

**THE STATE ELECTRICITY OMBUDSMAN**

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**REVIEW PETITION No. R.P/005/2022****IN APPEAL PETITION No: P-031/2022**

**(Present: A. Chandrakumaran Nair)**

**Dated: 11<sup>th</sup> November, 2022**

Review Appellant : Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Thoppumpady, Ernakulam Dist.

Review Respondent : Smt. Mini Felix,  
Chiramel House, Kootungal Lane,  
Kochupally Road,  
Thoppumpady,  
Ernakulam Dist. 682004

**ORDER****Background of the case:**

The review appellant, Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Thoppumpady was the respondent in Appeal Petition No. P031/2022. The review respondent Smt. Mini Felix is the consumer of the Electrical Section, Thoppumpady with consumer number 1155629007468. The review respondent installed a grid connected solar system on getting the approval from the Licensee. The application for meter testing & inspection was submitted on 01-11-2021. After repeated reminders and follow up, the testing was done on 15-12-2021 and the solar plant was connected to the grid. There was a delay of 44 days from the date of application and hence, suffered loss of energy. The request was to compensate the loss suffered. The review respondent filed the petition to the Consumer Grievance Redressal Forum (CGRF), Central Region, and the CGRF(CR) dismissed the petition vide order dated 23.03.2022. Aggrieved by the decision of the Forum, the appeal petition before this Authority vide P031/2022. On completing the process and procedure, this authority issued order dated 25-

07-2022, which states that the Licensee has to reimburse the energy charges for 22 days collected from the appellant.

Aggrieved by the decision, the Review appellant filed this review petition to this authority.

**Arguments of the Review Appellant:**

The delay in filing the Review Petition may please be condoned since the administration sanction from higher authorities to file Review Petition was received on 7/10/2022.

A review in the order of this Authority can be done in the following cases as per Regulation 27 A of Regulation, 2005:

- (i) On the discovery of a new and important matter or evidence which, after the exercise of due diligence, was not with his knowledge or could not be produced by him.
- (ii) Mistake or error apparent on the face of the record.

This appeal petition was filed against the order in complaint number 74/21-22 of CGRF in which the respondents are Assistant Executive Engineer. Kerala State Electricity Board Limited. Electrical Sub Division, Thoppumpady and Assistant Engineer, KSE Board Limited, Electrical Section, Thoppumpady. But in the order of this Authority only Assistant Executive Engineer. Kerala State Electricity Board

Limited, Electrical Sub Division. Thoppumpady is impleaded as respondent.

When the course of action occurred, the regulation in force is the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulation 2020 as published in Extra Ordinary Gazette (Vol.IX; No. 1345) dated 5-6-2020 vide Notification No. 1204/D(T@/2019/KSERC. The regulation (the Kerala State Regulatory Commission (Grid Interactive Distributed Solar Energy Systems) Regulations, 2014 relied on by this Authority is repealed as stipulated in the regulation 69 of the KSERC (Renewable Energy and Net Metering) Regulations

2020.

The petitioner is prosumer as per regulation 2 (be) of the KSERC (Renewable Energy and Net Metering) Regulations 2020.

The following facts also may please be considered:

- (i) There is no provision in the KSERC (Renewable Energy and Net Metering) Regulations 2020 about deemed generation from solar plants and consequent set-off such quantum of energy.
- (ii) The prices for such quantum of energy, if any, such as pooled power cost or otherwise is not seen determined by the KSERC.
- (iii) No formula or method was prescribed in the regulation about the site-specific quantum of generation from Roof Top Solar system (RTS)/PV system. Moreover, place to place solar generation/irradiation is not seen specified by the KSERC in the said regulation.
- (iv) This Authority may please be considering the reality of the large number of Prosumers on account of installation or (RTS)/PV system.

In the absence of any regulatory mechanism on deemed generation and or rates fixed thereto as mentioned, the order dated 25-07 2022 of this Authority may please be reviewed.

**Arguments of the Review Respondent:**

It took the review appellant 55 days to file a review, from the date of a reminder from me, the consumer, with reason mentioned as "delay in administration sanction". The review respondent believes this long delay to file a RP is unjustifiable. A long delay for a RP on a grievance of delay in inspection of solar grid! It is a malicious attempt to prolong the proceedings and frustrate the consumer and hence to drop the case, thereby defeating the very purpose of an effective grievance redressal mechanism. For the above reasons, I humbly request that this delay may not be condoned and the review petition be rejected.

