

# **KERALA STATE ELECTRICITY REGULATORY COMMISSION**

## **THIRUVANANTHAPURAM**

Present: **Shri. Preman Dinaraj, Chairman**

### **OP 14/2020**

- In the matter of : Single Point Supply and sharing of Electricity Charges as per Clause No.56 of Kerala Electricity Supply Code 2014
- Petitioner : M/s Bharat Sanchar Nigam Ltd (BSNL)
- Petitioner represented by : Sri. R Satheesh, Chief Engineer (Electrical)
- Respondents : 1. Kerala State Electricity Board Limited  
2. Trissur Corporation Electricity Department (TCED)
- Respondents represented by : 1. Sri. K G P Nampoothiri, EE, TRAC, K S E B Ltd.  
2. Sri Rajesh R, AEE, TRAC, K S E B Ltd.  
3. Sri Jose T J, Electrical Engineer, TCED

### **Order dated 30.06.2020**

1. M/s Bharat Sanchar Nigam Ltd (hereinafter referred to as the petitioner or BSNL), on 16.03.2020 filed a petition before the Commission seeking following reliefs;

- (1) The Petitioner is the HT consumer for the buildings in Kerala as referred in Annexure- A. The Petitioner is pleading for permission to provide Sub-meter for individual tenants in BSNL buildings listed in Annexure- A, for monitoring the energy consumption for each tenant but not for resale of energy.
- (2) The Honorable Commission may be pleased to direct the Respondents as the provision of above Sub-meter shall not be treated as power theft or resale of energy.

In the Annexure - A, BSNL enclosed a list of 152 HT connections in the State, out of which '148' HT connections are from KSEB Ltd and '4' HT connections are from Thrissur Corporation Electricity Department (TCED).

2. The summary of the issues raised by BSNL is given below.

- (1) BSNL is implementing a major restructuring plan to improve its performance and profitability with the support of Government of India (GoI). As part of this, BSNL VRS 2019 is implemented in the company. After VRS, the staff strength in Kerala Circle has become down to half, leaving large number of office spaces available for renting / leasing. Further, with the advent of new technologies, several telephone exchange buildings have also become vacant. BSNL is now in the process of monetizing these spare spaces for generating additional revenue by the way of leasing / renting.
  - (2) Many of the BSNL buildings in the State are located in major/ prominent locations like District head quarters, commercially important places etc. BSNL is planning to lease / rent some of the buildings partly or fully, and this will necessitate the distribution of space available in the major buildings to tenants with multiple floors or with partitions in a floor to accommodate and provide requested space for tenants.
  - (3) BSNL avails 11 kV supply for the high-rise buildings and multi-storied telephone exchanges. The substations and the distribution system in the entire building are maintained by BSNL.
  - (4) BSNL approached the respondents KSEB Ltd and TCED for the permission to provide sub-meters for each tenant occupying the BSNL buildings as per the space requirements allotted by BSNL. However, the respondents denied the permission to provide sub-meters and if sub-meters are to be provided, BSNL as the owner and principal consumer has to avail only LT metering instead of HT metering.
3. The Commission admitted the petition as OP No.14/20 and forwarded copy of the petition to the respondents KSEB Ltd and TCED for their comments. KSEB Ltd vide its affidavit dated 16.06.2020 submitted the following.
- (i) Hon'ble Commission as per Regulations 55 of the Supply Code, 2014 has given restrictions on re-sale of energy. As per the Regulations 55, "55. Restriction on re-sale of electricity.- No person shall sell the energy supplied to him by the licensee to any other person, firm or to other premises unless he holds a suitable sanction or license for distribution and sale of energy issued by the Commission or has been exempted by the Commission from holding such license for sale."

The petitioner as per the above petition has specified that they are in the process of leasing/ renting the spare space available in their building for the purpose of additional revenue. Accordingly, the sub-meters provided in the building for favour of measuring the consumption of each beneficiary (tenants) of the petitioner. This can only be seen as a re-sale of energy. The petitioner fails to establish the exact requirement of monitoring the electricity consumption by the tenants using sub-meters. The contention of the petitioner that the sub-meters are for monitoring and not for re-sale cannot be accepted.

Regulation 56 of the Supply Code, 2014, allow the licensee to give single point supply to a premise with multiple beneficiaries subject to certain conditions. The Regulation 56(2) of the Supply Code, 2014 states that, “ (2) *The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall submit an application to the licensee for availing single point supply with a detailed project report (DPR) on the scheme for giving supply to all beneficiaries and such other necessary particulars.*”.

