

**AFFIDAVIT VERIFYING THE APPLICATION ACCOMPANYING
FILING THE REVIEW PETITION AGAINST THE ORDER OF KSERC
DATED 23.04.2020 IN OP 02/2020 FOR WAIVING POWER FACTOR
PENALTY IMPOSED BY K.S.E.B ON T.C.E.D**

I, Vinu C Kunjappan, (S/o of C.K. Kunjappan) aged 39 years, residing at, Officer's Quarters, Pallikulam , Thrissur do hereby solemnly affirm and state as follows:

I am the Additional Secretary, Thrissur Corporation, and the petitioner in the above matter and I am duly authorized by Secretary Thrissur Corporation to make this affidavit on his behalf. I solemnly affirm at Thrissur on this, the 05th day of June 2020 that

- (i) The contents of the above petition are true to my information, knowledge and belief. I believe that no part of it is false and no material has been concealed there from.
- (ii) The statements made in paragraphs of the accompanying application are true to my knowledge and are derived from the official records made available to me and are based on the information and advice received which I believe to be true and correct.

Deponent


Additional Secretary,
Thrissur Corporation,
Thrissur- 680001

VERIFICATION


I, the above named deponent, solemnly affirm at Thrissur on this, the 5th day of June 2020 that the contents of the affidavit is true to my information, knowledge and belief, that no part of it is false and that no material has been concealed there from.

Deponent


Additional Secretary,
Thrissur Corporation,
Thrissur- 680001



I hereby affirmed and signed before me.


Advocate and Notary

BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION

OP No.....

IN THE MATTER OF :

Review Petition under Section 61, 62, 86 and 181 of the Electricity Act, 2003 for waiving the Power factor penalty charged for Bulk supply licensee Thrissur Corporation Electricity Department by K.S.E.B Ltd.

**NAME AND FULL ADDRESS
OF COMPLAINANT/APPLICANT**

: Electricity Department, Thrissur Corporation,
M.O.Road, Thrissur
Represented by Additional Secretary

**NAME AND FULL ADDRESS
OF RESPONDENTS**

- :
1. Kerala State Electricity Board,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram.
Pin No. 695004
Represented by the Secretary
 2. The Chairman,
Kerala State Electricity Board,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram



**BEFORE THE KERALA STATE ELECTRICITY
REGULATORY COMMISSION**

Petition No.....

IN THE MATTER OF :

Filing Review Petitions against the order of KSERC dated 23.04.2020 in OP 02/2020 for waiving power factor penalty for the licensee, Thrissur Corporation Electricity Department by K.S.E.B.Ltd.

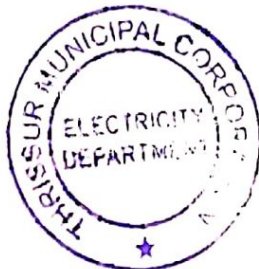
Fees Rs. 20,000/- (Rupees Twenty Thousand Only) as per Annex II, Reg.11 (ii), schedule offers see Regulation 64 (1) of Kerala State Electricity Regulatory Commission (Conduct of Business) Third Amendment Regulation 2014, is enclosed as DD drawn in favour of the Secretary, KSERC, payable at Trivandam from State Bank of India, Trivandrum City Branch (Branch Code.70028), drawn by us, is attached herewith.

REFERENCE :

- a. Electricity Act 2003
- b. Kerala State Electricity Regulatory Commission (Conduct of Business) Third Amendment Regulation 2014.
- c. Terms and Conditions for determination of Tariff Regulation 2014.
- d. Electricity Supply Code 2014.
- e. Tariff Order OP No. 15/2018 Dated 08.07.2019

**NAME AND FULL ADDRESS
OF RESPONDENTS**

- :
1. Kerala State Electricity Board,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram.
Pin No. 695004
Represented by the Secretary
 2. The Chairman,
Kerala State Electricity Board,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram.



