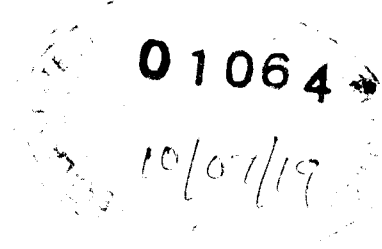


Member (F)

**BEFORE THE HON'BLE KERALA STATE ELECTRICITY
REGULATORY COMMISSION**

Petition No :



In the Matter of : Scheme for One Time Settlement of Arrears (OTS-2019)

**Applicant : Kerala State Electricity Board Limited ,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram**

AFFIDAVIT VERIFYING THE APPLICATION

I, **B.Pradeep**, son of **P.Balachandran** aged **54** years, residing at **Vipanchika, Anayara P.O., Thiruvananthapuram** do solemnly affirm and state as follows:

I am the **Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer** of the **Kerala State Electricity Board Limited, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram**, and the **petitioner** in the above matter and I am duly authorized by the Board to make this affidavit on its behalf. I solemnly affirm at **Thiruvananthapuram** on this the **10th July, 2019** that

- (i) 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) That the statements made in paragraphs of the accompanying application now shown to me are true to my knowledge and are derived from the official records made available to me and are based on information and advice received which I believe to be true and correct.

Deponent

Deputy Chief Engineer (Commercial & Planning)
with full powers of Chief Engineer Kerala
State Electricity Board Limited,
Vidyuthi Bhavanam, Pattom
Thiruvananthapuram – 695 004

VERIFICATION

I, the above named deponent, solemnly affirm at **Thiruvananthapuram** on this the **10th July, 2019** that the contents of the affidavit are true to my information, knowledge and belief, that no part of it is false and that no material has been concealed there from.

Deponent

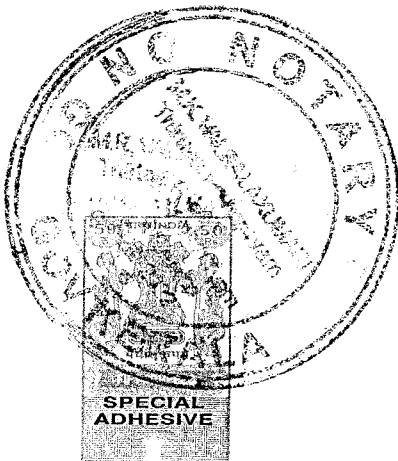
Deputy Chief Engineer (Commercial & Planning)
with full powers of Chief Engineer Kerala
State Electricity Board Limited,
Vidyuthi Bhavanam, Pattom
Thiruvananthapuram – 695 004

Solemnly affirmed and signed before me

Advocate and Notary

10-7-2019

M.K. Vaisalakumari, B.Sc., LL.B.
Advocate & Notary
Roll No. K/386/76
Vanchiyoor, Thiruvananthapuram-35
Mob : 9447822635



BEFORE THE HON'BLE KERALA STATE ELECTRICITY REGULATORY COMMISSION

at its office, KPFC Bhavan, Vellayambalam, Thiruvananthapuram

In the Matter of : Scheme for One Time Settlement of Arrears (OTS-2019)
Applicant : Kerala State Electricity Board Limited,
Vydyuthi Bhavanam,
Pattom, Thiruvananthapuram

THE APPLICANT SUBMITS THE FOLLOWING THAT:

