

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri T K Jose, Chairman
Shri B Pradeep, Member
Adv. A.J Wilson, Member

OP 35/2023

In the matter of : Scheme for One Time Settlement of Arrears (OTS-2023) petition filed by KSEB Ltd

Petitioner : Kerala State Electricity Board Ltd (KSEB Ltd)

Date of hearing : 22.06.2023, 10.30 AM

Venue : Court hall of the Commission (Hybrid hearing)

Order dated 19.07.2023

1. Kerala State Electricity Board Ltd (hereinafter referred as KSEB Ltd or petitioner) filed a petition on 18.05.2023 before the Commission for approval of the One Time Settlement Scheme (OTS-2023) to be implemented for the period from 15.06.2023 to 31.12.2023. The summary of the petition filed by KSEBL is given below.
 - (1) The Regulation 136(5) of the Supply Code, 2014 permits the distribution licensees to formulate a scheme for One Time Settlement of long pending arrears and implement the scheme with prior approval of the Commission.
 - (2) As per the Order of the Commission dated 18.03.2022 in petition OP No. 70/2021, KSEBL had implemented OTS-2022 scheme for the period from 21.03.2022 to 20.05.2022. 334 applications, having an arrear amount of Rs 9.027 Cr had been settled and the total amount realized is Rs 3.611 crores. The details are below;

Table-1
Arrears collected under OTS-2022

Particulars	Application Settled under OTS	Actual arrear		Settlement made under OTS	
	(Nos)	Principal amount (Rs.Cr)	Interest amount (Rs.Cr)	Principal amount (Rs.Cr)	Interest amount (Rs.Cr)
LT Consumer	327	0.82	1.41	0.75	0.42
HT Consumer	7	1.58	5.22	1.58	0.87
Total	334	2.40	6.62	2.32	1.29
Grant total		9.03		3.61	

- (3) KSEB Ltd submitted that, the previous OTS 2022 scheme failed to evoke the desired result. The total amount settled under OTS 2022 was Rs 3.61 crore only. KSEB Ltd further submitted that, the shorter period of implementation had an effect on the failure of the scheme. The Commission vide the Order dated 18.03.2022 in petition OP No. 70/2021, had given approval for the OTS 2022 from 21.03.2022 to 20.05.2022 only.
- (4) However, after completion of the OTS 2022, several requests has been received from the consumers that they could not avail the scheme within the time frame stipulated and requested to consider their request for settlement. Moreover, in the wake of Covid-19 pandemic, the arrear outstanding had increased and as on 31.03.2023, the total arrears accumulated is Rs 3260.09 crore. The details are given in the Table below.

Table- 2
Abstract of the arrears of electricity charges as on 31.03.2023 (Without surcharge)

Sl. No.	NAME OF DEPARTMENT	Arrear excluding dispute			Arrear under dispute			GRAND TOTAL		
		(Amount in Rs. Cr)			(Amount in Rs. Cr)			(Amount in Rs. Cr)		
		LT	HT	Total (C + D)	LT	HT	Total (F + G)	LT	HT	Total (I + J)
A	B	C	D	E	F	G	H	I	J	K
1	STATE GOVERNMENT DEPARTMENTS	26.72	64.46	91.19	43.74	0.68	44.42	70.46	65.14	135.61
2	STATE PUBLIC SECTOR UNDERTAKINGS	385.66	1242.87	1628.53	0.10	17.45	17.56	385.76	1260.32	1646.09
3	PUBLIC INSTITUTIONS	2.19	31.36	33.55	0.68	24.70	25.37	2.87	56.06	58.92
4	LOCAL BODIES	6.10	0.00	6.10	1.62	0.00	1.62	7.72	0.00	7.72
5	CENTRAL GOVERNMENT DEPARTMENTS	0.44	1.20	1.64	0.49	0.00	0.49	0.93	1.20	2.13
6	CENTRAL PUBLIC SECTOR UNDERTAKINGS	1.53	85.78	87.31	1.72	5.12	6.84	3.25	90.90	94.15
7	DOMESTIC	265.64	0.00	265.64	7.24	0.00	7.24	272.88	0.00	272.88
8	PRIVATE INSTITUTIONS	285.99	437.57	723.56	34.56	204.53	239.09	320.55	642.10	962.65
9	CAPTIVE POWER PLANT	0.00	11.44	11.44	0.00	52.94	52.94	0.00	64.38	64.38
10	INTER STATE	0.00	0.46	0.46	0.00	2.22	2.22	0.00	2.68	2.68
11	LICENSEE	0.00	1.77	1.77	0.00	10.88	10.88	0.00	12.65	12.65
12	OTHERS	0.22	0.00	0.22	0.03	0.00	0.03	0.25	0.00	0.25
	GRAND TOTAL	974.47	1876.92	2851.39	90.17	318.52	408.69	1064.64	2195.44	3260.08

- (5) KSEB Ltd also submitted the age-wise details of the arrears as on 31.03.2023. The details are given below.

Table- 3
Age wise details of the arrears as on 31.03.2023

Sl. No	NAME OF DEPARTMENT	Upto 6 months	6 to 12 months	Between 1 to 2 years	Between 2 to 5 years	Between 5 to 10 years	Between 10 to 15 years	Above 15 years	Grand Total	Arrears having age above 2 years
1	STATE GOVERNMENT DEPARTMENTS	42.91	12.31	13.11	18.00	2.40	22.26	24.61	135.61	67.27
2	STATE PUBLIC SECTOR UNDERTAKINGS	289.16	203.07	386.28	615.55	95.25	13.02	43.76	1646.08	767.58
3	PUBLIC INSTITUTIONS	20.64	8.86	3.78	15.16	6.79	3.44	0.26	58.92	25.65
4	LOCAL BODIES	4.02	0.67	1.11	0.81	0.46	0.39	0.26	7.72	1.92
5	CENTRAL GOVERNMENT DEPARTMENTS	1.56	0.04	0.04	0.02	0.05	0.38	0.03	2.12	0.49
6	CENTRAL PUBLIC SECTOR UNDERTAKINGS	25.69	5.92	14.71	42.88	0.72	1.37	2.86	94.15	47.83
7	DOMESTIC	242.89	3.44	5.59	7.02	5.40	3.58	4.95	272.87	20.94
8	PRIVATE INSTITUTIONS	231.60	54.82	91.79	126.36	137.61	191.55	128.92	962.65	584.45
9	CAPTIVE POWER PLANT	4.13	1.19	2.66	4.02	0.57	7.36	44.44	64.38	56.40
10	INTER STATE	0.43	0.03	0.00	0.00	0.00	0.00	2.22	2.67	2.22
11	LICENSEE	1.76	0.01	0.00	0.00	0.00	10.57	0.32	12.66	10.88
12	OTHERS	0.05	0.02	0.02	0.09	0.03	0.02	0.01	0.25	0.15
	TOTAL	864.84	290.39	519.08	829.92	249.29	253.94	252.63	3260.09	1585.78

- (6) Out of the total arrears of Rs 3260.09 crore, the arrears of Kerala Water Authority (KWA) alone as on 31.03.2023 is Rs 1472.74 crore, with split up details as below.

Table-4
Arrears of KWA as on 31.03.2023

	Amount (Rs.Cr)
LT	385.52
HT	1087.22
Total	1472.74

- (7) KSEB Ltd submitted that, the new proposal for One Time Settlement (OTS-2023) almost in line with the previous OTS scheme approved by the Commission vide the Order dated 18.03.2022 in petition OP No. 70/2021 is proposed for the approval of the Commission. The terms and conditions of the OTS 2023 proposed by KSEB Ltd is given below.

"A. Terms & Conditions

1. Eligibility

Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2023. ie; arrear resulted from demand raised prior 01.03.2021. The actual date in which the amount becomes originally due will be taken for assessing eligibility. The scheme will also be open to those cases where RR action has been initiated and those pending before

courts. However the cases once settled under previous OTS, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme. .