INTRODUCTION

- (i) M/s. Thrissur Corporation Electricity Department was established in 1937 as per the Order No.D7 16049/12 dated 07.08.1937 issued by the His Highness the Maharaja of Cochin, many years prior to the establishment of KSEB. As per the provisions of the Electricity Act, 2003 M/s TCED has been continuing as a distribution licensee of KSERC.
- (ii) M/s. TCED has been purchasing power in bulk from KSEB Ltd at the Bulk Supply Tariff approved by the Hon'ble Commission from time to time. Further, the retail tariff approved by the Hon'ble Commission for M/s KSEB Ltd is same for the consumers of M/s TCED also.
- (iii) TCED being a Deemed Distribution Licensee, by Electricity Act 2003 and TCED has been remitting License fee to the Hon'ble Commission as per the conditions of license fee.
- (iv) The Hon'ble Commission vide Tariff Order dated 08.07.2019 in OA 15/2018, had approved the Schedule of Tariff and Terms and Conditions of Supply applicable to M/s.KSEB Ltd and other distribution licensees of the State with effect from 08.07.2019. In the said Tariff Order, the Hon'ble Commission had enhanced the limit of power factor from 0.90 to 0.95 for LT industrial HT/EHT consumers. M/s KSEB Ltd has been imposing penalty and/or incentives to its consumers as per the Tariff Order dated 08.07.2019.
- (v) M/s KSEB Ltd the bulk supply provider has imposed power factor penalty on M/s TCED for not maintaining the power factor at 0.95, as specified in the Tariff Order dated 08.07.2019, in which incentive is also applicable to HT/EHT consumers of M/s KSEB Ltd. However, there is no provision in the Tariff order for imposing penalty on distribution licensees of KSERC like M/s. TCED.

So TCED filed petition OP 02/2020 in KSERC against the Power Factor Penalty.



GROUNDS

But Hon'ble Commission in the order dated 23.04.2020 has held that TCED is bound to maintain Power factor 0.95 and that the order of the Commission applies not only to the bulk consumers but also to all distribution licensees. It is also found that TCED being a distribution licensee is bound to execute PPA which contains provision to impose Power Factor penalty and that non-execution of PPA cannot be a ground to escape from the liability to pay Power Factor penalty.

Since this order is detrimental to the interest of TCED the review petition is being filed. Petitioner most humbly submits as follows.

- (i) The CEA regulation referred to by commission is not concerning monetary compensation but only referred to a technical measure to be taken by the distribution licensee to compensate the inductive reactive power requirement. Unless there are specific provisions or regulations imposing liability upon distribution licensees to pay penalty TCED is not bound to pay the same.
- (ii) TCED's letter dated 04.12.2017 (copy attached) to KSERC points out that a condition in the PPA fixing an upper limit for purchase of power is not applicable to TCED since an order was passed on 24.04.1947 by the Government of his Highness the Maharaja of Cochin whereby it was ordered that all the power necessary for the town will be made available within the town to any limit even exceeding the 200KWA limit. This was the condition of the sale transaction of power house to the Government, which can be evidenced in the orders. If it is part of the conditions of sale then it is irrevocable at the instance of KSEB, the power supplier. Even otherwise such a direction issued by the Government referred above is saved by Section 185(2)(a) of the Electricity Act 2003. As per Section 185 (2) (a) of the Electricity Act 2003 i.e. not withstanding such repeal.
 - a) anything done or any action taken or proposed to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licensee, permission, authorization, or exemption, granted or any document or



instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provision of this act, be deemed to have been done as taken under the corresponding provision of this act. Hence KSEB is bound to honour the said condition. The commission may kindly be convinced of the fact that TCED is justified in not executing PPA.