1. Hon. Commission as per letter No. 2094/DD (T)/KSERC/2017 dated 30.05.2018 has given approval for One Time Settlement Scheme for the period from 01.06.2018 to 30.09.2018. Later the scheme was extended upto 31.12.2018 as per order dated 03.10.2018 of the Hon. Commission.
2. An amount of Rs 96.39Cr (including interest) has been collected from consumers under the above scheme as on 31.12.2018. This includes the arrears collected from the Government Institutions including KWA and Health Department. The detail of the arrears collected as per the above scheme is shown in Annexure 1 attached herewith. Further, as part of implementation of the OTS -2018, principal arrear amount of Rs 27.81Cr (including receivables as per installment sanctioned) has been settled under LT and HT category (excluding Govt. Consumers).
3. The Government as per the order dated 07.12.18, 11.01.2019 and other orders has remitted an amount of Rs 75.94Cr at KSEBL being the arrears in respect to kWA and Health Department. Further, pursuant to the constant request made by the Board, the Government as per the order dated 14.01.2019 has decided to take over current charge arrears of Kerala Water Authority upto 30.09.2018 and ordered to settle an amount of Rs 1326.69Cr (including interest) in 4 equal installments with budgetary support. The arrears outstanding as on 31.12.2018 for an amount of Rs 1577.63Cr (Govt. assured amount deducted) is shown in Annexure 2 enclosed herewith.
4. Further, it may be noted that as per the earlier OTS -2016 scheme implemented in the year 2016, an amount of Rs 7.06Cr has been collected inclusive of principal and interest amount from the consumers and as per the OTS- 2018 scheme an amount of Rs 96.39Cr has already been collected as on 31.12.2018. Considering installments paid subsequently, the collection amount will increase from the amount specified above.
5. Even after the expiry of the OTS-2018 Scheme, there were several requests from consumers for settlement of arrears under the OTS scheme, the immediate proposal has been considered by the Board in anticipation of getting it approved from Hon'ble KSERC. Accordingly, an amount of Rs 41,24,641/- has been collected as on date over and above the collection mentioned above. The details of the above cases are shown in Annexure5.
6. Various requests came for OTS settlement has been barred on the grounds of delay. This includes Government, Public Sector Undertaking, Local Bodies and private consumers. Many of the consumers has informed that since the decision for settling the arrears need to be

taken by the top management, the application for OTS could not be submitted on time and has further appealed for considering them under the OTS scheme. Further, it is observed that difficulty is experienced in implementing the OTS scheme within the time limit for the consumers under litigation. In view of the fact that there will be a number of long pending issues which can be settled through another OTS scheme, a new proposal for OTS (OTS-2019) is submitted herewith (Annexed 3), in compliance to regulation 136(5) of Kerala Electricity Supply Code, 2014. The guidelines to be followed by KSEBL for settling arrears entangled in court cases and similar issues are shown in Annexure 4.

7. Further, it is observed that the payment of arrears of the Government, Public Sector Undertaking Companies and Local Bodies are mostly dependent on the Budget allocation. Accordingly, they had appealed for considering their request under OTS scheme even after the expiry of the time limit also. Hence, a special sanction for KSEBL is also sought as per the new scheme for settling the request made by the consumers under the Government, PSUs and Local bodies in line with the scheme approved by the Hon'ble Commission after the expiry of period in the scheme. Also arrears held up due to litigation in respect of private consumers can also be considered by the FTD for an extended period of 6 months.
8. In order to collect the maximum amount of arrears pending under the proposed new OTS - 2019 scheme, the following significant changes have been made from the previous scheme.
 - (i) The eligibility to apply for one time settlement has been changed from arrears more than 2 years to more than 1 years.
 - (ii) A special sanction to the Full time Directors of KSEBL for an extended period of 6 months from the date of normal expiry of scheme for settling arrears of the consumers under Government, PSUs, Local bodies and consumer under litigation.
 - (iii) Theft cases booked under section 135(1)(e) (where electricity is used for the purpose other than for which it was authorized) is included in the new scheme.
 - (iv) In the previous scheme the installments for principal amount has been limited to 6 where as in the proposed new scheme there is no limit for sanctioning installments.
9. The intention behind the scheme is to encourage the defaulted consumers to settle the dues by availing reduced rate of interest. KSEBL expects that a number of long pending issues could be settled through another OTS scheme. Further, The Board also intends to reduce considerably the bad debts reflected in its Book of accounts.

10. Prayer

- (i) Hon. Commission may kindly approve the OTS sanctioned as per Annexure 5 and the proposed OTS -2019 scheme as given in Annexure (3) for a period from 01.08.2019 to 30.11.2019.



Deputy Chief Engineer (Commercial & Planning)
with full powers of Chief Engineer



Amount Collected under OTS -2018 as on 31.12.2018

Sl no	Particulars	Principal Amt (Rs)	Interest (Rs)	Total (Rs)
1	LT consumers	5,62,27,177	1,51,22,969	7,13,50,146
2	HT/EHT Consumers	11,05,82,979	2,26,14,224	13,31,97,203
3	Total LT & HT	16,68,10,156	3,77,37,193	20,45,47,349
4	Government Depts. (KWA)	73,90,00,000	-	73,90,00,000
5	Govt Department (Health)	2,04,00,000		2,04,00,000
6	Total amount paid by Govt.	75,94,00,000		75,94,00,000
7	Grand Total	92,62,10,156	3,77,37,193	96,39,47,349