2. Period of the scheme:

The scheme shall be open from 15.06.2023 to 31.12.2023.

3. Time schedule of the scheme

01.06.2023 -	Intimating consumer about the scheme.
15.06.2023 -	Acceptance of application.
15.06.2023 -	Commencement of issue of demand notice
25.12.2023 -	Last date of accepting application form
31.12.2023 -	Last date to issue of demand notice and remittance of first installment by the consumer

4. The Scheme:

- A) *The Consumer will be eligible to get reduced rate in interest as mentioned in para 5 below. The Interest can be remitted in six months time with equal installments. However, the Principal portion of the arrear shall be remitted in lump sum along with first installment of interest.*

5. Reduction in Interests :

- A) *For arrears of age below 5 years old and above 2 years, a reduced flat interest rate of 6% instead of 18% interest will be applicable for the entire arrear, for arrears more than 5 years old and below 15 years old, a reduction to flat 5% interest rate will be applicable for the entire arrears and for arrears more than 15 years old an interest rate of 4% will be applicable for the entire arrear. For arrears of continuous nature, the entire arrear will be split agewise and the applicable rate of interest will be applied. ie; 4% rate for arrears above 15 years, 5% interest on arrears between 5 to 15 years, 6% interest for arrears between 2 to 5 years and the ruling rate of 18% for arrears less than 2 years from the date of OTS. No further interest will be levied for payment of interest portion in installment upto six months.*

6. Full settlement option:

Consumer may also remit the entire principal amount and total reduced interest in one lump sum. In such cases, a rebate of 2% on interest amount (total reduced interest amount) would be granted.

7. Extended provision for above 50 lakh/ closed down units:

The consumers with arrear amount more than 50 lakhs and those closed down units and Government Institutions are given an extension of 3 months time for settling their dues in tune to the relaxation provided in OTS-2023 scheme.

8. Dismantled connections :

The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new

connection will have to be submitted for reconnection of services in dismantled cases.”

9. Industrial units/Plantations with different spells of closure (intermittent period of closure):

The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure.

10. Revenue Recovery action cases:

The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.

11. Arrear under Litigation

Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. If requested by any consumer the concerned billing unit shall assess the amount payable that is principal amount and interest calculated under this scheme and formally communicate it to the consumer who wish to avail the scheme. This will ensure that there is equity between the licensee and the consumer, and the consumer has reliable assurance of settlement by paying the calculated amount subsequent to the withdrawal of the court cases. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS shall not be allowed to settle under OTS 2023. In all such cases the rate of interest shall be at the rate approved under Clause-5 above.

12. Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.”

KSEB Ltd also submitted the Guidelines for settling arrears entangled in court cases and similar issues by the District level committee and submitted that these guidelines are also same as approved by the Commission in OTS 2022.

3. The Commission admitted the petition as OP 35/2023. Hearing on the petition conducted through Hybrid mode at the Court Hall of the Commission on 22.06.2023. The list of participants appeared for the hearing is given as Annexure-1. Summary of the deliberations during the hearing is given below.
 - (1) M.P. Rajan, Dy CE, TRAC and Shri Rajesh, Asst: Executive Engineer, TRAC, on behalf of KSEB Ltd submitted the following;

- (i) The petition for approval of OTS-2023 was filed as per the Regulations 136(5) of the Kerala Supply Code,2014. The proposed OTS-2023 scheme can restrict the accumulation of arrears to a great extent and considerably reduce the bad debts in the book of accounts of KSEB Ltd.
- (ii) The details of the previous OTS collections submitted by KSEB Ltd is given below;

Table-5
Summary of the arrears settled in previous OTS schemes

OTS Period	Particulars	Principal	Interest	Total
2016	LT Consumers	2.05	0.72	2.77
	HT Consumers	2.06	1.75	3.81
	Total	4.11	2.47	6.58
2018	LT Consumers	5.62	1.15	7.13
	HT Consumers	11.06	2.26	13.32
	Total	16.68	3.77	20.45
2019	LT Consumers	3.03	1.09	4.12
	HT Consumers	1.66	0.74	2.4
	Total	4.69	1.83	6.52
2021	LT Consumers	2.51	1.41	3.92
	HT Consumers	5.67	2.76	8.42
	Total	8.17	4.17	12.34
2022	LT Consumers	0.75	0.42	1.16
	HT Consumers	1.58	0.87	2.45
	Total	2.32	1.29	3.61

- (iii) KSEB Ltd submitted that OTS-2022 was implemented from 21.03.2022 to 20.05.2022.

In OTS 2022, 334 applications were settled with the arrear amount of ₹9.027 Crores. The amount collected by the KSEB Ltd is ₹3.611 Crores.

- (iv) KSEB Ltd further submitted that, the total arrears as on 31.03.2023 is ₹3260.09 Crores. The summary of the pending arrears as on 31.03.2023 is given below;

Table-6
Arrears as on 31.03.2023

Sl No	Particulars	Arrears excluding Litigation (Cr)	Arrears under Litigation (Cr)	Total (Cr)
1	STATE GOVERNMENT DEPARTMENTS	91.19	44.42	135.61
2	STATE PUBLIC SECTOR UNDERTAKINGS	1628.53	17.56	1646.08
3	PUBLIC INSTITUTIONS	33.55	25.37	58.92
4	LOCAL BODIES	6.10	1.62	7.72
5	CENTRAL GOVERNMENT DEPARTMENTS	1.64	0.49	2.12
6	CENTRAL PUBLIC SECTOR UNDERTAKINGS	87.31	6.84	94.15
7	DOMESTIC	265.64	7.24	272.87
8	PRIVATE INSTITUTIONS	723.56	239.09	962.65
9	CAPTIVE POWER PLANT	11.44	52.94	64.38
10	INTER STATE	0.46	2.22	2.67
11	LICENSEE	1.77	10.88	12.66
12	OTHERS	0.22	0.03	0.25
	Total	2851.39	408.69	3260.09

- (v) KSEB Ltd further submitted that, considering the difficulties faced for implementing OTS 2022, the licensee had proposed the period of implementation of the scheme from 15.06.2023 to 31.12.2023. Further, the Consumers having arrears for more than two years is eligible for apply for the scheme.
- (vi) KSEB Ltd further submitted that, KSEB Ltd had proposed to retain the terms and conditions approved by the Commission for OTS 2022 in OTS 2023 also. A comparison of the terms and conditions of the approved OTS 2022 and the proposed OTS 2023 is given below.

Table-7
Comparison of the terms and conditions of OTS -2023 with approved OTS 2022

Sl No	Terms Conditions	OTS-2022 approved by the Commission vide the order dated 18.03.2022	OTS-2023, Proposed by KSEB Ltd
1	Eligibility	Consumers with arrears more than 2 years will be eligible. The actual date in which the amount become originally due will be taken for assessing eligibility. <u>The cases once settled under OTS, theft cases booked under Section 135 of the EA-03, demand issued under Section 127(6) of the EA-2003 will not be considered</u>	Consumers with arrears more than 2 years will be eligible. The actual date in which the amount become originally due will be taken for assessing eligibility. <u>The cases once settled under OTS, theft cases booked under Section 135 of the EA-03, demand issued under Section 127(6) of the EA-2003 will not be considered</u>
2	Period of the Scheme	21.03.2022 to 20.05.2022	15.06.2023 to 31.12.2023

