, the associated facilities like poles are used and thus, the Open access is restricted to the use of poles of KSEB Ltd for the mechanical support.
- (ix) The petitioner further submitted that the Order of Hon'ble APTEL submitted by the Respondent is only regarding to the distribution system, in this case the petitioner is a captive generator and they have indented to draw a transmission line. Hence, the judgment of the Hon'ble APTEL is not applicable in this case.

As per the Regulation- 65, 66, 67 of the KSERC (Renewable Energy and Net Metering) Regulations, 2020, the Commission have the authority to waive the wheeling charges/ transmission charges on the energy transported to make this project financially viable.

- (x) The concern raised by KSEBL regarding the safety aspect is not correct, since the KSEB Ltd will have the full control over the dedicated feeder, if required they can switch off the feeder. The contention of the respondent that the petitioner is having two sources of drawing power is for misleading the Commission. Since the petitioner with a captive generating plant is connected to grid just like any other grid tied PV system. The respondent KSEB Ltd is obligated to assist the petitioner for the crossing of dedicated feeder across the railway line.
 - (xi) The petitioner further submitted that they have no objection on providing them connectivity at the interlinking switching station located at 600m from the Solar plant, provided that the Commission has to allow waiver of transmission/ distribution charges and the transmission / distribution loss as per the RE Regulations,2020 and its amendments from time to time
- (2) During the hearing, the respondent KSEB Ltd submitted the following;
- (i) As per the prevailing Regulations, the petitioner cannot be considered as a prosumer. The proposed route length of KSEB Ltd is lesser than proposal of the petitioner. The evacuation of power from the solar plant of the petitioner may be allowed either through the substation as proposed by

KSEBL or through interlink which is 600 m away from the solar Power Plant.

- (ii) The petitioner has not raised any objection regarding the technical feasibility of the interlinking facility.
- (iii) Hon'ble Appellate Tribunal for Electricity (APTEL) vide the judgement dated 25th March 2014 in Appeal Petition No.48 of 2013, in an appeal filed by Paschim Gujarat Vij Company Ltd against Order of Gujarat State Commission, has observed that two parcels of land owned by a consumer which are not contiguous and are separated by a public road or street have to be treated as two premises. Hence, KSEB Ltd submitted that, hospital premises and premises having solar plant may be treated as two separate premises and hence the petitioner does not belong to the category of 'Prosumer' as defined in the RE Regulations, 2020.
- (iv) KSEB Ltd further submitted that the power evacuation at 11 kV is part of distribution system and not belong to transmission system. Regulation 9 of the Grid code 2005 stipulates that the voltage at the point of connection with the transmission system may be 400/220/110/66 kV or as agreed to by the STU. Further the GoK vide order G.O.(P) No. 46/2013/PD dated 31st October 2013 and the MoP vide letter dated 01.09.2021, indicates that 11 kV lines are still being a distribution system.

As per the Section- 9 of the EA-2003 there is no provision to allow captive generator to draw a dedicated distribution line. The evacuation of power from the captive generating plant at 11kV may be done through Open Access using the network of the licensee. The Distribution Licensee alone is authorized to operate and maintain a distribution system for supply of electricity. This function cannot be entrusted to the consumers and, if the consumers are permitted to lay down their own electric supply lines across the public roads and properties of other persons, the purpose of the licensing provision to a distribution licensee would become meaningless. Hence, KSEB Ltd submitted that only the distribution licensee is authorized to lay down electric supply line across the public road or street from one premises to other.

- (v) KSEB Ltd further submitted that, the petitioner as part of drawing the dedicated line, propose to use the existing electric poles of the licensee for mechanical support of the dedicated line. The, electric poles are part of distribution asset of KSEB Ltd and it has never granted permission to the petitioner to use the same. If more and more consumers start drawing

cables for their dedicated use, it will increase complexity in the distribution system and cause threat to the safety of the equipment and persons working in the sector.