In the above case no such application along with the DPR on the scheme for giving single point supply as stipulated in the Regulation has been submitted by the petitioner before the licensee. However they have claimed that they had approached KSEB Ltd for providing sub-meters. But no proof has been produced to the fact that KSEB Ltd have denied their application. If at all the licensee had denied any application of the petitioner, the same has to be taken up with the CGRF in compliance of the rules and regulations in force. Without availing these provisions, the petitioner directly approached the Commission. Considering the above, the petition is not maintainable under law and may dismiss the petition.

4. Commission conducted hearing on the petition on 17.06.2020. During the hearing Sri. Satheesh presented the petition on behalf of BSNL. Sri. K G P Nampoothiri offered the comments on behalf of the KSEB Ltd and Sri. Jose presented the comments of M/s TCED.

During the hearing, BSNL submitted that, no formal application has been filed before KSEB Ltd or TCED.

### **Analysis and Decision**

5. Commission examined the petition filed by BSNL in detail as per the provisions of the Electricity Act, 2003 and provisions of the Kerala Electricity Supply Code, 2014 ( Supply Code, 2014).
6. BSNL, in this petition submitted that, after the implementation of the VRS scheme, staff strength of its Kerala circle come down to half, leaving large number of vacant spaces in its administrative offices, which is located at district head quarters and commercial areas. Similarly, with the advent of new technologies, several telephone exchange buildings across the State also become redundant. BSNL identified 152 numbers of such buildings in the State, with HT connections for availing electricity supply. Out of the 152 connections, 148 buildings having HT connection with KSEB Ltd and 4 connections with TCED. BSNL proposes to lease/ rent the vacant spaces to interested parties.

BSNL further submitted that, the transformers and the internal distribution systems are maintained by them. BSNL proposes to lease/rent the vacant spaces by installing sub-meters for measuring the electricity consumption of the tenants. When the BSNL approached the respondents to install the sub-meters informally, they denied the permission.

7. The Commission carefully examined the subject matter in detail. Based on the subject petition and deliberations during the hearing, the intention of the BSNL is to retain the present HT connection at the tariff assigned, and permit them to provide electricity to the tenant by themselves by installing sub-meters. BSNL and the tenants may share the total electricity charges between themselves in proportion of their electricity consumption, so that there will not be any re-sale of energy.

In order to answer the request of the BSNL, the Commission examined the following issues in detail.

- (1) Whether a consumer is permitted to use the electricity taken for a particular purpose and at the appropriate tariff category for a different purpose without change in the assigned tariff?
- (2) Whether an HT consumer is permitted to resell electricity?
- (3) Options available for a developer with HT connections in a multistoried buildings to provide electricity to the beneficiaries within the buildings.

**Issue No.1 : Whether a consumer is permitted to use the electricity taken for a particular purpose and at the appropriate tariff category for a different purpose without change in the assigned tariff?**

8. In order to understand the issue, the Commission examined the basis adopted by the SERCs for determination of the retail tariff of the various consumer categories.

Among other factors, Section 62(3) of the Electricity Act, 2003 authorize the SERCs to determine the retail tariff based on the 'purpose of usage' and also based on the voltage level at which supply is availed by the consumers. The relevant Section is extracted below.

“(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may **differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”**

Based on the purpose of usage and the fact that HT supply has been availed by BSNL, the HT electricity connection of the 'administrative buildings' of BSNL is categorized under HT-II(A) tariff and Telephone exchanges are categorized under HT-II (B) Tariff. The details of the prevailing HT-II (A) tariff and HT-II(B) tariff is given below.

Particulars	HT-II (A)	HT-II(B)
Demand charge (Rs/ kVA/month)	370	440
Energy charge (Rs/kWh)		
(i) Of and below 30000 units/month	5.60	6.20
(ii) Above 30000 units/ month (All units)		7.20
Avg Tariff	6.50	8.20

As per the details submitted, BSNL proposed to lease/ rent out the vacant spaces to tenants for commercial use including banks at low tension. As per the prevailing tariff order dated 08.07.2019, banks and financial institutions are categorized under LT-VI(C) tariff and the commercial users are categorized under LT VII (A) tariff. The prevailing LT-VI (C) and LT-VII (A) tariff for consumers with monthly consumption above 500 units is given below.

Particulars	LT-VI (C)	LT- VII (A)
	Bank/ financial use	Commercial use
Fixed charge (Rs/ kVA/month)	180	140
Energy charge (Rs/unit) (for monthly consumption above 500 units)	8.50	9.30
Avg tariff	9.30	9.80

As detailed above, based on the present usage of BSNL, the HT-II (A) and HT-II (B) tariff is different from the purpose of electricity usage when compared to the proposed tenants at LT for commercial establishments, banks etc.