3	Time extension for consumers having arrears above 50 lakhs, closed down units and Government departments.	No further extension	KSEBL propose further extension for 3 months for consumers having arrears above 50 lakhs, closed down units and Government departments.
4	Interest rate		
	(a) Arrears with age over 15 years	4%	4%
	(b) Arrears between 5 to 15 years	6%	5%
	(c) Arrears between 2 to 5 years	6.65%, as the avg of the previous six month MCLR of one month tenor notified by SBI	6%
4	Settlement option	Principle amount shall be remitted in lumpsum along with first instalment of interest. Interest rate shall be remitted in six months at equal installments	Principle amount shall be remitted in lumpsum along with first instalment of interest. Interest rate shall be remitted in six months at equal installments
5	Full settlement in one lump sum	2% rebate on the total assessed interest amount at OTS scheme	2% rebate on the total assessed interest amount at OTS scheme
6	Dismantled connection	The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.”	The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases
7	Arrears under litigation	Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS shall not be allowed to settle under OTS 2023. In all such cases the rate of interest shall be at the rate approved under the scheme.	Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS shall not be allowed to settle under OTS 2023. In all such cases the rate of interest shall be at the rate approved under the scheme.
		Electricity charges booked under Section 135 of the Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 is not eligible	Electricity charges booked under Section 135 of the Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 is not eligible

8	Receipt and processing of applications	<p>Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.</p>	<p>Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.</p>
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- (2) Shri. Sam Mathew, HR, Manager, Peoples Diary Development Project Central Society (PDDP), submitted that, it is a charitable institution representing the cattle farmers. The society own 156 primary societies. In addition to the collection of milk from primary societies, the milk is also procured from Swayam Sahaya Kshera Samgams, various cattle farm etc. Out of the total income, 85% of the income generated from the operations of the society is being disbursed to it stake holders.

The society had received an assessment bill of Rs 50,60,322 on 04.03.2010, as arrears during the period from 01.12.2007 to 31.12.2009. The arear bills was raised consequent to the tariff change of the society from LT-IV Industrial tariff to LT-VII (A) commercial tariff. PDDP submitted that, as per the tariff orders, for availing the LT-IV tariff, the connected load of the freezing and chilling of the milk marketing society may be limited to 20% of the connected load. But in the case of PDPP society, chilling is one of the key process in the milk process and manufacturing of dairy products.

M/s PDPP further submitted that the dispute regarding arrears is pending before the Hon'ble High Court of Kerala. Father: Thomas Mangattu, Chairman, PDPP expressed their willingness to avail the proposed OTS scheme for settling the arrears. Chairman, PDPP further submitted that, the OTS 2023 may include a provision for remitting the principal amount in installments.

- (3) Shri Ramachandran, Kundara, submitted that, his firm was operating a steel manufacturing unit in Kundara. As of now, the company is completely shut down and no income is generating from the company. The property is now under the possession of the bank.

Considering the above, Mr. Ramachandran has requested to waive off the interest on arrears and also requested to extent installment facility for remitting the principal amount.

- (4) Shri. Purushothaman, Kerala State Small Scale Industries Association (KSSIA) submitted that the Interest should be waived off completely and

installment facility may be provided for remitting the principal amount. The MD charges /fixed charges will be limited to three months from the date of disconnection.

- (5) Shri. Safeer, Director, M/s Always Fertilizer Industries (P) Ltd submitted that, his firm was an HT consumer of KSEB. However, his firm was under layoff since the year 1996 due to adverse market conditions and acute power shortage. During the working period, they could manage to pay the arrears through installments schemes granted by KSEB Ltd. Though the company was requested for MD waiver in the year 1997, the same was granted in the year 2014 only, and reduced the same to 50kVA for billing purposes. Since there was no OTS during that time, the concessional MD was taken over by normal interest charges.

Mr. Safeer has requested to clarify whether they can avail the OTS 2023 for the payment of arrears, though they already availed MD relief.

He further submitted that, his company has fully paid the electricity charges during the working period. The arrears as of now was the fixed charges accumulated during the lay-off period.

- (6) Shri Prabhakaran.K.V, Office Manager, HT and EHT Association submitted that, the Legal Wing of KSEB is obstructing the OTS and other concessions granted to the consumers. KSEB Ltd should be consumer friendly, so that many court cases can be avoided.
- (7) Shri Binu Paulose, Ernakulam submitted that his father had purchased a lodge in 2013. Subsequently, at the time of change of the name of the lodge, they came to know that, the lodge has electricity arrears since the year 2008. During the Covid-19, his father has died and eventually the lodge had closed down. At present they have an arrear of around 18 lakhs, out of which 3 lakhs is the principal amount and the balance is the interest accrued. They are willing to avail the proposed scheme of OTS-2023 to settle the arrears and also requested to waive off the interest.
- (8) Shri Venu, GTN Textiles, Aluva submitted the following;
- (i) Due to the impact of COVID-19, GTN Textiles Ltd had stopped their operations from 17.06.2022. GTN Textiles Ltd having 110 kV power supply from the year 2007 and the contract demand was 4500 KVA. Subsequently, they had applied for the reduction of the contract demand and KSEB Ltd had reduced the same to 1150KVA on 16.01.2023.
- (ii) GTN Textiles Ltd had submitted they had an existing disputed arrears of 3.47 Crores, under following heads. (1) The demand of Rs 2.90 crores by the KSEBL against GTN Textiles Ltd towards penalty for alleged unauthorized load in the year 1999, (2) Dispute

due to the change in tariff and (3) Dispute regarding interest on the CD amount.

- (iii) Regarding the issue No.1, GTN textiles had filed a petition before the Hon'ble High Court of Kerala and the Hon'ble High Court vide judgment dated 30.3.2012 quashed the demand of Rs 2.9 crores. The Compliance order for the judgment is issued on 15.03.2022, and hence the above issue is no longer subsisting and it is closed.

In the Issue- (2), even after giving EHT supply to them, KSEB was continuing to charge electricity bill at HT tariff and this was set aside by the Electricity Ombudsman. The Ombudsman ordered to refund the difference in HT and EHT Tariff. Since refund was not made fully by the KSEB Ltd, the matter taken up before the Hon'ble High Court by filing WP(C) No 21412 of 2008 and the said issue was decided by the Hon'ble High Court in their favor by directing that the outstanding amount of Rs 45.00 lakh shall be adjusted in future bills. KSEBL had issued the compliance order, and this issue also no longer survives.

In the Issue- (3), according to SOR an excess amount of Rs. 2,21,415/- towards CD interest was paid by KSEB Ltd to GTN textiles by mistake, and the same was paid back by GTN textiles on 17.11.2022 through bank transfer, as per their demand. Thus, this issue also no more survives.

- (iv) GTN textiles further submitted that, another issue (4) is related to payment of Rs. 52,38,095/- by KSEBL to GTN as per the Judgment of the Hon'ble High Court of Kerala dated 02.02.2023 in WP(C) 16793 of 2010 by which the Hon'ble High Court ordered that KSEB Ltd is liable to refund GTN Textiles an amount of Rs. 52,38,095/- which they had deposited under protest when a demand was made by KSEBL for the said amount when EHT supply was given to them. The High Court has declared that they are permitted to adjust the said amount in future bills. Accordingly, they have adjusted an amount Rs. 36,00,000/- in future bills. This was done as per the binding direction of the Hon'ble High Court and there cannot be any objection for KSEB for the same.
- (v) M/s GTN Textiles submitted they had requested KSEB Ltd for the surrender of EHT connection and submitted an application for availing LT connection, which is pending. For availing LT connection, Non Liability Certificate (NLC) from SOR office is necessary. Now SOR informed that the NLC can be issued only after receiving the compliance Order, although the above three disputes are in the level of closing and only the issue No.4 is pertaining and, an amount of Rs 1.44 crore was lying with KSEB Ltd as security deposit.

Under these circumstances, M/s GTN textiles request before the Commission to kindly intervene and request to direct SOR to grant NOC for the purpose of availing LT connection.