- (iii) Since PPA providing power factor penalty is not signed by TCED, no penalty can be imposed upon TCED
- (iv) Regarding Power factor penalty, TCED cannot be considered on the same footing as that of other distribution licensees who themselves are the consumers purchasing power as a part of their commercial venture. In the case of TCED the corrective steps to maintain Power factor has to initially come from the consumer end. Hence the condition concerning imposition of Power Factor Penalty requires modifications, to the extent of granting a compliance period to TCED for maintaining power factor limit.
- (v) Hence TCED claims an exemption founded on the distinct status of TCED as different from other Distribution Licensees.

PRAYER

In the above circumstance, it is respectfully prayed before the Hon Commission to go deep into the matter and review the early order and pass appropriate orders to wave the power factor penalty, as the Hon'ble Commission may deem fit and proper, for TCED as Local Self Government Body and small licensee keeping in view of he facts and circumstances of the case as detailed above.



Additional Secretary
Additional Corporation Secretary
Electricity Department
Thirissur

04.12.2017

ED1 - 9908/05

To

The Secretary,
Kerala State Electricity Regulatory Commission
K.P.F.C. Bhavanam, C.V. Raman pillai Road,
Vellayambalam, Thiruvananthapuram - 695 010.

Sir,

Sub : Thrissur Corporation - Electricity Department - Power Purchase agreement with KSEBL - reg:

Ref : 1. KSERC direction in the order dtd. in OA No. 8/2017 dt.02.06.17.
2. Legal Opinion received from the standing counsel.
3. Council resolution # 78 dtd. 13.11.2017.

Please refer to the above.

Further to the direction of Hon'ble KSERC vide ref # 1, TCED submits herewith the following facts pertaining to the signing of PPA with KSEBL for the kind consideration of the Hon'ble Commission.

1. As per Section 185 (2) (a) of the Electricity Act 2003 i.e. notwithstanding such repeal.
 - a) anything done or any action taken or proposed to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licensee, permission, authorization, or exemption, granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provision of this act, be deemed to have been done as taken under the corresponding provision of this act.



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सांगड्राफ्ट
DEMAND DRAFT

Key: TADBIT
Sr. No: 736935

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मांगे जानेपर THE SECRETARY KSERC TRIVANDRUM *****

या उनके आदेश पर

ON DEMAND PAY
रुपये RUPEES Twenty Thousand Only

OR ORDER

अदा करें ₹ 20000.00

IOI 000507988961
Name of Applicant

Key: TADBIT Sr. No: 736935
TCR CORPN (ELECTRICITY DEPT)

AMOUNT BELOW 20001(2/5)

मूल्य प्राप्त / VALUE RECEIVED



भारतीय स्टेट बैंक

STATE BANK OF INDIA

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कोड क्र. / CODE No: 00941

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श्री. सन्दीप कुमार (S-1335)
ब्रांच मैनेजर
BRANCH MANAGER

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केवल 3 महीने के लिए वैध
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Thrissur Municipal Corporation

Vinu C. Kunjappan
Corporation Additional Secretary

M.O.Road, Thrissur – 680001
Phone:-0487-2422020, 2422070

05.06.2020

KSERC – 6376/19

To

The Secretary
Kerala State Electricity Regulatory Commission
K.P.F.C. Bhavanam, C.V. Raman Pillai Road,
Vellayambalam, Thiruvananthapuram – 695 010.

Sir,

Sub : Thrissur Corporation – Electricity Department – Review petition against the Order of KSERC Dt.23.04.2020 in OP 02/2020 for waiving Power Factor Penalty imposed by KSEB.
Ref : Order dt. 23.04.2020 of KSERC in the OP No. 02/2020 – reg.

The review petition of Thrissur Corporation Electricity Department against the Order of KSERC dt. 23.04.2020 in OP/02/2020 for waiving Power Factor penalty imposed by KSEB on TCED. [7 copies + one Soft copy] is submitted herewith. State Bank of India DD for Rs. 20,000/- DDNo. 98896]..... Dt. 6-06-2020 being the fee is also attached.

Yours faithfully,


Additional Secretary

or