

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri. Preman Dinaraj, Chairman

RP No 06/2020

In the matter of : Review Petition filed by KSEB Ltd seeking review of Suo-motu Order dated 11.11.2019 in the matter of Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plant.

Petitioner : Kerala State Electricity Board Ltd (KSEB Ltd)

KSEB Ltd represented by : Sri. K G P Nampoothiri, EE
Smt. Latha S.V, AEE

Order dated 01.10.2020

1. Kerala State Electricity Board Ltd (hereinafter referred as **KSEB Ltd**, or the **Petitioner**) on 26.12.2019 filed a review petition against the Order of the Commission dated 11.11.2019 on 'extending the validity of the Order of the Commission dated 30.09.2014' for a further period of 2 years from 01.10.2019.
2. The summary of the issues raised by the KSEB Ltd., is given below:
 - (i) The Commission vide order dated 30.09.2014 in the matter of "Suo-motu proceedings in the matter of Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants", ordered the following.
 - "(1) *All licensees shall provide generation based incentive (GBI) at the rate of Rs. 1.00/unit for a period of five years from 30.09.2014 OR till KSEB Ltd meet its solar RPO for any year by purchasing solar energy or producing solar energy by its initiatives whichever is earlier.*
 - (2) *The energy for which incentive paid by the licensee to the consumer shall be accounted towards the solar renewable power purchase obligation of each licensee."*

The said order was issued by the Commission on suo-motu basis after completing all the procedures and formalities as per the Regulation 23 of KSERC Conduct of Business Regulations, 2003.

- (ii) KSEB Ltd had complied with Order of the Commission, and had been granting GBI from the year 2015-16 onwards. As per the Order of the Commission, GBI had to be granted for a period of 5 years from 30.09.2014 or till KSEB Ltd., meets its solar RPO for any year, whichever is earlier. The period of 5 years from date of Order has expired on 30.09.2019. The Commission vide Order dated 11.11.2019 has extended the validity of the previous order dated 30.09.2014 for a further period of 2 years from 01.10.2019, on suo-motu basis.
- (iii) KSEB Ltd further submitted that, the Order dated 11.11.2019 was issued without the consultation of the stakeholders and without following due process as per KSERC Conduct of Business Regulations, 2003. When the Commission initiated suo-motu proceedings, it shall be as per the Regulation 23 of the KSERC (Conduct of Business) Regulations, 2003, which is extracted below.

“23. Suo motu proceedings.-

(1) When the Commission initiates the proceedings suo motu, it shall be by a notice of inquiry (hereinafter referred to as the "Notice of Inquiry") issued by the Office of the Commission.

(2) While issuing the Notice of Inquiry, the Commission may pass such orders and directions as may be deemed necessary for service of notices to the affected or interested parties and for the filing of replies and rejoinders in support or in opposition of the case in such form as the Commission may direct.

(3) The Commission may, if it considers appropriate, issue orders for publication of the Notice of Inquiry inviting comments from the public or any class of persons on the issue involved in the proceedings in such form as the Commission may direct in such order.

(4) While issuing the Notice of Inquiry, the Commission may, in suo motu proceedings and other appropriate cases, designate an officer of the Commission or any other person whom the commission considers appropriate to present the matter in the capacity of a petitioner in the case.”

In the instant case, while extending the GBI scheme for a further period of 2 years from 01.10.2019 vide the Order dated 11.11.2019, the Commission had not followed the procedures stipulated under Regulation 23 of KSERC Conduct of Business Regulations, 2003. Hence KSEB submitted that Order dated 11.11.2019 is bad in law on the face of records and therefore the instant petition is filed for review of the said Order.

- 3. The Commission conducted admissibility hearing of the petition on 28.02.2020 at the Court Hall of the Commission, Thiruvananthapuram.

4. The Commission, after examining the maintainability of the review petition filed by KSEB Ltd, as per the provisions of the Electricity Act, 2003 and KSERC (Conduct of Business) Regulations, 2003, ordered the following vide the Order dated 24.04.2020.

- (1) *Admit the petition filed by KSEB Ltd.*
- (2) *KSEB Ltd shall, within two months from the date of this order, submit detailed proposal on providing Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants with effect from 01.10.2019, as per the paragraph 9 above.*
- (3) *Till the Commission take a decision on the review petition filed by KSEB Ltd, the Commission ordered to defer the implementation of the order of the Commission dated 11.11.2019.*

5. In compliance of the directions contained in the Order of the Commission dated 24.04.2020, KSEB Ltd vide the submission dated 01.06.2020 submitted as follows;

“As per Regulation 58 of the KSERC (Renewable Energy and Net Metering) Regulations 2020, Generation based incentive at the rate of Rs.1.00/unit is available to the off-grid captive solar plants from 1-10-2019 to 30.09.2021.

Since the GBI as above will come into effect with statutory force, it is humbly submitted that KSEBL will be providing GBI to all eligible off grid solar generators in accordance with the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020, immediately on coming into effect of the regulations.”