4. Based on the deliberations during the hearing, the Commission directed KSEB Ltd to clarify the following through an affidavit;
 - (1) KSEB Limited may explore the possibility of extending the proposed scheme to customers, who could not settle their arrears after participating in the previous OTS scheme.
 - (2) Whether instalment facilities can be extended to principal amount of arrears?
 - (3) The terms and conditions for arrears entangled in court cases may be relooked into.
 - (4) The Commission also clarified that, the demand after disconnection may be limited to six months.

5. In compliance of the directions of the Commission during the hearing held on 22.06.2023, KSEB Ltd vide the additional submission dated 13.07.2023 submitted the revised proposal of the OTS- 2023. Its summary is given below.
 - (i) **Instalment on principal amount**

In certain deserving cases, instalment can be provided on principal amount as per request of the consumer by the concerned Electrical Circle Deputy Chief Engineer and the Full Time Directors of KSEBL. Six equal monthly instalments can be given by the Deputy Chief Engineer of the concerned circle office and for instalments above 6 and upto 12 the approval of the Full Time Directors is needed. However, such monthly installments given on the principal amount will bear an interest rate of 12% per annum from the date of sanctioning the OTS scheme.
 - (ii) **Reduction in MD for Demand based billing consumer during period of closure**

In the case of EHT/HT/LT consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal consumption. Even under such conditions, the monthly billing demand will be 75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL considering the recorded MD of the consumer as an indicator as per the above OTS scheme. However, the criteria for assessing a unit as closure/ sick unit will be that, the present average monthly consumption will be less than 10% of the previous 1 year average monthly consumption during the time when the unit was operative.

The application from LT consumers under the above will be received by the Senior Superintendent of the concerned section office and place it before the Circle Level Committees. The Circle Level Committee shall be constituted by the convener of the Committee comprising of following members;

1. The Deputy Chief Engineer of the concerned Electrical Circle (Convener)
2. The Executive Engineers of Electrical Divisions
3. Assistant Executive Engineers of Electrical Sub Divisions
4. Divisional Accountant/ Senior Superintendent of Electrical Division/Circle
5. Regional Audit Officer
6. Nodal Officer Litigation

The Committee shall examine the issue and if needed will interact with the consumers and propose settlement formula in compliance to the scheme approved by the Hon'ble KSERC and take up the same with the Full Time Directors through the Director (Distribution).

The applications for HT consumers will be received at the office of the SOR. The applications shall be processed by SOR and place before the State Level Committee constituted with the following members;

1. The Chief Engineer (Commercial & Tariff) – (Chairman)
2. The Special Officer (Revenue) - (Convener)
3. Senior Law Officer or his representative
4. Accounts Officer (Arrear Clearance Cell)
5. T.A to the Director (Distribution)

The State Level Committee constituted as above shall carefully examine the issues in such cases, interact with the consumers if needed and shall propose a settlement in compliance to the scheme approved by the Hon'ble KSERC to the Full Time Directors for settlement.

(iii) **Earlier OTS Schemes sanctioned by not yet settled consumers**

As per the pre revised OTS-2023 scheme, the arrears once settled in the previous OTS, even though the settled amount was not remitted, is not eligible for availing OTS 2023.

However, as per the suggestions during the hearing held on 22.06.2023, the earlier sanctioned OTS consumers who had not remitted the settled amount also can avail the new OTS-2023 scheme for settlement.

(iv) **Settlement of Court Cases**

As per the pre revised scheme, the arrears under litigation can be settled under OTS schemes only after the withdrawal of cases in Court. Considering the fact that the consumer without settling the arrears will not be withdrawing the cases, it is suggested that the settlement amount based on the OTS schemes may be given to the consumers with litigation subject to the condition that the benefit of scheme will be applicable only if the court cases is withdrawn within 2 months after

making the initial payment (part of full) as per settlement otherwise the scheme will not be applicable to them even if they had made part or full payment as per the above. Any payment done by the consumer in such cases will be forfeited as amount received on the arrear amount without applying the relaxation as per the OTS scheme.

Analysis and Decision

6. The Commission has examined in detail the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2023' as per the provisions of the Electricity Act, 2003, Kerala Electricity Supply Code, 2014 and other facts and circumstances of the case and has arrived at the following observations and decisions:
7. The Regulation 136 of the Kerala Electricity Supply Code, 2014, permits the distribution licenses to formulate and implement schemes for settlement of long pending arrears, with the prior approval of this Commission. The relevant Regulations is extracted below:

“136. Recovery of arrears and its limitation.-

(1) The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due.

(2) The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice.

(3) No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied.

(4) If the consumer fails to remit the amount of arrears with interest on or before the due date indicated in the bill or in the demand notice, the licensee may disconnect the supply of electricity after giving notice and initiate proceedings for the recovery of the arrears in accordance with the relevant legal provisions.

(5) The licensee may formulate a scheme for one-time settlement of long pending arrears and implement the scheme with prior approval of the Commission:

Provided that such one-time settlement schemes shall be open only for short duration.”

As extracted above, as per the Regulation 136(5) of the Supply Code, 2014, KSEB Ltd as the distribution licensee has to formulate and suggest suitable scheme for settlement of the long pending arrears due from the consumers for short durations.

8. The Commission has examined in detail, the terms and conditions proposed for settling of arrears in OTS 2023. The accumulation of arrears shall affect the financial sustainability of the licensee and also may lead to liquidity problems. The Electricity Act, 2003 provides for timely recovery of the electricity charges from the consumers, however due to various reasons the outstanding arrears are accumulating year by year.

The Commission has also examined the various suggestions of the stakeholders and other interested parties. The Commission is of the considered view that, the terms and conditions for settling of arrears shall be a win-win situation for both the licensee as well as the consumers, however the reduction in interest rate for settling of arrears shall not be construed as an incentive for defaulting the timely payment of electricity charges. With the above general observations, the Commission has examined in detail the terms and conditions proposed by KSEB Ltd for settling the arrears under OTS 2023 and decide the following:

I. Terms and conditions

(1) Clause-1. Eligibility

KSEB Ltd's proposal

*“Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2023. ie; arrear resulted from demand raised prior to 20.07.2021. **The actual date in which the amount becomes originally due will be taken for assessing eligibility.** The scheme will also be open to those cases where RR action has been initiated and those pending before courts. However, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme.”*

Decision of the Commission

As per the approved OTS 2022 and the proposed OTS-2023, the consumers with age of arrears more than two years are eligible for settlement under the OTS scheme. As per the OTS 2023, the cases once settled under previous OTS, but could not settle the arrears in full are also eligible for consideration under the scheme.

The Commission has noted the proposal in detail and decided to approve the same as proposed by KSEB Ltd.

(2) Clause -2. Period of the scheme

Proposal of KSEB Ltd

KSEB Ltd proposed the period of the scheme as follows.

“The scheme shall be open from 20.07.2023 to 30.12.2023”

Decision of the Commission

KSEB Ltd proposed five month and 10 days period from 20.07.2023 to 30.12.2023 for the implementation of OTS 2023. The Commission after duly considering the suggestions of KSEB Ltd and other stakeholders, decided to approve the period of the scheme as proposed by KSEB Ltd.

(3) Clause-3. Time Schedule of the Scheme.

Proposal of KSEB Ltd.

- 20.07.2023 - Intimating consumer about the scheme.
- 01.08.2023 - Acceptance of application.
- 01.08.2023 - Commencement of issue of demand notice
- 26.12.2023 - Last date of accepting application form
- 30.12.2023 - Last date to issue of demand notice and remittance of first installment by the consumer

Decision of the Commission

The Commission has examined the time schedule proposed by KSEB Ltd for the OTS 2023. The Commission hereby direct that, KSEB Ltd shall give wide publicity about the scheme through print, audio and visual medias. With these observations, the Commission hereby approves the time schedule as above for the OTS 2023.

(4) Clause-4. The Scheme

Proposal of KSEB Ltd

KSEB Ltd proposed the scheme as follows.