KERALA STATE ELECTRICITY BOARD LIMITED												
ABSTRACT OF ARREARS OF CURRENT CHARGES AS ON 31-12-2018 (WITHOUT SURCHARGE)												
Sl. No.	NAME OF DEPARTMENT	Arrear excluding litigation (Amount in Crores)			Arrear under litigation (Amount in Crores)			GRAND TOTAL (E + H)	Amount Adjusted as per the Govt. Orders.	Balance amount as on 31-12-2018. (I - J)		
		LT	HT	Total (C + D)	LT	HT	Total (F + G)					
A	B	C	D	E	F	G	H	I	J	K		
1	STATE GOVERNMENT DEPARTMENTS	18.46	33.56	52.02	42.37	0.06	42.42	94.44	5.29	89.15		
2	STATE PUBLIC SECTOR UNDERTAKINGS	577.14	915.17	1492.31	0.78	32.66	33.43	1525.74	1062.98	462.76		
3	PUBLIC INSTITUTIONS	1.90	17.50	19.40	0.45	2.60	3.06	22.46	0.00	22.46		
4	LOCAL BODIES	1.87	0.10	1.97	2.28	0.00	2.28	4.25	0.00	4.25		
5	CENTRAL GOVERNMENT DEPARTMENTS	0.48	0.04	0.52	0.56	0.00	0.56	1.08	0.00	1.08		
6	CENTRAL PUBLIC SECTOR UNDERTAKINGS	0.38	38.21	38.59	0.47	2.85	3.32	41.91	0.00	41.91		
7	DOMESTIC	220.92	0.00	220.92	11.56	0.00	11.56	232.47	0.00	232.47		
8	PRIVATE INSTITUTIONS	154.41	204.57	358.99	33.99	252.20	286.19	645.18	0.00	645.18		
9	CAPTIVE POWER PLANT	0.00	0.00	0.00		58.25	58.25	58.25	0.00	58.25		
10	INTER STATE	0.00	3.58	3.58		0.00	0.00	3.58	0.00	3.58		
11	LICENSEE	0.00	2.00	2.00		14.36	14.36	16.36	0.00	16.36		
12	OTHERS	0.12	0.00	0.12	0.06	0.00	0.06	0.18	0.00	0.18		
	GRAND TOTAL	975.68	1214.73	2190.41	92.51	362.98	455.49	2645.90	1068.27	1577.63		
Note :-	Amount adjusted under One Time Settlement Scheme as per the Government Orders has been deducted in column " J " . (KWA 1062.98 Cr.& Health Dept. 5.29 Cr.)											

Terms and conditions of One Time Settlement Special Scheme

1. **Eligibility**
Consumers with arrears for more than one years will be eligible to apply for One-time-settlement scheme. ie; arrear resulted from demand raised prior 01.08.2018. 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 and theft cases booked under section 135 of Electricity Act 2003, **except for 135(1)(e)**(where electricity is used for the purpose other than for which it was authorized) will not be considered.
2. **Period of the scheme:**
The scheme shall be open from 01.08.2019 to 30.11.2019. The Full Time Directors (FTD) of the KSEBL may consider the request made by the Government, PSU's and Local Bodies for a period of 6 months even after the expiry of the OTS period. Also arrears held up by litigation in respect of private consumers can also be considered by the FTD for an extended period of 6 months.
3. **Time schedule of the scheme**

01.08.2019 -	Intimating consumer about the scheme.
01.08.2019 -	Acceptance of application.
15.08.2019 -	Commencement of issue of demand notice
01.11.2019 -	Last date of accepting application form
30.11.2019 -	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 mentioned 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 :**
For arrears below 5 years old, a reduced interest rate of flat 8% instead of 18% interest will be applicable for the entire arrear and for arrears more than 5 years old, a reduction to flat 6% will be applicable for the entire arrear. 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 for principal amount:**
In certain deserving cases, (Government departments, Public undertakings, Government institutions, local bodies, other deserving consumers with long pending arrears) installment will be provided after the approval of the concerned Deputy Chief Engineer/Full time Directors of KSEBL. Six monthly installments shall be provided on the principal amount by Deputy Chief Engineer of the concerned circle office and for installments above 6, the approval of the Full Time Directors is needed. Such installments upto 12 installment will bear an interest rate of 12% per annum and for above 12 installments an interest rate of 14% will be levied.