- (vi) The petitioner further requested for the waiver of transmission and distribution charges as against the prevailing Regulation. The Commission has notified RE regulation, 2020 and its amendments after completing due process including public hearing. The waiver of transmission and distribution charges will have to be borne by the ordinary consumers of the state and is against the prevailing regulation.
 - (vii) KSEB Ltd further submitted that permitting the petitioner to draw a dedicated line, without KSEBL permission, causes major safety issues while doing maintenance in the KSEBL line. Switching off the solar plant to work on a distribution line, other than that of the petitioner would lead to litigations, in future, due to loss of generation.
8. During the hearing, the Commission has directed the KSEB Ltd to clarify, whether they had verified the contention of the petitioner regarding the distance between the solar plant and the Moulana hospital is 7.5km, and the reasonable time to draw the proposed line. The Executive Engineer, KSEBL, Perintalmanna, submitted that they had verified the distance between the solar plant and the Moulana hospital and it is about 7.5km. The Executive Engineer, further submitted that a time span of minimum 2 years is needed for drawing the above proposed line, considering the complex nature, including rail line crossing.

The Commission further directed KSEB Ltd to clarify the time period required by KSEB Ltd to connect the solar plant to the interlinking switching station. In reply KSEB Ltd submitted that, they can provide the connection of solar plant to the interlinking switching station within one day, if other works are completed.

Analysis and Decision of the Commission

9. The Commission having examined in detail the petition filed by M/s Moulana Hospital, counter affidavit of the respondent M/s KSEB Ltd, deliberations of the subject matter during the hearings held on 24.05.2023 and 20.06.2023, the provisions of the Electricity Act, 2003, various Rules and Regulations in force, hereby decides as follows;
10. The petitioner M/s Moulana Hospital, a multi-specialty healthcare facility, is an HT consumer of the distribution licensee KSEB Ltd, having a connected load of 906 kW and a contract demand of 750 kVA. The average annual consumption of the petitioner is about 4 MU. In order to meet the part of the electricity requirement, the petitioner is installing 2.7MW Solar plant at their premises at Cheeratmala, which about 7.5 km away from the hospital premises.

KSEB Ltd has originally granted permission to connect the solar plant at 11kV, at its 220kV substation at Malaparamba. The approximate distance between Cheeratmala and Malaparamba is 9.5 km. The cost of construction of the line between Cheeratmala to Malaparamba, has to be borne by the petitioner.

The petitioner intended to evacuate the power from the solar plant to its premises by constructing a dedicated line between the premises of the Solar plant at Cheeratmala and hospital premises at Perinthalmanna. By doing so, the petitioner has identified the following benefits to them;

- (i) Savings in cost of construction of the dedicated line by 2.00 km.
- (ii) Since the petitioner is directly connecting the solar plant to the hospital premises, the petitioner is not intended to use the transmission and distribution system of KSEB Ltd. Hence the petitioner could save the transmission charges and wheeling charges payable to KSEB Ltd for using its system. There will be savings in distribution losses also.
- (iii) Further, since the plant is connected to the KSEB Ltd system at the hospital premises at Perinthalmanna substation, the petitioner requested to treat them as prosumer and to allow the benefits of the prosumers having solar capacity above 1MW as per the KSERC (Renewable Energy and Net metering) Regulations, 2020 and its amendments.
- (iv) The petitioner also requested the help of the KSEB Ltd for drawing the 11kV dedicated line, and also proposes to use the poles of KSEB Ltd for mechanical support of the dedicated line. The petitioner also request the help of KSEB Ltd to get the permission from the Indian Railways to cross the railway line in the proposed route of the dedicated line.

11. But the incumbent distribution licensee KSEB Ltd vehemently opposed the proposal of the petitioner to have a separate dedicated feeder to draw the power from its solar plant at Cheeratamala to the consumption point at Perinthalmanna and to treat the petitioner as a prosumer, citing the following reasons.

(1) The KSERC (Renewable Energy and Net metering) Regulations, 2020 and its amendments in 2022 (hereinafter referred to as RE Regulations 2020, clearly defines the prosumer and also the premises of a consumer, as extracted below.

(i) Regulation 2 (bc) of the RE Regulations, 2020.

‘Prosumer’ means a captive consumer, having a renewable energy system installed at the same premise of the consumer who generates and consumes the electricity generated from such renewable energy system and who can also inject the surplus power from the renewable energy system into the grid using the same network;”

- (ii) Regulation 2(b) of the RE Regulations, 2020.