"The Scheme:

The Consumer will be eligible to get reduced rate in interest as per the scheme. The Interest can be remitted in six months time with equal instalments. However, the Principal portion of the arrear shall be remitted in lump sum along with first instalment of interest."

Decision of the Commission

The Commission has examined the clause in detail. KSEB Ltd vide the additional submission dated 13.07.2023 has clarified that, in certain deserving cases, instalment facility can be extended to principle amount also. Hence KSEB Ltd shall modify the clause as given below.

"The Scheme:

The Consumer will be eligible to get reduced rate in interest as per the scheme. The Interest can be remitted in six months time with equal instalments. The consumer has the option to remit the principal portion of the arrear in lump sum along with first instalment of interest, or avail the instalment facility with interest as per the Clause-7 of the Terms and Conditions of OTS 2023."

(5) Clause-5. Reduced interest rates

Proposal of KSEB Ltd

For arrears of age below 5 years old and above 2 years, a reduced flat interest rate of 6% instead of 18% interest will be applicable for the entire arrear, for arrears more than 5 years old and below 15 years old, a reduction to flat 5% interest rate will be applicable for the entire arrears and for arrears more than 15 years old an interest rate of 4% will be applicable for the entire arrear. For

arrears of continuous nature, the entire arrear will be split age-wise and the applicable rate of interest will be applied. i.e; 4% rate for arrears above 15 years, 5% interest on arrears between 5 to 15 years, 6% interest for arrears between 2 to 5 years and the ruling rate of 18% for arrears less than 2 years from the date of OTS. No further interest will be levied for payment of interest portion in installment upto six months.

Decision of the Commission

The Commission after examining the 'reduction in interest rate proposed by KSEB Ltd decided to approve the interest rate for the OTS 2023 as follows.

- (1) Age of arrears above 15 years- 4% (as proposed by KSEB Ltd).
- (2) Age of arrears between 5 years to 15 years- 5% (as proposed by KSEB Ltd).
- (3) Age of arrears above 2 years and below 5 years- 6% (as proposed by KSEB Ltd).

KSEB Ltd shall assess the interest amount payable by each consumer having arrears with age more than 2 years under OTS 2023, and communicate the savings that are available to each consumer as reduction in interest amount if the OTS 2023 is availed by each and every consumer having arrears over 2 years.

(6) Clause -6, Full settlement option:

Proposal of KSEB Ltd

KSEB Ltd proposed that,

“Consumer may also remit the entire principal amount and total reduced interest in one lump sum. In such cases, a rebate of 2% on interest amount (total reduced interest amount) would be granted.”

Decision of the Commission

The Commission examined the proposal of KSEB Ltd in detail. The Commission hereby clarify that, KSEB Ltd shall not allow any reduction in interest rate from the rate approved under clause (5) above.

However the rebate of 2% on the total interest amount arrived at the interest rate approved under clause (5) may be allowed for full settlement option.

(7) Installment on principal amount

Proposal of KSEB Ltd

In the original petition, KSEB Ltd has not extended installment facility for remitting the principal amount. However, during the hearing held on 22.06.2023, many stake holders has requested to extent installment facility for remitting the principal amount also under OTS 2023. Based on the deliberations during the hearing, KSEB Ltd proposed to give

instalment facilities for remitting the principal amount also as part of OTS 2023. The details are given below.

“7. Instalment on principal amount. In certain deserving cases, installment can be provided on principal amount as per the request made by the consumer by the concerned Electrical Circle Deputy Chief Engineer and the Full Time Directors of KSEBL. Six equal monthly installments can be given by the Deputy Chief Engineer of the concerned circle office and for installments above 6 and upto 12 the approval of the Full Time Directors is needed. However, such monthly installments given on the principal amount will bear an interest rate of 12% per annum from the date of sanctioning the OTS scheme. “

Decision of the Commission

The Commission has examined the proposal of KSEB Ltd to give installment facilities for remitting the principal amount under OTS 2023. KSEB Ltd has proposed to restrict such facilities only to ‘certain deserving cases’. However, the licensee has not specified clearly the criterion for assessing the deserving cases. This type of vagueness in the OTS proposal may create ambiguity on the scheme for settling the arrears.

Hence the Commission proposes that, all the consumers may be given the option to remit the principal in one lumpsum or can avail the installment facility with interest during the installment period.

KSEB Ltd has proposed an interest rate of 12% to the consumers availing installment facilities for remitting the principal amount. The Commission is of the view that, the interest rate proposed by KSEB Ltd is on the higher side. Hence the Commission hereby direct KSEB Ltd to limit the interest rate @base rate, declared by SBI as on 1st of April 2023, as per Regulation 3(12) of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021.

Based on the above, the clause-7 of the Terms and Conditions is modified and approved as given below.

“7. Instalment on principal amount.

The consumers with arrears have the option to remit the principal amount in one lumpsum along with the first instalment of the interest, or can avail upto 12 instalment facility for remitting the principal amount with simple interest at base rate declared by SBI as on 01.04.2023. The interest amount on principal amount during the instalment period, is over and above the interest under OTS-2023. The instalment facility on principal amount shall be given by the officers authorised by the management of KSEB Ltd to sanction the OTS 2023.

(8) Clause-8, Extended provision for above 50 lakh/ closed down units:

Proposal of KSEB Ltd

“The consumers with arrear amount more than Rs 50 lakhs and those closed down units and Government Institutions are given an extension of 3 months time for settling their dues in tune to the relaxation provided in OTS-2023 scheme. “

Decision of the Commission

As approved under clause 2 and 3 of the Terms and conditions of the OTS 2023, the Commission has allowed a period of 5 months and 12 days for implementing the OTS 2023. Hence no further time extension is required at this stage. Accordingly the clause 8 of the terms and conditions proposed by KSEB Ltd is hereby deleted.

(9) Clause 9, Dismantled connections,

Proposed by KSEB Ltd
Dismantled connections :

“The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.”

Decision of the Commission

The Commission has examined the clause in detail and decide to approve the same as proposed by KSEB Ltd.

(10) Industrial units/ plantations with different spells of closure (intermittent period of closure)

Proposals of KSEB Ltd

“Industrial units/Plantations with different spells of closure (intermittent period of closure):

The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure. “

Decision of the Commission

The Commission examined the clause in detail and agrees to the KSEB Ltd proposal in OTS 2023.

(11) Clause-11 Reduction in MD for Demand based billing consumer during period of closure

Proposals of KSEB Ltd

“In the case of EHT/HT/LT consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal

consumption. Even under such conditions, the monthly billing demand will be 75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL considering the recorded MD of the consumer as an indicator as per the above OTS scheme. However, the criteria for assessing a unit as closure/ sick unit will be when the monthly consumption of the unit is less than 10% of the previous 1 year average monthly consumption during the time the unit was operative. The Circle Level Committee and the State Level Committee constituted for the above shall interact with consumers coming under the above and propose settlement formula in compliance to the above criteria to Full Time Directors for approval”

Decision of the Commission

The Commission has examined the proposal in detail. It is noticed that, KSEB Ltd has proposed the guidelines for ‘the reduction in MD for Demand based billing consumer during the period of closure’ as item-5 of ‘B. Guidelines for settling arrears under OTS 2023’. Duly considering the guidelines, the terms conditions-11 above is hereby approved with modifications as below.

“In the case of EHT/HT/LT consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal consumption. Even under such conditions, the monthly billing demand will be 75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL as per the item 5 of ”B. Guidelines for settling arrears under OTS 2023’.

(12) Clause-12 Revenue Recovery action cases

Proposal of KSEB Ltd

“12.Revenue Recovery action cases:

The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.”