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 except for minimum guarantee/rental liability cases. 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. Arrears under litigation :

The applications from LT consumers for settling arrears under litigation will be received by Senior Superintendant in the concerned section office. Arrears under litigation will be settled under OTS only after withdrawal of cases in courts. However, District Level Committees (DLC) formed for this purpose will examine the matter on a case to case basis and settle the cases. Cases where the party is not agreeing for withdrawal of cases before courts for settlement under OTS, it shall be consolidated by Deputy Chief Engineers (District Headquarters) and placed before DLC. The committee shall interact with the consumers and propose settlement formula. In genuine cases, the committee may review the principal amount with reasons clearly specified in the report. There will not be any financial limit to settle the cases. The decision of the Committee, if accepted by the party, will be implemented subsequent to the respective court allowing withdrawal of cases. Cases which cannot be settled by the District Level Committee shall be taken up with the Director (D&IT).

The District Committee shall comprise of the following members:

1. Deputy Chief Engineer, Electrical Circle in District Head quarters (Convener)
2. Deputy Chief Engineers of Electrical circle
3. Executive Engineers of Distribution Divisions
4. Assistant Executive Engineers of Electrical Subdivisions
5. Special Officer (Revenue) or his representative
6. Representative of Legal Advisor & Disciplinary Enquiry Officer

Applications for settlement of Arrears with litigation from HT consumers will be received at the office of SOR. The applications shall be processed by SOR and placed before the State Level (Expert) Committee. The State Level (Expert) Committee constituted as given below shall examine carefully the issues in such cases, shall interact with consumer and shall propose a settlement to Full Time Directors for decision. The State level Committee may also recommend review in the principal amount in genuine cases, the reasons shall be stated clearly in the Report.

The State Level Expert Committee shall comprise of the following members:

1. Deputy Chief Engineer (Com & Plg) with full powers of CE (Chairman)
2. Special Officer (R) (Convener)
3. Joint Secretary (Law)
4. Accounts Officer, Arrear Clearance Cell
5. T.A to Director (Dist & IT)

However, theft cases except booked under 135(1)(e), will not be considered under OTS. Assessment for unauthorized loads shall also be settled only after taking a reasonable view, in case the applicants are willing to withdraw the cases pending.

The guidelines to be followed by KSEBL as per the above OTS scheme for settling arrears which are entangled in court cases and similar issues is attached separately in Annexure 4.

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. However request for more than 6 installments on principal amount shall be taken up with FTD through Director (D&IT). Applications from HT & EHT consumers will be accepted by SOR. Those cases will be put up before FTD with the recommendation of expert committee for settlement.

The applications received from Government, PSU's, Local Bodies and private consumers under litigation after the expiry of OTS period may be collected at respective section offices and office of the SOR as may be applicable and are to be forwarded to the office of the Director (Distribution & IT), from where the same has to be placed before the Board with proper recommendations of the expert committee.

13. Publicity :

The Public Relations Officer, KSEBL and Deputy Chief Engineers of Electrical Circles shall give wide publicity about the scheme in local news papers, 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.

Guidelines for settling arrears which are entangled in court cases and similar issues by the District level committee, as per OTS 2019.

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 (OTS -2019) for favour of implementing. The present scheme covers arrears for more than one years but specifically excludes two items from the scope of the scheme, which are

- i) Cases once settled under previous OTS schemes.
- ii) Theft cases booked under Section 135 of the Electricity Act 2003 except cases booked under section 135(1)(e) (where electricity is used for the purpose other than for which it was authorized).

The scheme includes all other pending arrears including amounts charged for unauthorised additional loads, disputed meter faulty cases etc., as per the order read second above.

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 -2018 except for the changes made with the inclusion of new matters in the proposed one time settlement scheme 2019.

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 can invariably be extended to the consumers in such cases.

1. 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 proposed in the new OTS scheme.

4. INSTANCES OF PART PAYMENTS

Probable situations and positions: It has come to the notice of the Board that certain consumers have defaulted payments after remitting a portion of the disputed figure or after remitting a few instalments. In some cases, they have already availed amnesty like OTS and have become defaulters again. Several such cases may be lying entangled in litigations.

General guide line for settlement : Such issues can be reopened in appropriate cases and can rework the out standings based on the present guidelines/schemes. Whereas, if the arrear is

already settled completely and remitted in full under any of the previous schemes, the same shall not be re-opened.