The respondents do not get the benefit of regulation 27A of regulations 2005 as,

(i) There has been no discovery of a 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.

(ii) No mistake or error was apparent on the face of the record.

As mentioned by the review appellant, the order of this Authority, only Assistant Executive Engineer, KSEBL, Electrical sub division, Thoppumpady is impleaded as respondent.

The Assistant Executive Engineer had the opportunity to point out the discrepancy, if any, on receipt of the notice No. P/031/2022/0633/dated 05.07.2022 for hearing, of this Authority. He also had the opportunity for the same during the hearing on the 20th of July 2022. He did not raise any discrepancy or objection with respect to the same and preferred to raise the discrepancy only after the order of your good self, which clearly shows the intent to delay the proceedings without any justification.

The respondent has mentioned that the regulations applicable at the time of dispute is KSERC (renewable energy and net metering) regulation 2020 as published in EOG (vol IX no. 1345) dated 05.06.2020 and was not KSERC (Grid interactive distributed solar energy systems) regulations 2014 as relied on by this Authority.

The review respondent made his claim and grievance relying on CE(REES)/ PROJECTS/AEE 6/SOLAR-GENERAL/16-17/766(1)/09/09/2016, which as understood by me is being followed for grid tied solar installation. This circular was quoted as the ground of review respondent's grievance during all her appeals to the CGRF and to this Authority. At no point of time the review appellant disputed the applicability of this circular. The review appellant being knowledgeable officers of the KSEB, should have corrected review respondent's claim of the circular in her grievance during the proceedings or during the counter statement. Nevertheless, the KSERC regulations 2020 does not deviate much from the previously quoted circulars in time limits. This KSERC regulations 2020 is definitely not a discovery of a new and important matter or evidence. It is a regulation which very much existed during the course of action

and this indeed had to be brought to the notice of the CGRF and the Hon'ble ombudsman by the learned respondents, during the course of the proceedings, this avoiding the delay and the time and effort of all the parties involved.

There is definitely no provision in the KSERC(Renewable energy and net metering) regulations 2020 about deemed generation from solar plants and consequent set of such quantum of energy. The regulations are meant to be followed in letter and spirit. Deemed generation would arise only when, the time frames in the regulations are violated. And hence the grievance. Every little details shall not be mentioned in any regulation. Regulations are laid down with respect to what to be followed and not what should not be followed. And regulations do not normally mention the actions if the regulations are not followed, because it is not meant to be violated. It is therefore to be said without doubt that KSEBL is accountable for not having followed the laid down regulations and hence causing loss of renewable energy and resulting in monetary damages. Hence the claim for compensations and costs.

The review appellant mentions that the prices of such quantum of energy, if any, such as pooled power cost or otherwise is not seen determined by the KSERC. The cost of such quantum of energy is not seen determined by the KSERC because, such deemed generation or loss of energy is not expected by the KSERC. The very purpose of renewable energy being to reduce fossil fuels and in also the reduce the dependence on buying of energy from outside the state. Hence any sort of loss of renewable energy is not expected by KSERC and the government. The prices for the lost energy could be as banked energy and hence can be paid as per the APPC approved by the commission or the energy deemed to be had generated shall be credited to the energy banking account of the consumer.

The respondent mentions that there is no formula or method prescribed in the regulation about the site-specific quantum of generation from RTS/PV system. More over place-to-place solar generation is not seen specified in the KSERC in the said regulation.

KSERC does not specify the total generation. With net metering in place, the Licensee is not concerned about the total generation of the grid. Nevertheless, the total generation is available in the solar inverter of the

consumer via its app. Though the energy generation loss is not available, energy generation immediate to the commissioning of the grid is available.

The review appellant has requested to consider the reality of the large number of prosumers on account of installation of RTS/PV system.

This energy loss due to the negligence of the Licensee is at a stage where more than 2/3rd of KSEB's annual expenditure is on power purchase and also when solar generation has been underutilized in Kerala, which has set itself a target of 1870MW of solar power by 2022. As per the AE in charge of testing division, 250 to 275 inspections are done in a month and all of them go through a delay of about 30 to 45 days. Looking at the above figures for a small geographical area, it is needless to mention the massive amount of renewable energy loss in the state of Kerala, due to this avoidable delay in inspections by the licensee. The very purpose of the initiatives of the governments of the State and Centre to promote the setting up and user of renewable energy, is certainly being defeated by these irresponsible actions of the licensee.