Decision of the Commission

The Commission examined the clause in detail and allow to retain the same as proposed by KSEB Ltd in OTS 2023:-

(13) Clause -13, Arrears under litigation : proposed by KSEB Ltd

Proposal of KSEB Ltd

“Arrears under litigation will be settled under OTS subject to the condition that the consumer will withdraw the cases in courts before availing the scheme or within 2

months time after making the initial payment (full or part) as per settlement. If requested by any consumer under litigation to avail the scheme, the concerned billing unit shall assess the amount payable that is principal amount and interest calculated under this scheme and formally communicate it to the consumer who wish to avail the scheme. It should be specified in the communication given to the consumer that the above OTS scheme will become applicable only subject to the condition that the court cases is withdrawn before or within 2 months after making the initial payment (full or part) as per settlement otherwise the scheme will not be applicable to them even if they had made part or full payment as per the above. Any payment done by the consumer in such cases will be forfeited as amount received on the arrear amount without applying the relaxation as per the OTS scheme.”

Decision of the Commission

The Commission examined the clause in detail. The Commission is of the view that, within one month from the date of this Order, KSEB Ltd shall assess the interest and principal amount payable by the consumers having arrears of more than two years of age, held up in court cases and also assess the net savings if the consumers avail the OTS 2023, and communicate the same to each consumers. Once the scheme is accepted by the consumer, the consumer may be permitted to withdraw the case and opt to settle the arrears under OTS-2023. In order to avoid disputes and ambiguity subsequently, it is better to accept the instalment under OTS 2023 after withdrawing the court cases. Hence the Clause-13 may be modify as follows.

“Arrears under litigation can also be settled under OTS-2023. KSEB Ltd shall assess the interest and principal payable under OTS-2023, the net savings if the scheme is availed etc to all consumers having arrears of age more than two years held up in court cases, and communicate the same to each consumers within one month from the date of this Order.

The consumers having arrears of more than two years of age held up in court cases shall withdraw the case before commencement of remitting first instalment under OTS 2023.”

(14) Clause-14. Receipt and processing of the Application for settlement.

Proposal of KSEB Ltd.

“Receipt and processing of Application for settlement :

Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit. Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before the FTD.”

Decision of the Commission

The Commission examined the clause in detail and allow to retain the same as proposed by KSEB Ltd in OTS 2023.

(15) Clause -15. Publicity:

Proposal of KSEB Ltd.

“Publicity.

The Public Relations Officer, KSEBL and Deputy Chief Engineers of Electrical Circles shall give wide publicity about the scheme in local newspapers, cable TV, FM radios etc; periodically till end of the scheme. The Senior Superintendent at Electrical Section Office and Special Officer (Revenue) at Corporate Level will be responsible for informing consumers with arrears about the scheme. Intimation shall be given to all such consumers clearly indicating the savings the consumer would get by opting the scheme. The Accounts Officer (Arrear Clearance Cell), O/o CIA shall intimate the details of the scheme directly to heads of all Government departments, PSUs, Government institutions and local bodies.

Decision of the Commission

Though KSEB Ltd has included the provisions for publicity as part of the terms and conditions of the previous OTS, the same was not reached to the consumers of the State. Hence the KSEB Management shall monitor the publicity of the OTS through print, audio and visual media, its website etc. Further, the notices abstract of the scheme of OTS may be displayed at all offices of the SBU-Distribution.

II. Guidelines for settling arrears as per OTS 2023:

The Commission examined the various clauses in the guidelines. The observations and comments of the Commission on the various clauses in the guidelines is given below.

(16) **“Clause 1. LITIGATIONS PERTAINING TO ASSESSMENTS MADE IN METER FAULTY CASES**

“Proposal of KSEB Ltd

Probable situations and positions: *Back assessments for meter faulty cases are being effected in several cases, pursuant to RAO audit/AG audit. In a majority such cases assessments are issued for several months without any uniformity. In this context it is worth mentioning the fact that the licensee Board is bound to issue such assessments under Regulations 125 of the Kerala Electricity Supply Code, 2014 only. **If the consumer was already issued with monthly/bi-monthly bills for average consumption, then the Board is not empowered to issue revised short assessments after taking into consideration the average consumption after the meter is replaced.** This position has been clarified by the Kerala State Electricity Regulatory Commission vide clarification letter dated 30.05.2017 wherein it is clearly stated that “there is no provision for re-assessment of current charges for the meter faulty period by taking an average of subsequent meter reading, after realizing the electricity charges on the basis of average consumption of the past three billing cycles”. **Moreover, as per Section 55(1) of the Electricity Act, 2003 “ No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority”.***

General guide line for settlement: Back assessments for periods of meter fault, where regular bills were issued on average consumption is unlawful and is liable to be withdrawn. Hence litigations in such issues can be closed by withdrawing such demands.

Decision of the Commission

The Commission examined the clause in detail. At the same time, it is noted that, the licensee has been issuing arrear bills of more than two years, even in the case of faults of the licensee such as wrong multiplication factor, incorrect tariff category assigned to the consumers etc. Most of the field offices, especially the Section offices, APTS squad and offices of the RAOs and CIAs are not aware of the provisions in the Kerala Electricity Supply Code, 2014 and directions issued by this Commission in this regard from time to time. In most cases, the officials of KSEB Ltd is harassing the consumers by issuing huge arrear bills though the fault is with the licensee. The approach of the KSEB Ltd should be changed and it should be always consumer friendly.

Hence, KSEBL management shall take keen interest on these issues and may issue general guidelines on issuing short assessment bills under Regulations 125 of the Supply Code, 2014 and Section 55(1) of the EA-2003.

With the above observations, the Commission hereby approve the same as proposed by KSEB Ltd.

(17) **Clause-2 .DISPUTES PERTAINING TO MINIMUM GUARANTEE Proposal of KSEB Ltd**

Probable situations and positions: The concept of Minimum Guarantee is no longer in existence and there are certain isolated instances of disputes pertaining to the same subject matter which had its genesis based on the previous regulations. Many of such demands are presently tied up in litigations. Most of such installations might have already become self remunerative with a few exceptions.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. The benefit of reduced interest rate for age wise category as per the OTS-2023 scheme can invariably be extended to the consumers in such cases.”

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(18) **Clause (3). DISPUTES REGARDING UNCONNECTED MINIMUM (UCM)**

Probable situations and positions: Unconnected Minimum is the offshoot of the erstwhile regulation and there are a few disputes/ litigations still pending on it. By placing reliance upon whether the infrastructure has become self remunerative bills already issued can be withdrawn, recording genuine and convincing reasons. Whereas, if the infrastructure is being erected for the sole purpose of the party in

dispute and if the same is still remaining unutilised, the party is legally bound to remit the said amount.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. Reduction in interest shall be considered at the interest rates as per the OTS-2023 scheme.

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

(19) **Clause-4. DISPUTES CONNECTED WITH WRONG APPLICATION OF MULTIPLICATION FACTOR**

Proposal of KSEB Ltd

Probable situations and positions: Instances of detection of wrong application of multiplication factor at a later date and its consequential back assessment has led to several legal wrangles. In such cases the licensee is well within the legal frame work to back assess the consumer notwithstanding the time span.

General guide line for settling: Reduction in interest rate based on age wise category as per the OTS-2023 scheme and suitable installments can be considered in genuine cases.

Decision of the Commission

The Commission examined the clause in detail. The Commission is of the view that, if the wrong application of the multiplication factor is due to the fault of the officials of the licensee, interest shall not be levied on the back assessment as per the provisions of the Supply Code. Further, instalment facility shall also be provided for remitting the principal amount. Based on the above, the Commission decided to modify the clause as follows;

Probable situations and positions: Instances of detection of wrong application of multiplication factor at a later date and its consequential back assessment has led to several legal wrangles. In such cases the licensee is well within the legal frame work to back assess the consumer notwithstanding the time span. Interest shall not be levied on the back assessment as per the provisions of the Supply Code, 2014 till the date of issuance of the back assessment bill.

General guide line for settling: Reduction in interest rate based on age wise category as per the OTS-2023 scheme and suitable installments can be considered in genuine cases from the date of assessment. Installment facilities shall be provide for remitting the principal amount also as per the OTS 2023.