5. DISPUTES PERTAINING TO MOBILE TOWERS

Probable situations and positions: For a while the High Court of Kerala was flooded with writ petitions regarding the penalisation connected with mobile towers. Having regard to the directive of the Hon'ble High Court in its various judgments, the Board has issued an exhaustive Board Order dated 16.04.2016 and a good majority of those disputes have already been settled based on the guidelines stipulated in the said BO.

General guide line for settling The same dictum can invariably be employed to settle the remaining such disputes, if any.

6. 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: Considerable reduction in interest as per the scheme and suitable instalments can be considered in genuine cases.

7. MATTERS CONNECTED WITH REVENUE RECOVERY ACTIONS

Probable situations and positions: Revenue recovery is the extreme legal measure resorted to by the Board to realise its pending arrears. It is a time consuming process. In certain instances, it might have ended up in litigations and a consequent stalemate. In some other cases, the correct address of the defaulter may be untraceable even after earnest efforts and the arrear would be unrecoverable by lawful means.

General guide line for settlement: The settlement authority can explore the possibility of a potential settlement by negotiating with the debtor by offering considerable reduction in interest rate as per the scheme. In instances where correct address remain untraceable the same may immediately be brought before the notice of the Board to get the outstanding figure written off after due diligence, for ensuring sanitisation of the debt burden.

8. REDUCTION IN MD FOR DEMAND BASED BILLING CONSUMERS DURING PERIODS OF CLOSURE

Probable situations and positions In the case of HT/EHT/LT industrial consumers under demand based tariff, there are instances where the production process ceases for a considerable period, with nominal consumption. Even under such conditions, the billing demand is 75% of contract demand, with actual utilisation. Several such demands may have ended up in litigations and may be remaining unrealised.

General guide line for settlement In such cases, outstanding demands may be settled considering the recorded MD as an indicator for a seriously negotiated settlement as part of the OTS scheme.

9. UNAUTHORISED USE OF ELECTRICITY

Probable situations and positions : A substantial number of pending litigations comes under this category. The guidelines enunciated herein pertain to arrears of electricity charges for unauthorised uses of electricity that are pending adjudication before various courts. Implementation of any decision in the matter shall be done only after obtaining order of disposal from the respective Courts.

General guide line for settlement The settlement authority shall exercise logical discretion in appropriate cases to persuade the consumer to settle the matter. It shall be ensured that the process of settlement is equitable, fair as well as transparent. Implementation of any decision in the matter shall be done only after obtaining order of disposal from the respective Courts.

a) LITIGATIONS PERTAINING TO DETECTION OF UNAUTHORISED ADDITIONAL LOAD

Probable situations and positions: Assessments for unauthorised additional loads emanate from detection of loads connected over and above the contracted connected load. Assessments are usually made for the actual period of unauthorised use if it is known or else for a period of one year. Objections against assessments are usually regarding the quantum of load connected as well as the period of assessment.

General guide line for settlement: If there are genuine and convincing reasons, contentions regarding revision of both the elements, i.e., the quantum of load as well as the period taken for arriving at the assessment can be considered for arriving at a mutually agreed settlement.

b) LITIGATIONS PERTAINING TO DETECTION OF MISUSE OF ELECTRICAL ENERGY (USE OF ELECTRICITY FOR A PURPOSE OTHER THAN THAT AUTHORISED)

Probable situations and positions:

This is another area wherein a considerable number of disputes have its origin. In this case also, the objections would normally be on the quantum of energy used for the unauthorised purpose as well as the period of assessment.

General guide line for settlement: If there are genuine and convincing reasons, contentions regarding revision of both the elements, i.e., the quantum of energy used for the unauthorised purpose, as well as the period taken for arriving at the assessment can be considered for arriving at a mutually agreed settlement. The cases where prosecution proceedings in terms of Section 135 of the Electricity Act 2003 have been initiated would not qualify for consideration under the OTS scheme.

c) LITIGATIONS PERTAINING TO ASSESSMENTS FOR TEMPORARY EXTENSION UNDER LT VIII AND LT IIIB

Probable situations and positions: It is a settled legal proposition that penalisation for temporary extension on a daily basis (previously under the tariff category LT VIII and presently under the tariff category LT III B) is legally unsustainable. Time and again various judicial fora have turned down such assessments as having no statutory backing.