As per the Section 126 of the Electricity Act, 2003, 'the usage of electricity for the purpose other than for which the usage of electricity was authorized' is termed as 'unauthorised use of electricity', and it is a punishable activity as per the provisions of the Electricity Act, 2003. **Hence, if a consumer propose to use the electricity for a different purpose, the consumer has to segregate the electricity usage for different purpose and has to avail separate electricity connection for each purpose from the concerned licensees at the applicable tariff.**

**Issue No.2. "Whether an HT consumer is permitted for re-sale of electricity?"**

9. As per the Electricity Act, 2003, the 'distribution of electricity' is a licensed activity, and Section 14 of the EA-2003 provides the conditions for grant of

license by the appropriate Commissions. Further, Regulation 55 of the Supply Code, 2014 notified by the Commission consistent with the EA-2003 puts restrictions on the re-sale of electricity without sanction or license from the Commission. The relevant Regulations is extracted below.

“55. Restriction on re-sale of electricity.- No person shall sell the energy supplied to him by the licensee to any other person, firm or to other premises unless he holds a suitable sanction or licence for distribution and sale of energy issued by the Commission or has been exempted by the Commission from holding such licence for sale.”

It is settled position that, as per the provisions of the Electricity Act, 2003, re-sale of electricity is permitted only for distribution licensees.

10. ***As far as the electricity business is concerned, BSNL is electricity consumer of the KSEB Ltd and TCED. As per the provisions of the Electricity Act, 2003 and Supply Code, 2014, BSNL is not permitted for re-sale of electricity.***

**Issue No.3. Options available for a developer with HT connections in a multistoried buildings with multiple beneficiaries to provide electricity to the beneficiaries within the buildings.**

11. Two options are available to a developer of a multistoried buildings with multiple beneficiaries to provide electricity to individual beneficiaries within the buildings.
12. **Option-1: Provide separate connection for each beneficiary and for common services from the licensee. The licensee may provide electricity supply to each beneficiary as per the provisions of the EA-2003 and Supply Code, 2014, at the applicable tariff based on the purpose of usage.**

BSNL, as the owner / developer of the multistoried buildings, can avail this option and get supply for the beneficiaries directly from the licensee KSEB Ltd or TCED as the case may be. BSNL has to provide space for installation of meters for providing supply to the individual beneficiaries. BSNL also has to make modifications in the internal distribution system within the building for providing supply to the individual beneficiaries. However, BSNL has also to take separate connection after deducting the total load requirement of the other beneficiaries from the existing connection.

Further, as per the sub Regulation (5) of Regulation 49 of the Kerala Electricity Supply Code (Amendment) 2020, BSNL continues to maintain the internal distribution network including the transformer and switchgears and the underground service line cable of the transfers. This will enable them to restore the original HT connection, if they desires so, in future without any additional cost on transformers, switchgears etc.

**13. Option-2. Avail single point supply from the licensee as per the Regulation 56 of the Supply Code, 2014 and share the electricity charges.**

- (1) Regulation 56 of the Supply Code, 2014, deals with 'Single point Supply', and is extracted below:

***"56. Single point supply and sharing of electricity charges.-(1)***

*The licensee may give single point supply to the following premises with multiple beneficiaries subject to the conditions specified in the sub-regulations hereunder:-*

- (i) multi-storeyed buildings;*
- (ii) colony developed by any development authority or private builder or promoter or developer;*
- (iii) domestic, commercial or industrial complex;*
- (iv) residential complex constructed by any employer for his employees or by a panchayat or a co-operative society or a registered association of beneficiaries.*

*(2) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall submit an application to the licensee for availing single point supply with a detailed project report (DPR) on the scheme for giving supply to all beneficiaries and such other necessary particulars.*

*(3) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall bear the expenditure for the augmentation or upgradation or uprating of the distribution system, exclusively required for the supply of electricity to the entire premises included in the detailed project report (DPR) and shall also construct at his cost the internal distribution network within the project area as per the standards and specifications stipulated in this Code.*

*Provided that the expenditure to be borne by the development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall be governed by the relevant provisions in Regulation 36.*

*(4) Supply may be provided by the development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries to the individual beneficiaries and for common service by installing sub-meters.*

*(5) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall remit the charges for the entire electricity availed*

*at such single point of supply as per the bill preferred by the licensee within such time as indicated in the bill.*

*(6) The development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries shall collect, on a no profit no loss basis, the cost of energy consumed by individual beneficiaries.*