(20) **Clause-5. Reduction in MD for Demand based billing consumer during period of closure**

“In the case of EHT/HT/LT Industrial consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal consumption. Even under such conditions, the monthly billing demand will be

75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL considering the recorded MD of the consumer as an indicator as per the above OTS scheme.

The application from LT consumers under the above will be received by the Senior Superintendant of the concerned section office and place it before the Circle Level Committees. The Circle Level Committee shall be constituted by the convener of the Committee comprising of following members;

1. The Deputy Chief Engineer of the concerned Electrical Circle (Convener)
2. The Executive Engineers of Electrical Divisions
3. Assistant Executive Engineers of Electrical Sub Divisions
4. Divisional Accountant/ Senior Superintendent of Electrical Division/Circle
5. Regional Audit Officer
6. Nodal Officer Litigation

The Committee shall examine the issue and if needed will interact with the consumers and propose settlement formula in compliance to the scheme approved by the Hon'ble KSERC and take up the same with the Full Time Directors through the Director (Distribution).

The applications for HT consumers will be received at the office of the SOR. The applications shall be processed by SOR and place before the State Level Committee constituted with the following members;

1. The Chief Engineer (Commercial & Tariff) – (Chairman)
2. The Special Officer (Revenue) - (Convener)
3. Senior Law Officer or his representative
4. Accounts Officer (Arrear Clearance Cell)
5. T.A to the Director (Distribution)

The State Level Committee constituted as above shall carefully examine the issues in such cases, interact with the consumers if needed and shall propose a settlement in compliance to the scheme approved by the Hon'ble KSERC to the Full Time Directors for settlement. “

Decision of the Commission

The Commission examined the clause in detail and decided to approve the same as proposed by KSEB Ltd.

9. Based on the above, the Commission has redrafted and approve the Scheme for notification. The revised 'Terms and Conditions of the OTS 2023 and the Guidelines for settling arrears as per OTS 2023 is enclosed as Appendix to this Order.

Orders of the Commission

10. The Commission after examining the petition filed by KSEB Ltd for the approval of the 'One Time Settlement Scheme 2023' as per the provisions of the Electricity Act, 2003, the provisions in the Kerala Electricity Supply Code, 2014, hereby orders as follows:

- (1) Approve the 'One Time Settlement Scheme 2023 (OTS 2023) as detailed in the preceding paragraph of this Order.
- (2) Approve the 'Terms and Conditions of the OTS 2023 and the Guidelines for settling arrears as per OTS 2023'. A copy of the approved OTS 2023 along with Terms and Conditions and Guidelines for settling arrears as per OTS 2023 is enclosed as Appendix to this order. KSEB Ltd shall ensure that only this approved Scheme is floated, all cases shall strictly settled as per Commission's approval now given, and no deviation whatsoever is made to this approved Terms and Conditions and guidelines.
- (3) Full time Directors of KSEB Ltd shall review the progress of OTS-2023 on a monthly basis and shall file the outcome of the review, including course correction measures, if any, undertaken, before the Commission on the 25th day of every month until closure of the scheme.
- (4) KSEB Ltd shall introduce a target based incentive/appreciation mechanism for each level of administrative hierarchy viz section, sub division, division, circle and region based on achievement of recovery of arrears.
- (5) KSEB Ltd shall, within one month after the closure of the OTS 2023, submit the consumer wise details of the arrears settled under the scheme, with all particulars including the tariff category, principal amount, age of the arrears, amount settled under OTS, interest due, interest settled, instalment facilities availed by the consumers etc.

The petition is disposed of accordingly.

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Sd/-
T K Jose
Chairman

Approved for issue

Sd/-
C R Satheeshchandran
Secretary

Annexure 1

List of participants attended the hearing held on 22.06.2023

1. Shri. Sajeev.G, Chief Engineer(Commercial and Tariff)
2. Shri. M.P.Rajan, Dy CE (Commercial and Tariff)
3. Shri Rajesh, Asst: Executive Engineer, TRAC
4. Shri. Sam Mathew, HR, Manager, Peoples Diary Development Project Central Society (PDDP)
5. Fa. Thomas Mangattu, Chairman, PDPP
6. Shri Ramachandran, Kundara
7. Shri. Purushothaman, Kerala State Small Scale Industries Association (KSSIA)
8. Shri. Safeer, Always Fertiliser Industries Pvt Ltd
9. Shri Prabhakaran.K.V, Office Manager, HT and EHT Association
10. Shri Venu, GTN Textiles
11. Shri Binu Paulose, Ernakulam
12. Shri. James Jacob, PDPP
13. Shri. Radhakrishnan Nair, Sr Supt, O/o SOR, KSEB Ltd
14. Shri. Jayasree Vikraman, Director, VIVIN Luxury Suites
15. Shri. James Sunny, VIVIN Luxury Suites
16. Shri. Ajithkumar.K.N, EE,TRAC,KSEB Ltd
17. Shri. Shine Raj, AE,TRAC,KSEB Ltd
18. Shri. Justin.R,SS,O/o, SOR, KSEB Ltd
19. Shri. Anoop Mathew, Supt, O/o, SOR, KSEB Ltd
20. Smt. Dousamna.P.J, SOR, KSEB Ltd
21. Shri. Sreepalhu.B.K,KSEB Ltd
22. Shri. Binu.D, SS, KSEB Ltd

One Time Settlement Scheme (OTS-2023)

A. Terms & Conditions

1. Eligibility

Consumers with arrears for more than two years will be eligible to apply for One-time-settlement scheme-2023. ie; arrear resulted from demand raised prior 20.07.2021. The actual date in which the amount becomes originally due will be taken for assessing eligibility. The scheme will also be open to those cases where RR action has been initiated and those pending before courts. However, theft cases booked under section 135 of Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003 will not be considered under this scheme.

2. Period of the scheme:

The scheme shall be open from 20.07.2023 to 30.12.2023.

3. Time schedule of the scheme

20.07.2023 - Intimating consumer about the scheme.
 01.08.2023 - Acceptance of application.
 01.08.2023 - Commencement of issue of demand notice
 26.12.2023 - Last date of accepting application form
 30.12.2023 - Last date to issue of demand notice and remittance of first installment by the consumer

4. The Scheme:

The Consumer will be eligible to get reduced rate in interest as per the scheme. The Interest can be remitted in six months time with equal instalments. The consumer has the option to remit the principal portion of the arrear in lump sum along with first instalment of interest, or avail the instalment facility with interest as per the Clause-7 of the Terms and Conditions of OTS 2023.

5. Reduction in Interests :

- (1) Age of arrears above 15 years- 4%
- (2) Age of arrears between 5 years to 15 years- 5%
- (3) Age of arrears above 2 years and below 5 years- 6%

For arrears of continuous nature, the entire arrear will be split agewise and the applicable rate of interest will be applied. ie; 4% rate for arrears above 15 years, 5% interest on arrears between 5 to 15 years, and 6% for arrears between 2 to 5 years.

No further interest will be levied for payment of interest portion in installment upto six months.

6. Full settlement option:

Consumer may also remit the entire principal amount and total reduced interest in one lump sum. In such cases, a rebate of 2% on interest amount (total reduced interest amount) would be granted.