“Premises’ includes any land, building, structure or roof top or part or combination thereof; which is included in the details and sketches specified in the application or in the agreement for grant of electric connection or in such other records relating to revision of connected load or contract demand;

- (iii) Further, as per the Judgment of the Hon'ble APTEL dated 25.03.2014 in appeal petition No. 48 of 2013, it is clarified as follows.

“(ii) Two parcels of land owned by a consumer which are not contiguous and are separated by a public road or street have to be treated as two premises.”

Hence KSEB Ltd submitted that, the hospital premises and the premise having solar plant which is located at 7.5 kM away from the hospital premise may be treated as two separate premises and hence the petitioner cannot be treated as a prosumer as defined in the RE Regulations, 2020.

- (2) Regarding the dedicated feeder for evacuating the power from the solar plant to the premises of the consumers, KSEB Ltd objected the proposal citing the following;

- (i) As per the Section 9 of the EA-2003, a person owning a captive generating plant is permitted to construct dedicated transmission lines for evacuating the power from the captive plant. However, there is no provision in the EA-2003 to permit the captive generator to construct dedicated distribution system to evacuate power from a captive plant to its premise.
- (ii) The connected load and contract demand of the petitioner is less than 3MVA and hence the petitioner is availing power at 11kV HT supply. Also, since the capacity of the solar plant is only 2.7MW, the plant is to be connected at 11 kV as per the provisions of the Grid Code, 2005.

Further, as per the State Government notification on re-vesting dated 31st October 2013, notified vide the GO (P) No. 46/2013/PD, 11 kV lines are considered part of the distribution assets.

Ministry of Power, Gol vide the letter dated 01.09.2021 has indicated that 11kV system are under distribution system.

As per the Section 42 of the EA-2003, the distribution licensee alone is authorized to operate and maintain a distribution system for supply of electricity. Hence, KSEB Ltd submitted that, only the

distribution licensee is authorized to lay down electric supply line across the public road or street from one premises to other.

- (3) KSEB Ltd also submitted that, they cannot permit the petitioner to use their existing electric poles to support the dedicated lines of the petitioner.
- (4) Permitting the petitioner to draw a dedicated line for the exclusive use of the petitioner may cause major safety issues while doing the maintenance in the KSEB Line.
- (5) KSEB Ltd further submitted that, there is no provision in the RE Regulation, 2020 to waive the transmission charges, wheeling charges and losses for evacuating the power from the captive solar plant to the consumer premises.

KSEB Ltd also submitted that, the contract demand of the petitioner is 750KVA only as against the solar capacity of 2.7MW. Hence the petitioner requires the support of the KSEB Ltd system during day time. Further the annual consumption of the petitioner is less than the expected annual generation from the plant at the target CUF of 21%.

- (6) As per the provisions of the EA-2003, the petitioner can be treated as captive consumer only and cannot be treated as an embedded open access consumer.

12. However KSEB Ltd submitted during the hearing held on 24.05.2023 and also vide the additional submission dated 14.06.2023 that, a switching station with interlinking facility is situated within 600m distance from the solar plant. The switching station is connected to both the 220 kV substation at Malamparambu and 33 kV substation at Pulamanthodu through separate 11kV feeders.

The solar plant can be connected at the switching station so that there will be considerable savings in the construction of the dedicated line of 7.5kM length. Further there will be adequate redundancy since the switching station is connected to both the 220kV s/s at Malamparambu and 33kV s/s at Pulamanthodu.

13. The Commission has examined the entire issue raised by the petitioner M/s Moulana Hospital, the comments of the respondent KSEB Ltd as discussed in the previous paragraphs. Based on the deliberations as above, the following are the two major issues that has to be answered in detail to arrive a considered decision on the prayers of the petitioner.

- (1) Whether the petitioner having a solar plant at Cheeratamala , which is located at 7.5kM away from the hospital premise, can be treated as a prosumer?
- (2) Whether a dedicated feeder is required to evacuate power from the Solar plant of the petitioner to the hospital premise?

