

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**Present : Shri T K Jose, Chairman  
Shri B Pradeep, Member**

**RP No 02/2023**

In the matter of : Petition seeking review of Order dated 16.05.2023 in petition OP No.07/2023 in the matter of tariff assigned to M/s KSPPL.

Petitioner : M/s Kerala State Electricity Board Limited

Respondents : 1. Kochi Salem Pipeline Pvt. Ltd. (M/s KSPPL)  
2. Bharat Petroleum Corporation Limited (M/s BPCL)

Petitioner represented by : Shri Ajith Kumar K.N, EE, TRAC  
Shri Rajesh Asst: Executive Engineer, TRAC  
Shri. Edward.P.Boniface, AEE, TRAC  
Smt Biji Christhudas, Asst: Engineer

Respondents represented by : Shri. Lineesh C F, Senior Manager, M/s KSPPL

Date of hearing : 03.10.2023, 04:00 PM

Venue : Court Hall of the Commission

**Order dated 23.11.2023**

1. M/s Kerala State Electricity Board Ltd (hereinafter referred to as M/s KSEB Ltd or the petitioner), filed a review petition dated 30.06.2023 before the Commission with the following prayer;

***“Considering the above facts and reasons on the matter as detailed in the paragraphs above, KSEBL requests before the Hon’ble Commission to kindly review the Order dated 16.05.2023 in petition OP No 07/2023 to the extent to reassign the tariff of M/s KSPPL to HT-IV A Commercial.”***

2. Summary of the Review petition filed by the Petitioner is given below;

- (1) The Commission vide Order dated 16.05.2023 in petition OP No.07/2023 granted approval to M/s KSPPL to avail supply from KSEB Ltd and the Commission also specified the tariff applicable to M/s KSPPL. The relevant portion of the Order is extracted below;

“  
.....  
11. The Commission examined the option-2 in detail, and observed the following.

- (i) The option-2 is acceptable to the petitioners and the respondent KSEB Ltd.
- (ii) Under option-2, KSEB Ltd can supply power to KSPPL at 6.6kV voltage level using the existing network and substations of BPCL, using separate meter already installed by KSPPL at their periphery.
- (iii) **Until separate HT tariff at 6.6kV voltage level is determined by the Commission, KSEB Ltd can raise the electricity bills to the KSPPL at HT 1(A) electricity tariff determined by the Commission from time to time.**

.....”

- (2) KSEBL further submitted that, the tariff assigned to M/s KSPPL is not in accordance with the prevailing tariff Order issued by the Commission dated 25.06.2022 in petition OP No.11/2022. The tariff applicable under the HT-1(A) and HT-IV(A) tariff categories as per the Tariff Order dated 25.06.2022, is given below;

**“HIGH TENSION- I - INDUSTRY (A) {HT- I (A)}**

*Tariff applicable to general purpose industrial load of all classes of consumers listed in LT-IV (A) category availing supply of electricity at high tension.*

**HIGH TENSION – IV (A) COMMERCIAL [HT – IV(A)]**

*Tariff applicable to all classes of commercial consumers listed in LT-VII (A) and LT-VII (C) categories availing supply of electricity at high tension, except those who categorize under HT-IV (B).”*

- (3) As per the tariff Order dated 25.06.2022, LT-IV (A) Industrial tariff is applicable for general purpose industrial loads, the relevant portion is extracted below;

**(a) LT- IV (A) – INDUSTRY**

*LT-IV (A) Industrial tariff is applicable for the general purpose industrial loads (single or three phase) which include,—*

.....

*(xviii) units carrying out extraction of oil in addition to the filtering and packing activities carrying out in the same premise and under the same service connection,*

.....”

Further, the tariff applicable under the LT-VII(A) tariff category as per the Tariff Order dated 25.06.2022, is given below;

**LT- VII-Commercial (A) [LT- VII (A)]**

*The tariff under LT-VII (A) category is applicable to commercial and trading establishment such as,*

.....

*(vii) petrol/diesel/ LPG /CNG bunks, LPG bottling plants,*

.....”

- (4) M/s KSEB Ltd submitted that M/s KSPPL are in the process of laying 12” dia, 429 km pipeline connecting Kochi Refinery and Puthuvypeen Import Terminal for supply of LPG to bottling plants at Udayamperoor, Palakkad, Coimbatore, Erode and Salem. The power requirement of M/s KSPPL is 2.22MVA at 6.6KV level and the major requirement in M/S KSPPL are mainline pump with VFD 1300KW at 6.6 KV. They also submitted that the pipeline is meant for reducing road movement of LPG through trucks. Hence it is clear that no manufacturing process is undergoing in the premises of M/S KSPPL.