7. **Installment on principal amount**
The consumers with arrears have the option to remit the principal amount in one lumpsum along with the first instalment of the interest, or can avail upto 12 instalment facility for remitting the principal amount with simple interest at base rate declared by SBI as on 01.04.2023. The interest amount on principal amount during the instalment period is over and above the interest under OTS-2023. The instalment facility on principal amount shall be given by the officers authorised by the management of KSEB Ltd.
8. **Extended provision for above 50 lakh/ closed down units:**
Deleted
9. **Dismantled connections :**
The MD charges /fixed charges demanded will be limited to six months after disconnection. No charges will be levied after the date of dismantling or six months after disconnection whichever is earlier. Fresh application for new connection will have to be submitted for reconnection of services in dismantled cases.
10. **Industrial units/Plantations with different spells of closure (intermittent period of closure):**
The MD charges /fixed charges will be limited to six months from the date of disconnection in each spell of closure.
11. **Reduction in MD for Demand based billing consumer during period of closure**
“In the case of EHT/HT/LT consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal consumption. Even under such conditions, the monthly billing demand will be 75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL as per the item 5 of the "B. Guidelines for settling arrears under OTS 2023".
12. **Revenue Recovery action cases:**
The surcharge and the Demand notice charges with respect to the revenue department will have to be remitted by the consumer additionally when RR action is initiated by KSEBL.
13. **Arrears under litigation :**
“Arrears under litigation can also be settled under OTS-2023. KSEB Ltd shall assess the interest and principal payable under OTS-2023, the net savings if the scheme is availed etc to all consumers having arrears of age more than two years held up in court cases, to each consumers within one month from the date of this Order.

The consumers having arrears of more than two years of age held up in court cases shall withdraw the case before commencement of first instalment under OTS 2023.”
14. **Receipt and processing of Application for settlement :**
Application from LT consumers will be accepted in respective Electrical Section Office and forwarded to Deputy Chief Engineers of electrical circle for settlement. Deputy Chief Engineers of all Electrical Circles will be authorized to settle arrears of LT consumers without limit.

Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD.

15. **Publicity:**

The Public Relations Officer, KSEBL and Deputy Chief Engineers of Electrical Circles shall give wide publicity about the scheme in local newspapers, cable TV, FM radios etc; periodically till end of the scheme. The Senior Superintendent at Electrical Section Office and Special Officer (Revenue) at Corporate Level will be responsible for informing consumers with arrears about the scheme. Intimation shall be given to all such consumers clearly indicating the savings the consumer would get by opting the scheme. The Accounts Officer (Arrear Clearance Cell), O/o CIA shall intimate the details of the scheme directly to heads of all Government departments, PSUs, Government institutions and local bodies.

B. Guidelines for settling arrears under OTS 2023

General:

The alarming accumulation of pending arrears has been a constant cause of concern for KSEB Ltd. A substantial share of such arrears is being held up in litigation before various Courts. This in turn precipitates huge revenue arrears in Board's accounts, which includes amounts that may be practically unrecoverable by any lawful means. The OTS schemes implemented previously has been quiet effective as large no of arrears pending has been realized. In order to collect the maximum amount of arrears held up in litigation and other issues, the Board is introducing a new scheme named as OTS -2023. The present scheme covers all arrears which are more than two years but specifically **excludes theft cases booked under Section 135 of the Electricity Act 2003 and demand issued invoking section 127(6) of the Electricity Act, 2003.**

As the judicial processes involved in resolving disputes are time consuming affairs and as the parties are at liberty to go for appeals, such disputes would be shuttling back and forth by way of appeals, remissions, de-novo disposals etc., and the Board would remain deprived of a fair share of its revenue by way of the predicament. Taking a serious view of the matter, the Board has decided to issue the following guidelines which is almost in line with the earlier guideline issued for OTS -2022.

1. LITIGATIONS PERTAINING TO ASSESSMENTS MADE IN METER FAULTY CASES

Probable situations and positions : Back assessments for meter faulty cases are being effected in several cases, pursuant to RAO audit/AG audit. In a majority such cases assessments are issued for several months without any uniformity. In this context it is worth mentioning the fact that the licensee Board is bound to issue such assessments under Regulations 125 of the Kerala Electricity Supply Code, 2014 only. If the consumer was already issued with monthly/bi-monthly bills for average consumption, then the Board is not empowered to issue revised short assessments after taking into consideration the average consumption after the meter is replaced. This position has been clarified by the Kerala State Electricity Regulatory Commission vide clarification letter dated 30.05.2017 wherein it is clearly stated that *“there is no provision for re-assessment of current charges for the meter faulty period by taking an average of subsequent meter reading, after realizing the electricity charges on the basis of average consumption of the past three billing cycles”*. Moreover, as per Section 55(1) of the Electricity Act, 2003 *“ No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority”*.

General guide line for settlement : Back assessments for periods of meter fault, where regular bills were issued on average consumption is unlawful and is liable to be withdrawn. Hence litigations in such issues can be closed by withdrawing such demands.

2. **DISPUTES PERTAINING TO MINIMUM GUARANTEE**

Probable situations and positions: The concept of Minimum Guarantee is no longer in existence and there are certain isolated instances of disputes pertaining to the same subject matter which had its genesis based on the previous regulations. Many of such demands are presently tied up in litigations. Most of such installations might have already become self remunerative with a few exceptions.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. The benefit of reduced interest rate for age wise category as per the OTS-2023 scheme can invariably be extended to the consumers in such cases.

3. **DISPUTES REGARDING UNCONNECTED MINIMUM (UCM)**

Probable situations and positions: Unconnected Minimum is the offshoot of the erstwhile regulation and there are a few disputes/ litigations still pending on it. By placing reliance upon whether the infrastructure has become self remunerative bills already issued can be withdrawn, recording genuine and convincing reasons. Whereas, if the infrastructure is being erected for the sole purpose of the party in dispute and if the same is still remaining unutilised, the party is legally bound to remit the said amount.

General guide line for settlement: In cases where the installations have become self remunerative, demands already issued can be revoked. Reduction in interest shall be considered at the interest rates as per the OTS-2023 scheme.

4. **DISPUTES CONNECTED WITH WRONG APPLICATION OF MULTIPLICATION FACTOR**

Probable situations and positions: Instances of detection of wrong application of multiplication factor at a later date and its consequential back assessment has led to several legal wrangles. In such cases the licensee is well within the legal frame work to back assess the consumer notwithstanding the time span.

General guide line for settling: Reduction in interest rate based on age wise category as per the OTS-2023 scheme and suitable instalments can be considered in genuine cases.

5. **Reduction in MD for Demand based billing consumer during period of closure**

In the case of EHT/HT/LT Industrial consumers having demand based billing, there are instances where the production process ceases for a considerable period with a nominal consumption. Even under such conditions, the monthly billing demand will be 75% of contract demand. Several such demands may have ended up in litigations and may be remaining unrealized. In such cases, the outstanding demand of the consumer can be settled by the Full Time Directors of KSEBL considering the recorded MD of the consumer as an indicator as per the above OTS scheme.

The application from LT consumers under the above will be received by the Senior Superintendant of the concerned section office and place it before the Circle Level

Committees. The Circle Level Committee shall be constituted by the convener of the Committee comprising of following members;

1. The Deputy Chief Engineer of the concerned Electrical Circle (Convener)
2. The Executive Engineers of Electrical Divisions
3. Assistant Executive Engineers of Electrical Sub Divisions
4. Divisional Accountant/ Senior Superintendent of Electrical Division/Circle
5. Regional Audit Officer
6. Nodal Officer Litigation

The Committee shall examine the issue and if needed will interact with the consumers and propose settlement formula in compliance to the scheme approved by the Hon'ble KSERC and take up the same with the Full Time Directors through the Director (Distribution).

The applications for HT consumers will be received at the office of the SOR. The applications shall be processed by SOR and place before the State Level Committee constituted with the following members;

1. The Chief Engineer (Commercial & Tariff) – (Chairman)
2. The Special Officer (Revenue) - (Convener)
3. Senior Law Officer or his representative
4. Accounts Officer (Arrear Clearance Cell)
5. T.A to the Director (Distribution)

The State Level Committee constituted as above shall carefully examine the issues in such cases, interact with the consumers if needed and shall propose a settlement in compliance to the scheme approved by the Hon'ble KSERC to the Full Time Directors for settlement.