Issue No.1 : Whether the petitioner having a solar plant at Cheeratamala , which is located at 7.5kM away from the hospital premise, can be treated as a prosumer?

14. As discussed earlier, the petitioner is an HT consumer of KSEB Ltd with the contract demand of 750kVA. The petitioner is availing power from the Perinthalmanna substation through a dedicated feeder.

The petitioner is constructing 2.7MW Solar plant at their own land for its captive use, which is located at 7.5 kM away from the hospital premises.

15. At present, the renewable energy and related matters in the State is being governed by the provisions of the KSERC (Renewable Energy and Net Metering) Regulations, 2020 and its amendments in 2022 (herein after referred to as RE Regulations, 2020). The said Regulations, defines the prosumer and premises of a consumer for the various purposes of the RE Regulations, 2020 as extracted below.

- (i) Regulation 2 (bc) of the RE Regulations, 2020.
‘Prosumer’ means a captive consumer, having a renewable energy system installed at the same premise of the consumer who generates and consumes the electricity generated from such renewable energy system and who can also inject the surplus power from the renewable energy system into the grid using the same network;”

As above, in order to qualify as a prosumer, the captive consumer has to be install the RE system in the same consumer premises.

- (ii) Regulation 2(b) of the RE Regulations, 2020.

“‘Premises’ includes any land, building, structure or roof top or part or combination thereof; which is included in the details and sketches specified in the application or in the agreement for grant of electric connection or in such other records relating to revision of connected load or contract demand;

Accordingly, the building or structure or system located at a different location than that provided in the details provided along with the application for grant of electric connection cannot be treated as part of the premises of the consumer.

Here, the solar plant is constructed at the land, located at 7.5 kM away from the hospital premises. Hence even if the petitioner is permitted to draw power from the solar plant through a dedicated feeder to the consumption point at hospital, the petitioner is not qualified as a prosumer as per the provisions of the RE Regulations, 2020.

The petitioner, is installing a solar plant of 2.7MW capacity, which is primarily for meeting their own consumption has to be treated a captive consumer, and the solar plant installed has to be treated as a captive generating plant, as per the provisions of the Electricity Act, 2003 and provisions of the RE Regulations, 2020.

Considering the above, the Commission hereby clarify that, in the present case, petitioner with a solar plant located at premise at 7.5kM away from the hospital premise cannot be treated as a prosumer as per the provisions of the RE Regulations, 2020.

Issue No.2: Whether a dedicated feeder is required to evacuate power from the Solar plant of the petitioner to the hospital premise?

16. In the present case, the petitioner is having a contract demand of 750 kVA, is availing 11 kV supply from KSEB Ltd through a dedicated feeder from Perintalmanna substation.

The capacity of the solar plant being installed by the petitioner is 2.7MW only. Hence as per the Regulation 8 of the Supply Code, 2014 read along with the provisions of the Kerala State Electricity Grid Code, 2005, the solar plant has to be connected to the distribution system through 11 kV. It is also settled position that, the 11 kV system is part of the distribution system and cannot be treated as part of the transmission system owned by the STU.

17. The Regulation 8 of the KSERC (Connectivity and Intra-state Open Access) Regulations 2013 deals with the procedure for grant of connectivity of a generating station to distribution system. The relevant portion of the Regulation is extracted below:

“8. Procedure for grant of connectivity for a generating station to distribution system. -

- (1) On receipt of the application, the distribution licensee shall, in consultation and through co-ordination with State Transmission Utility, process the application and carry out the necessary study as specified in the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and the State Grid Code, as amended from time to time.*
- (2) While granting connectivity, the distribution licensee shall specify the name of the sub-station or pooling station or switchyard or switching station where connectivity is to be granted.*
- (3) The distribution licensee shall indicate the broad design features such as switchyard and interconnection facility up to the point of injection as well as the time frame for completion of the same and the cost of construction/installation of these facilities shall be borne by the generating company.*
- (4) In cases where augmentation of the distribution licensee’s sub-station and other systems are involved, the generating company shall also bear the cost of bay, breaker etc., at the distribution licensee’s point of injection and equipment for inter-connection of real time data to SLDC where ever required.*
- (5) The distribution licensee, may within thirty days from the receipt of an application complete in all respects and after considering all suggestions*

and comments received 11 from other agencies involved in the distribution system and State Load Despatch Centre, shall:

(a) accept the application with such modification or such conditions as may be stipulated by other agencies which are not inconsistent with these regulations;

(b) reject the application for reasons to be recorded in writing, if such application is not in accordance with the provisions of these regulations or grant of connectivity is not technically feasible:

Provided that, before rejecting an application, opportunity of being heard shall be given to the applicant by issuance of a notice and in case the applicant does not avail of the opportunity within the period stipulated in the notice, the application shall be rejected forthwith.

(6) In case a dedicated line in distribution system is required to be constructed or where augmentation of the distribution system is to be carried out for grant of connectivity, distribution licensee shall, within thirty days from the date of receipt of application, inform the applicant about the broad design features, estimated cost and the time frame for completion of the dedicated line or the system augmentation.

(7) The cost of construction of dedicated line or the augmentation of the distribution system and associated facilities shall be borne by the applicant and the requisite steps to be taken in this regard shall be as mentioned in the detailed procedure.”

18. Various provisions of the Kerala Electricity Supply Code, 2014 permits the distribution licensees in the State to provide supply to a consumers through dedicated feeders on their request, subject to the conditions specified therein. The relevant Regulations of the Supply Code, 2014 is extracted below.

(1) The Regulation 2 (31) of the Kerala Electricity Supply Code 2014 (herein after referred to as Supply Code, 2014) defines the dedicated distribution system as follows;

*(31) “**dedicated distribution system**” means such facilities, not including a service line, forming part of the distribution system of the distribution licensee, which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;*

(2) Further the Regulation 13 of the Supply Code provides supply through dedicated feeder at the request of the consumer. The relevant portion of the Regulations is extracted below:

*“**13. Supply through dedicated feeder at the request of the consumer.** - In the cases other than that specified in regulation 12, supply may be given through dedicated feeder at the request of the consumer if he meets the expenditure for construction of the feeder and related works including the necessary modification to the distribution system to be done by the licensee for this purpose, at the rates in the cost data approved by the Commission.”*

- (3) As per the Regulation 24, the service line meter and associated equipments are deemed to be the property of the licensee. The relevant Regulation is extracted below:

“24. The service line, meter and associated equipment deemed to be the property of the licensee. – (1) The whole of service line, meter and other associated equipment shall be deemed to be the property of the licensee and shall remain under his control so long as they are connected to the distribution system of the licensee.

(2) The licensee may use the service line and other apparatus to give supply to other consumers, if the supply to the consumer who has paid for such line and apparatus is not affected adversely:

Provided that the service line and other equipment of a consumer with a dedicated feeder shall not be used to supply power to another consumer.

(3) Even if the supply to the consumer who has paid for the line or equipment is disconnected, for whatsoever reason, the consumer shall permit the licensee, continued access to the service line and other equipment if they are required to give supply to other consumers, until alternate arrangements are made by the licensee:

Provided that no payment shall be due to the consumer for such access or facility.

(4) The licensee shall make all possible efforts to provide alternate arrangement or mutually acceptable arrangement for continuation of the installation at the existing place, as early as possible.”

19. As extracted above, the provisions of the Supply Code, 2014 permits the distribution licensee to provide electricity supply of a consumer through a dedicated feeder at the request of the consumer subject to the condition that the consumer has to bear the entire expenses for construction of the dedicated feeder. Further, though the dedicated feeders is constructed at the cost of the consumer, it shall be deemed to be property of the distribution licensee.
20. In the instant case, the petitioner requested to have a dedicated feeder having a length of 7.5kM for evacuating the power from the solar plant to the consumer premise at Perinthalmanna. As per the provisions of the EA-2003, the consumer cannot draw the dedicated feeder as its own, but the same can be drawn by the licensee on behalf of the consumer, provided that the entire expenses has to be borne by petitioner.

The licensee has pointed out safety issues, practical difficulties and also submitted that it cannot permit the petitioner to use their distribution poles for supporting the dedicated feeder. The line route proposed by the petitioner for the dedicated feeder involves railway crossing also, and it may take time to get the permission from the railways.