Review respondent requested to consider the above and may reject the review petition and may order to compensate for the loss of renewable energy.

**Analysis and findings:**

The hearing of the review petition was conducted on 08-11-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The review petitioner Sri. Shaji. M. Babu, Assistant Executive Engineer, Electrical Sub Division, Thoppumpady along with Brightson Jude, Assistant Engineer, Electrical Section, Thoppumpady were attended the hearing and Sri. C.S. Shyam, was attended the hearing on behalf of the review respondent Smt. Mini Felix. On examining the review petition, the arguments filed by the review appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The Section 27A of KSERC (CGRF & Electricity Ombudsman) Regulations

2005 clearly states that the review petition is to be filed by the aggrieved party on the order of Ombudsman within 15 days from the date of receipt of the order on the appeal petition. The order on P031/2022 was issued on 25-07-2022 and the review petition is received only on 13-10-2022. The review petitioner states that the delay occurred for getting the administrative sanction. The delay is very much on higher side. However, the petition has been accepted.

The Section 27A of KSERC (CGRF & Ombudsman Regulations 2005 also states that the review petition is to be accepted on two grounds.

- (i) On the discovery of a new and important matter or evidence which, after the exercise of due diligence, was not with his knowledge or could not be produced by him.
- (ii) Mistake or error apparent on the face of the record.

The respondent to the petition filed by appellant is always be the Asst. Executive Engineer, higher officials of the Licensee and hence there is no mistake in the order.

Second issue is about the consideration of KSERC (Renewable Energy and net metering) Regulation 2020. This was not referred in the order dated 25-07-2022. The applicability of this regulation in this particular case has been examined. In this regulation Chapter III deals with the Grid Interactive Renewable Energy System under Net metering facility.

The Section 19 KSERC (Renewable Energy and net metering) Regulation 2020 states as follow

Section 19 (7) The distribution licensee shall, within seven days from the date of submission of approval of the Electrical Inspector, test the renewable energy system in accordance with the provisions of the Central Electricity Authority (Technical Standards for Connectivity of Distributed Generation Resources) Regulations, 2013.

Section 19 (8) On successful completion of the test as specified in sub-Regulation (7) above, the distribution licensee and the eligible consumer shall execute a connection agreement in the format containing the general and specific conditions, as approved by the Commission, in accordance with the provisions of the Central Electricity Authority (Technical Standards for Connectivity of the Distributed Generation Resources) Regulations, 2013.

Section 19 (9) The licensee shall, within seven days from the date of execution

of the agreement as specified in Sub Regulation (8) above, connect the renewable energy system to the distribution system.

This Section permits the Licensee to take 7 days for testing the renewable energy system, seven days for connecting the system on execution of agreement. Total time taken could be 14 days from the date of submission of the approval of Electrical Inspector. The review respondent has submitted the approval of Electrical Inspector on 01-11-2021 and connected to the grid on 15-12-2021, total delay of 44 days. The time period available for the Licensee as per the regulation is 14 days.

The major change of the 2020 regulations from that of 2014 Supply Code is the time allocated for testing the system has been reduced from 15 days to 7 days. Accordingly, the time available for the Licensee has been reduced for 22 days to 14 days.

Then the review petitioner's point is about the deemed generation. Here the deemed generation have not been considered. If the solar system would have been connected in time the review respondent would have at least saved in power charge. This only has been allowed.

The quantum of energy production has not been assessed as any method adopting for calculating the probable production could be questionable. Hence, the prices of the solar energy have not been considered at all. The regulations formed by KSERC to comply by the Licensee as well as other stake holders as per Section 181 of the Indian Electricity Act 2003. The Section 57 of the Indian Electricity Act states as:-

Section 57 (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensee

Section 57 (2) If a licensee fails to meet the standards specified under subsection (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.



The above Section is very clear about the standard of performance to be met by the Licensee.

In the case in hand as per the regulation 2020, the delay occurred from the Licensee is 30 days.

**Decision: -**

The order issued by this Authority dated 25-07-2022 is reviewed and the following is the final order:-

- (1) Licensee has to reimburse the energy charges for 30 days (from 15-11-2021 to 15-12-2021) collected from the review respondent.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

RP/005/2022/\_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Thoppumpady, Ernakulam Dist.
2. Smt. Mini Felix, Chiramel House, Kootungal Lane, Kochupally Road, Thoppumpady, Ernakulam Dist. 682004

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.