*(7) The tariff charged from the individual beneficiaries shall under no circumstances exceed the tariff specified by the Commission for the respective category of consumers.*

*(8) Providing of connection to individual beneficiaries in such premises with multiple consumers and sharing of expenses of consumption of electricity as per the above provisions shall not be construed as unauthorised extension of supply or resale of energy.*

*(9) The maintenance of internal distribution network and providing services to individual beneficiaries shall be the responsibility of the development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries.*

*(10) The tariff applicable to the single point supply shall be as determined by the Commission: Provided that the provisions of this Regulation shall not in any way affect the right of a person residing in the housing unit sold or leased by such development authority or promoter or builder or developer or panchayat or cooperative society or registered association of beneficiaries, to demand supply of electricity directly from the distribution licensee of the area.*

- (2) As extracted above, Regulation 56 of the Supply Code, 2014, authorize the distribution licensees to give 'single point supply' to the premises of the multi-storied buildings, colonies etc. developed by private promoters, with multiple beneficiaries, based on their request subject to the following:
- (i) The developer has to submit an application to the licensee for availing single point supply with a detailed project report (DPR) on the scheme for giving supply to all the beneficiaries in the premises of the developer.
  - (ii) The developer shall bear the expenditure for the augmentation or upgradation or uprating of the distribution system, exclusively required for the supply of electricity to the entire premises included in the DPR and also construct at his cost the internal distribution network.
  - (iii) The developer has to provide supply to the individual beneficiaries and for common services by installing sub-meters.



- (iv) The developer shall remit the electricity charges for the electricity availed at single point supply as per the bill preferred by the licensee within the time limit specified in the bill.
  - (v) The developer shall collect the cost of energy consumed by the individual beneficiaries on a 'no profit no loss' basis.
  - (vi) The tariff assigned to the individual beneficiaries shall be that which is applicable to their respective categories and shall under no circumstances exceed the tariff specified by the Commission.
  - (vii) The maintenance of the internal distribution network and providing services to individual beneficiaries shall be the responsibility of the developer.
  - (viii) The tariff applicable to the single point supply shall be as determined by the Commission.
- (3) In the present case, BSNL is the owner / developer of the 152 multistoried buildings with HT connections, proposed by them to be given on lease / rent the vacant spaces to other beneficiaries. As per the details submitted, in each of the above buildings, BSNL have already created necessary internal distribution system. So, BSNL can avail single point supply of each of the above buildings from the concerned licensees subject to the following;
- (i) **BSNL has to install sub-meters to provide electricity connections to the tenants.**
  - (ii) BSNL has to charge the tenants at the applicable tariff based on the purpose of usage.
  - (iii) BSNL has to remit the electricity charge to the licensee at the **single point tariff at HT to be determined by the Commission for each connections based on a petition to be filed by the licensees for each connection separately.**
  - (iv) BSNL has to identify the beneficiaries in each building and their purpose of usage, their load requirements etc. With such details, BSNL has to approach the concerned Electrical Section offices of the licensee to get single point supply, with all details as per the Regulation 56 of the Supply Code.
- (4) As discussed above, under Option-2, BSNL has to do the following for availing single point supply for each HT connection separately.
- (i) BSNL has to approach the Electrical Section offices of the concerned licensee KSEBL / TCED to get single point supply for

the HT connection concerned, as per the Section 56 of the Supply Code, 2014 with all details including;

- Details of the proposed tenants, their load requirements, purpose of usages.
- Installing of sub-meters for measuring the electricity consumption of the tenants, and own consumption if any proposed to be availed by BSNL.
- An undertaking to the licensee that, if any of the tenants demand electricity directly from the licensees, BSNL shall allow the same.
- An undertaking to the effect that, BSNL shall submit the details of the electricity charges collected from each tenants including their connected load/contract demand, energy consumption, fixed charge/ demand charge collected, energy charge collected, electricity duty etc as demanded by the licensee within one month at the end of each financial year to the licensee.

(5) The Commission may, based on a petition to be filed by the concerned licensee, determine the tariff for the single point supply based on the load requirement and purpose of usage of each beneficiaries including for their own consumption. For determining the single point supply tariff of each 152 connections, the concerned licensees has to file separate petitions before the Commission with all relevant details.

14. As discussed under paragraph 12 and 13 above, BSNL may take an appropriate decisions among the options - 1 and option - 2, and approach the concerned licensees to get electricity supply to the tenants to whom the petitioner propose to lease/ rent the vacant spaces in their multi-storied buildings with HT connections.

With these directions, the petition is disposed off.

**Sd/-**  
**Preman Dinaraj**  
**Chairman**

Approved for Issue,

Secretary