According to the KSEBL, the purpose of M/s KSPPL is similar to bottling plants, instead of LPG bullet tanker, LPG is supplied through pipelines, i.e. only distribution of petroleum products alone is done at the premises of M/s KSPPL.

- (5) KSEB Ltd submitted that as per the prevailing tariff Order dated 25.06.2022, all manufacturing units and units carrying out extraction of oil apart from the filtering and packing activities carrying out in the same premise and under the same service connection comes under Industrial tariff. Meanwhile, the LPG bottling plants and units carrying out filtering packing and other associated activities of oil brought from outside are categorised under commercial tariff.
- (6) KSEB Ltd further submitted that the Commission vide Order dated 01.08.2018 in OP No.18/2017, has ordered that the LPG bottling/ filling plants, petroleum Terminals and depots and the similarly placed consumers falls under the Commercial category. The relevant portion of the Order is extracted below:

*“Order of the Commission*

*The Commission, in view of the direction of the Hon’ble Supreme Court dated 09.12.2016 in Civil Appeal No. 11150/2016, has carefully examined the entire documents and other materials placed before it by the petitioner, the counter argument of the respondent, and other relevant facts and documents submitted as per the provisions of the Electricity Act, 2003 in the matter of electricity tariff determination and concluded that, the LPG bottling/ filling plants, Petroleum Terminals and Depots of the petitioner and the similarly placed consumers falls under ‘commercial category’ for the purposes of levy of electricity charges.”*

Moreover, the petroleum terminals and depots where blending and distribution of petroleum products takes place, without any extraction of oil, can be classified under commercial tariff only.

Hence, KSEB Ltd requested before the Commission to Review the Order dated 16.05.2023 in petition OP No.07/2023 to the extent to reassign the tariff of M/s KSPPL to HT – IV (A) Commercial.

3. The Commission admitted the review petition as RP 02/2023. Smt Biji Christudas, Asst: Engineer, KSEB Ltd presented the matter on behalf of the Petitioner. Shri. Lineesh C F, Senior Manager, M/s KSPPL, presented the

comments on behalf of the Respondents. The summary of the deliberations during the hearing is given below.

- (1) KSEB Ltd during the hearing submitted that, the Commission vide the Order dated 01.08.2018 in petition OP No. 18/2017 has categorised the LPG bottling plants at commercial tariff. The said Order was issued after prolonged litigations. The Commission in the said Order has clarified that, all the similarly placed consumers also categorised under Commercial tariff.

KSEBL further submitted that, KSPPL is using the electricity for pumping the LPG gas for transporting the same to Salem via Palakkad and Erode by constructing 429km pipeline. There is no manufacturing activity carryout at the KSPPL Dispatch Terminal facility, which is within the premises of BPCL Kochi.

- (2) The representative of M/s KSPPL submitted the following during the hearings;

KSPPL is formed for the safe transportation of LPG and to reduce the LPG Bullet tanker movements through road. Initially, the LPG pipeline project was designed in such a way that by drawing power from BPCL-Kochi Refinery substations. KSPPL terminal is located near to the LPG storage and pumping facilities of BPCL.

KSPPL requires 2.2MVA power at 6.6kV voltage level for the commissioning and operation of the KSPPL Dispatch Terminal. Major equipment used at the KSPPL despatch terminal facilities are;

- Main line pump with VFD 1300 kW at 6.6kV
- Booster pump with VFD 450kW at 415 voltage
- HVAC system 100kW at 415 voltage.

KSPPL and BPCL has filed a joint petition for wheeling of power from BPCL substations at Kochi Refinery.

The electricity at commercial tariff is applicable to commercial and trading establishment such as, petrol, diesel, LPG, CNG bunks and LPG bottling plants. KSPPL submitted that, they are not doing the above commercial and trading activities.

However, Industrial tariff is also applicable to general purpose industrial loads such as 'public water works, drinking water pumping for public by Kerala Water Authority, Corporations, Municipalities and Panchayats, telemetry stations of KWA, pumping water for non-agricultural purposes, sewage pumping units etc.

- (3) The Commission during the hearing directed KSEBL to clarify how the activities of the KSPPL Dispatch Terminal facility at BPCL premises can be considered as commercial, since there is no bottling for retail sale is taking place. Further, the KSPPL is not carrying out any

bottling activity at any of the locations including Palakkad, Erode and Salem. The electricity availed by the KSPPL is used for pumping the LPG to transport through the pipes, instead of transporting the LPG gas through LPG bullet tanker movements.