Moreover the licensee during the hearing submitted that about 2 years time may be required to complete the construction of the dedicated line.

It is also noted that, the approximate cost of construction of the 7.5kM dedicated 11kV feeder (OH & UG) and associated equipment etc is about Rs 2.65 crore.

21. KSEB Ltd has originally permitted the petitioner to connect the solar plant at its 220kV substation at Malamparampu which is located at 9.5km from the Solar plant. However, during the deliberations of the subject petition, KSEB Ltd has agreed to connect the solar plant of the petitioner at the switching station located at a distance of 600m from the solar plant. Since the switching station is connected to both the 220kV substation at Malamparampu and 33kV substation at Pulamanthodu through separate 11 kV feeders, there will be adequate redundancy at the switching station. KSEB Ltd further submitted that, there will be considerable savings to the petitioner if they accept the proposal.
22. The Commission has examined the proposal of KSEB Ltd to connect the solar plant to the interlinking switching station located at 600m from the solar plant. The Commission has noted that, the approximate cost of construction of the line and associated system for connecting the solar plant to the interlinking switching station can be limited to Rs 10.00 lakhs only. Accordingly, under this proposal, there would be net savings of Rs 2.55 crore against constructing the dedicated feeder proposed by the petitioner.

The annual electricity generation estimated from the solar plant is about 4.97 MU. The annual recurring cost of the transmission assets including loan repayment, depreciation, O&M expenses etc will be about 20% of the capital cost. Accordingly, the approximate annual recurring cost that can be saved by the petitioner if they agreed to connect the plant at the inter linking switching station is about Rs 0.51 crore, and the approximate per unit savings will be Rs 1.03/unit.

23. As above, if the solar plant of the petitioner is connected to the interlinking switching station situated at a distance of 600m from the solar plant, the petitioner could have a net savings in the capital cost of Rs 2.55 crore required for constructing the proposed dedicated line to connect the solar plant to the premise of the consumer. Further, the petitioner could have an approximate per unit savings of about Rs 1.03/unit under this proposal, as discussed in the preceding paragraphs.
24. Considering the entire aspects in detail, the Commission is of the considered view that, a separate dedicated feeder is not required to connect the Solar plant of the petitioner with its consumption point at the hospital premise. KSEB Ltd shall permit the petitioner to connect the solar plant of the petitioner to the interlinking switching station located at 600m from the Solar plant as per the provisions of the KSERC (Renewable Energy and Net metering) Regulations, 2020 and KSERC (Connectivity and Intra-State Open Access) Regulations, 2013.

25. The Commission hereby direct that, KSEB Ltd shall facilitate the petitioner to complete the installation of the Solar plant at the earliest and connect it to the interlinking switching station without any delay and interference.

Order of the Commission

26. The Commission after examining the petition filed by the petitioner M/s Moulana Hospital, the counter affidavit of the respondent M/s KSEB Ltd, deliberations of the matter during the hearings held on 24.05.2022 and 20.06.2023, the provisions of the Electricity Act, 2003, various Rules and Regulations in force, and other facts and circumstances discussed in the preceding paragraphs, hereby orders that;
- (1) The prayer of the petitioner to treat them as prosumer is rejected due to the reasons given under paragraph-15 of this Order.
 - (2) The request of the petitioner to have a 7.5km dedicated feeder for evacuating power from the solar plant to the consumption point at its hospital premise is rejected due to the reasons discussed under paragraphs 20 to 24 of this Order.
 - (3) The Solar plant of the petitioner is permitted to connect at the interlinking switching station situated at a distance of about 600m from the solar plant as per the provisions of the KSERC (Renewable Energy and Net metering) Regulations, 2020 and KSERC (Connectivity and Intra-State Open Access) Regulations, 2013.
 - (4) KSEB Ltd shall facilitate the petitioner to complete the installation of the Solar plant at the earliest and connect it to the interlinking switching station without any delay and interference.

The petition OP No. 21/2023 is disposed of and ordered accordingly.

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Approved for issue

Sd/-

C R Satheesh Chandran
Secretary