General guide line for settlement: In such cases revoke those assessments and issue fresh assessments in the respective tariff for which energy was used. Interest may be computed from the date on which such fresh assessments are issued, based on OTS rates of interest.

GENERAL ISSUES

Certain general issues that are relevant to the OTS scheme, but are not necessarily under litigation.

a) **Power supply to temporary buildings and make shift establishments, during periods of disasters**

Probable situations and positions : The Board provides power supply to temporary buildings and make shift establishments, during periods of disasters. Emergency connections provided during the Tsunami disaster are examples. But the current charges and its consequential interest have accumulated as huge arrears in several cases. Similarly, the Board has undertaken some capital works and effected electric connection to certain disaster prone areas, for which no amount has been remitted into the Board's exchequer.

General guide line for settlement The settlement regime shall be instructed to take up the matter with the State Tsunami Cell/Disaster Management Authority/ concerned revenue authorities to get the arrears realised at the earliest. In such cases, interest can be reduced based on the present scheme.

b) **Pending arrears, Part remittances:**

Probable situations and positions: In the cases of pending arrears, if some piecemeal interim remittances are made.

General guide line for settlement : Such figures can be reworked afresh by reassessing the principal amount on the date of remittance and suitable reductions can be effected in the principal and interest components. That means, interim remittance made previously may be adjusted as on the date of remittance against the interest calculated at OTS rates and the balance amount if any, to the principal.

c) Leakage of electrical energy owing to wiring faults

Probable situations and positions It is the bounden duty of the consumer to keep the electrical appliances and wiring in good condition. But there are many reported instances wherein exorbitant readings are shown due to leakage of electrical energy owing to wiring faults which is solely attributable to the consumer. The recent trend shows that many such disputes are being adjudicated in favour of the consumers by judicial/quasi judicial forum alleging various technical/ legal reasons, thereby depriving the Board a fair share of revenue due to it. Having regard to the fate of such disputes,

General guide line for settlement : Those pending cases pertaining to the subject matter can be taken up for settlement through a fair process of negotiation and the settlement authority should exercise its reasonable discretion to rework the assessment up to a maximum of 50% reduction of the original assessment on a case to case basis, if such arrears qualify for being included in the OTS scheme. This shall not be taken as a norm and shall be done only in absolutely deserving cases of very low paying capacity.

d) Arrears of community drinking water schemes

Probable situations and positions : Arrears of community drinking water schemes is another area of concern that require specific attention, as part of the OTS scheme. Such schemes are usually registered as a society with the beneficiaries as its members. The electric connection would be availed by the society. Once the society becomes defunct the Board cannot move further to realise the arrears as the society remains only in papers. Initiating revenue recovery action may also be practically impossible as the said society may no longer be in existence and legally it is impermissible to proceed against the individual members.

General guide line for settlement: In such cases a serious drive may be undertaken at the Subdivision level to meet the office bearers of the society alerting them of coercive-penal action from the part of the Board. Taking up the issue with the local self government concerned may also be resorted to. Reduced rates of interest can invariably be extended, if the arrear qualifies to be included in the OTS scheme.

Note: The above guidelines can invariably be extended to arrears pending for periods less than one years also, where cases are existing. But the benefit of OTS rates of interest are not applicable in such cases.

Annexure 5

Details of cases sanctioned by the Board for settling in anticipation of getting approval from KSERC									
Sl No	Circle	No of consumers	Principal amt due	Interest due	Principal amt paid as per OTS	Interest paid as per OTS	Total amt paid under OTS	settlement details	
1	Tvpm	1	401573	1035069				Not settled	pallickal Grama Panchayath
2	Kottayam	2	390436	478978	390436	213497	603934	settled	Samaritan Medical Centre, Changanassery
3	Kollam	3	995329	197344				Not settled	Fathima Memorial Educational Trust
4	EkM	5	554471	1476264	554471	452374	1006845	settled	Govt. Hospital, Puthencruz
5	Thodupuzha	1	52600	185846	52600	39208	91808	settled	Bison Valley
6	Thrissur	1	1959124	853552	1959124	450372	2409496	Partially settled	3 installment for interest pending (Rs 416734/-)
7	Perumbavoor		174533	241265				Not settled	
8	Tirur	2	9806	7895	9806	2752	12558	settled	Drinking water schemes
			4537872	4476213	2966437	1158203	4124641		