KSEBL clarified that, though there is no commercial activity, the KSPPL is transporting the LPG on behalf of the IOC and BPCL, and the customers may eventually carrying out the LPG bottling activities. KSEBL further submitted that, the Commission vide the Order dated 01.08.2018 in petition OP No. 18/2017 clarified that, LPG bottling/filling plants, petroleum terminals and depots of Hindustan Petroleum Corporation Ltd and other similarly placed consumers falls under 'commercial category' for the purposes of levy of electricity charges.

4. KSEBL vide the additional submission dated 16.10.2023 had again submitted that, while assigning HT-1 A Industrial tariff, the Commission has not appraised the purpose of usage of electricity by KSPPL. The Commission vide the Order dated 01.08.2018 in petition OP No. 18/2017 has ordered that, electricity used by the HPCL for blending, filtering and LPG bottling at the same premises at commercial tariff. The Commission in the Order dated 01.08.2018 had stated that, the connection engaged in filtering and packing of oil brought from outside is to be considered under commercial tariff. If transportation of petroleum products is given under industrial tariff, it becomes equivalent to giving industrial tariff in continuation to a commercial activity.

Considering the above, KSEBL has requested to review the Order dated 16.05.2023 in petition OP No. 07/2023 to the extent to reassign the tariff of M/s KSPPL to HT-IV (A) Commercial tariff.

#### **Analysis and Decision of the Commission:**

5. The Commission having examined in detail the review petition filed by KSEBL, deliberations of the subject matter during the hearing held on 03.10.2023, other documents and records submitted during the deliberation of the subject matter, the provisions of the Electricity Act, 2003, other Regulations and Orders issued by the Commission, hereby decides as follows: -
6. The present review petition is filed to review the Original Order of the Commission dated 16.05.2023 in Petition OP No.07/2023, with the prayer to reassign the tariff of M/s KSPPL to HT – IV (A) Commercial. The Commission has examined the review jurisdiction as per the provisions of the Electricity Act, 2003, for reviewing its orders and decisions. The relevant portions are discussed below;
  - (1) As per the provisions of the EA-2003, review jurisdiction of the Commission is very limited. The relevant Section of the EA-2003 is extracted below.

Section 94 of the Electricity Act-2003, provide as follows:

*“(1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the **same powers as are vested in a civil court under the Code of Civil Procedure, 1908** in respect of the following matters, namely: -*

- (a) Summoning and enforcing the attendance of any person and examining him on oath;*
- (b) Discovery and production of any document or other material object producible as evidence;*
- (c) Receiving evidence on affidavits;*
- (d) Requisitioning of any public record;*
- (e) Issuing commission for the examination of witnesses;*
- (f) reviewing its decisions, directions and orders;***
- (g) Any other matter which may be prescribed.:*

- (2) Order 47 rule 1 of the Code of Civil Procedure dealing with review of the orders and decisions of a Civil court is quoted below:

**“Application for review of judgment.** - (1) Any person considering himself aggrieved, —

*(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

*(C) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.*

*(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.*

*Explanation: The fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment.”*

- (3) The Regulations 67 of the KSERC (Conduct of Business) Regulations, 2010 and its amendments specified as follows.

**“67. Powers of review,** - (1) Any person or party affected by a decision, direction or order of the Commission may, within forty-five days from the date of making such decision, direction or order apply for the review of the same. (2) An application for such review shall be filed in the same manner as a petition under Chapter III of these regulations. (3) The Commission may after scrutiny of the application, review such decisions, directions or orders and pass such appropriate orders as the Commission deems fit within forty-five days from the date of filing of such application:

*Provided that the Commission may, at its discretion, afford the person or party who filed the application for review, an opportunity of being heard and*

*in such cases the Commission may pass appropriate orders as the Commission deems fit within thirty days from the date of final hearing: Provided further that where the application for review cannot be disposed of within the periods as stipulated, the Commission shall record the reasons for the additional time taken for disposal of the same”.*

As extracted above, as per the provisions of the Electricity Act - 2003 and Order 47 rule 1 of the Code of Civil Procedure, the review jurisdiction of the Commission is very limited. For reviewing its decisions, the discovery of new and important matter or evidence, which was not within the knowledge of the petitioner or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on face of record, or for any other sufficient reason.

However, the petitioner failed to produce new facts or evidence or mistakes or error apparent on record, as per the Section 94 of the Electricity Act, 2003 read along the Code of Civil Procedure, 1908, for reviewing the Order of the Commission dated 16.05.2023 in petition OP No.07/2023. Hence, the Commission is liable to reject the review petition.

7. The Commission has examined the reasons submitted by the licensee for reviewing the Order dated 16.05.2023 in Petition OP No.07/2023, and noted the following;
- (1) Kochi Salem Pipeline Private Limited (KSPPL) is a Joint Venture of Bharat Petroleum Corporation Limited and Indian Oil Corporation Limited with 50% equity participation each. The project envisages laying of 12”/8”dia,429Km LPG pipeline from Kochi to Salem connecting their dispatch terminals at Kochi Refinery and Puthuvypeen and Receipt terminals at Udayamperoor, Palakkad, Coimbatore, Erode and Salem LPG plants of BPCL/IOCL. Estimated project cost is Rs. 1507 Crores.
  - (2) The pipeline of the KSPPL is meant for reducing the road movement of LPG through trucks, which has become a major concern for the Government due to increase in number of road accidents and related safety consequences.
  - (3) KSPPL Despatch Terminal is located with in the BPCL premises at Kochin Refineries. KSPPL requires 2.2MVA power at 6.6kV voltage level for the commissioning and operation of the KSPPL Dispatch Terminal. Major equipment used at the KSPPL despatch terminal facilities are;
    - Main line pump with VFD 1300 kW at 6.6kV
    - Booster pump with VFD 450kW at 415 voltage
    - HVAC system 100kW at 415 voltage.
  - (4) The 2.2MVA power at 6.6kV is for pumping the LPG to transport it through the pipelines Receipt terminals at Udayamperoor, Palakkad, Coimbatore,

Erode and Salem LPG plants of BPCL/IOCL. As per records, KSPPL is not involved in purchase, sale or resale of LPG, nor in its bottling activities.

- (5) For meeting the electricity supply at BPCL Kochi Refinery, BPCL is availing supply at 220 kV Industrial tariff.
  - (6) Since the KSPPL Despatch Terminal is located with in the BPCL premises at Kochin Refineries, it is difficult for KSEBL to provide electricity supply to KSPPL by drawing distribution system through the premises of BPCL. Hence the Commission vide the Order dated 16.05.2023 in petition OP No. 07/2023 had granted approval to KSPPL to avail supply from the licensee KSEBL through the electrical network of BPCL Kochi Refinery. Since the Commission has not separately determined the HT tariff for availing supply at 6.6kV level, the Commission has directed the KSEBL to raise the invoices of electricity usage to KSPPL at the HT-1(A) Industrial tariff determined by the Commission from time to time.
8. The Commission has also noted that, the Commission vide the Order dated 01.08.2018 in petition OA No. 18/2017, the Commission has ordered in the petition filed by M/s Hindustan Petroleum Corporation Ltd, that,

***“LPG bottling/ filling plants, petroleum Terminals and depots and the similarly placed consumers falls under the Commercial category”***

KSEBL during the deliberations of the subject matter submitted before the Commission that, there is no manufacturing activities at the premises of KSPPL despatch terminal. The electricity is being used by the KSPPL is for pumping the LPG for transporting to various locations for commercial use. Since the electricity is used for pumping of LPG for transportation of LPG on behalf of IOCL and BPCL, KSEBL submitted that, most appropriate tariff is the tariff applicable to commercial purposes.

9. The Commission has examined the background of the Order dated 01.08.2018 in petition OA No. 18/2017. The oil companies including HPCL and IOCL owns LPG bottling plants and depots in the State of Kerala. The LPG bottling plants carrying out the operations of LPG cylinder filling including blending of petroleum products and distribution of petroleum products through retail outlets. The Order dated 01.08.2018 in petition OP No. 18/2017 is decided on a petition filed by M/s HPCL and other oil companies are not respondent in said petitions. Hence, the Commission in the said Order clarified that, other oil companies also who are carrying out LPG bottling and allied activities and engaged in blending of petroleum products and distribution of petroleum products through retail outlet shall be categorised under commercial tariff. This does not mean that, joint venture companies like KSPPL, which are established for transportation of LPG gas by laying out necessary pipelines is to be categorised under commercial tariff category.
10. KSPPL is a separate company, established for laying 12” diameter 429km pipeline, for connecting ‘Kochi-Refinery and Puthuvypeen Import terminal’ with the various LPG bottling plants at Udayamperoor, Palakkad, Erode and Salem.



KSPPL is formed to reduce the LPG bullet tanker movement through roads. This will address the issue of increase in number of road accidents and safety issues presently associated with the transportation of LPG gas through roads to the LPG bottling plants of oil companies. There is a considerable social benefit associated with the establishment of the KSPPL.

11. The Commission has also noted that, there is no commercial activities including LPG bottling or distribution of LPG cylinders at the KSPPL Despatch terminals at Kochi and also at the KSPPL drawal points at Udayamperoor or at Palakkad, Coimbatore, Erode or Salem. During the hearing KSEBL also clarified with this position. But, KSPPL is transporting the LPG Gas from Kochi Terminal to various locations as discussed above for the use of LPG gas at bottling plants of IOCL and BPCL.
12. The electricity used by the KSPPL is for pumping the LPG gas at its 'Despatch Terminal' located at Kochi Refinery premises. The pumping of LPG gas is for the smooth transportation of LPG gas through its 12" dia 429km long pipes established by it.
13. According to KSEBL, though the KSPPL is directly not engaged in any commercial activity the transportation of LPG gas is for the use of the oil companies who are ultimately engaged in commercial business. KSEBL is further arguing that, since the transportation of LPG gas is for the commercial business of IOCL and BPCL, the appropriate tariff is the tariff applicable to the commercial business.
14. The Commission has examined the argument of the KSEBL with the provisions of the Electricity Act, 2003. As per the Section 62(3) of the EA-2003, among other things, the Commission is authorised to classify the electricity tariff based on the purpose of usage for electricity availed by the consumers.

Here KSPPL is the electricity consumer who avail electricity supply from KSEBL. Further, KSPPL is availing the 2.2MVA power at 6.6kV for the purpose of pumping the LPG gas for transportation to various locations for the use of IOCL and BPCL. Here, KSPPL, IOCL and BPCL are different companies established for different objectives and functions. While deciding the tariff of KSPPL, the Commission is not required to look into the purpose of usage of electricity availed by IOCL and BPCL at their bottling plants or depots located at Palakkad, Coimbatore, Erode and Salem. While deciding the appropriate tariff of these LPG bottling plants of IOCL and BPCL, the appropriate Commissions may look in to the purpose of usage of electricity at their bottling/blending plants. Hence, the argument of the KSEBL that, the Commission has to determine the appropriate tariff of the KSPPL based on the purpose of usage of the LPG gas transported through the pipelines of KSPPL by IOCL and BPCL is devoid of merits and hence rejected.

15. The Commission has also examined the argument of KSEBL that, there is no manufacturing activity at the premises of KSPPL Despatch Terminal, hence they are not eligible to get the industrial tariff. According to KSEBL, industrial tariff is applicable to the units engaged in manufacturing activities only.

There is no merit in the argument of KSEBL. As per the prevailing tariff orders, electricity used for 'public water works, drinking water pumping for public by Kerala Water Authority, Corporations, Municipalities and Panchayats, telemetry stations of KWA, pumping water for non-agricultural purposes, sewage pumping units etc. are categorised under Industrial tariff.

Here, the KSPPL is using the electricity for the **purpose of pumping of LPG gas** at its Dispatch terminal for the smooth transportation of LPG gas through its pipe lines. The pumping is not for any commercial activity. Further, considering social benefit of the transformation of LPG gas through the KSPPL pipelines instead of transportation of LPG through bullet tanker movement, the Commission is of the considered view that, the appropriate tariff for the Despatch Terminals of the KSPPL at Kochi Refinery is the Industrial tariff.

16. Based on the above discussions, the Commission is of the considered view that, there is no merit in the arguments of KSEBL to reassign the tariff of M/s KSPPL to HT- IV A Commercial tariff. Hence the Commission decided to reject the instant review petition.

#### **Order of the Commission**

17. The Commission, after examining the Review Petition filed by M/s. KSEB Ltd, additional submission of M/s KSEB Ltd, deliberations of the subject matter during the hearing held on 03.10.2023, the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, other Rules and Regulations in force, hereby orders the following;
- (1) To reject the review petition dated 30.06.2023 filed by M/s KSEB Ltd against the Order of the Commission dated 16.05.2023 in petition OP No.07/2023, due to the reasons explained in the preceding paragraphs of this Order.
  - (2) The tariff applicable to the KSPPL for the KSPPL Dispatch Terminal located with in the BPCL KR premises is HT-1A industrial tariff.

The review petition RP No. 02/2023 is disposed of. Ordered accordingly.

**Sd/-**  
**T K Jose**  
**Chairman**

**Sd/-**  
**B Pradeep**  
**Member**

Approved for issue

**Sd/-**  
**C R Satheesh Chandran**  
**Secretary**