6. KSEB Ltd, further vide the submission dated 28.7.2020 submitted the following.

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KSEBL vide additional submission dated 1-6-2020 submitted before Hon'ble Commission that KSEBL will be providing GBI to all eligible off grid solar generators in accordance with the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020, immediately on coming into effect of the regulations.

.Even though submission was made as above, final orders are not issued on the petition. KSERC (Renewable Energy and Net Metering) Regulations, 2020 mandates implementation of order dated 11-11-2019 of Hon'ble Commission. However, KSEBL is not able to restart grant of GBI in compliance with this provision in the Regulation considering the direction contained in the order dated 24-4-2020 of Hon'ble Commission deferring the implementation of the order dated 11-11-2019. Therefore, it is humbly requested that a final decision on the review petition filed by KSEBL may be issued.

7. The Commission conducted a hearing on the subject petition on 30.9.2020 through video conference. Sri KGP Nampoothiri, Executive Engineer and Smt Latha S V, Asst:Executive Engineer attended the hearing on behalf of KSEB Ltd. During the hearing, the petitioner KSEB Ltd submitted that since the Order dated 11.11.2019 was deferred till the Commission take a decision on the review petition filed by KSEB Ltd, they could not provide GBI as per the provisions of the KSERC (Renewable Energy and Net Metering) Regulations, 2020, and hence KSEB Ltd requested to issue final order on the review petition dated 26.12.2019. On a query raised by the Commission on providing the GBI @Rs 1.00/unit with effect from 01.11.2019, KSEB Ltd clarified that, they had no objection to implementing the Order dated 11.11.2019 of the Commission with effect from 01.11.2019.

Analysis and Decision

8. The Commission examined the petition in detail as per the provisions of the Electricity Act, 2003 and Renewable Energy Regulations notified by the Commission from time to time, and ordered the following.
9. The Commission vide order dated 30.09.2014 in the matter of “Suo-motu proceedings in the matter of Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants”, ordered the following.

“(1) All licensees shall provide generation based incentive (GBI) at the rate of Rs. 1.00/unit for a period of five years from 30.09.2014 OR till KSEB Ltd meet its solar RPO for any year by purchasing solar energy or producing solar energy by its initiatives whichever is earlier.

(2) The energy for which incentive paid by the licensee to the consumer shall be accounted towards the solar renewable power purchase obligation of each licensee.”

Accordingly, the Suo-motu order on providing GBI @Rs 1.00/unit to the energy generated from the ‘Off Grid Captive Solar Power Plants’ was applicable from 30.09.2014 to 30.09.2019 or till KSEB Ltd meet its solar RPO. However, KSEB Ltd could not meet its Solar RPO during the said period.

Hence the GBI @Rs 1.00/unit to all Off Grid Captive Solar Power Plant was prevailing in the State for the entire five years from 30.09.2014 till 30.09.2019.

10. Since KSEB Ltd could not meet its Solar RPO targets till 30.09.2019, and it may take few more years to meet the solar RPO targets in spite of KSEB Ltd making sincere efforts to meet its RPO targets, the Commission vide the Order dated 11.11.2019 ordered to extend the validity of the Order of the Commission dated 30.09.2014 in the matter of providing Generation Based Incentive (GBI) for Off

Grid Captive Solar Power Plants', @Rs 1.00/unit for a further period of 2 years from 1.10.2019.

11. KSEB Ltd vide the petition dated 26.12.2019 filed a review petition against the Order of the Commission dated 11.11.2019, citing the reason that, "*Commission had not followed the procedures stipulated under Regulation 23 of the KSERC Conduct of Business Regulations, 2003*". Commission conducted admissibility hearing on the matter on 28.02.2020. The Commission vide the order dated 24.04.2020 examined the maintainability of the Review Petition and ordered the following.

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- (1) Admit the petition filed by KSEB Ltd.
- (2) KSEB Ltd shall, within two months from the date of this order, submit detailed proposal on providing Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants with effect from 01.10.2019, as per the paragraph 9 above.
- (3) Till the Commission take a decision on the review petition filed by KSEB Ltd, the Commission ordered to defer the implementation of the order of the Commission dated 11.11.2019."

12. In the meantime, the Commission vide the notification dated 07.02.2020, notified the KSERC (Renewable Energy and Net Metering) Regulations, 2020, and said Regulations was notified in the Kerala Gazette on 05.06.2020. Accordingly KSERC (Renewable Energy and Net Metering) Regulations 2020, come into effect. Regulation 58 of the KSERC (Renewable Energy and Net Metering) Regulations, 2020 provide as follows.

"58. Generation based incentives for off-grid solar schemes.-

Generation based incentives as per the Order of the Commission dated 11.11.2019 is available to the off-grid captive solar plants upto 30.09.2021."

Accordingly, as per the Regulation 58 of the KSERC (Renewable Energy and Net Metering) Regulations, 2020, GBI @Rs 1.00/unit is available to all off-grid captive solar power plants for its generation from 01.10.2019 to 30.09.2021.

13. KSEB Ltd vide the submission dated 01.06.2020 submitted as follows.

"As per Regulation 58 of the KSERC (Renewable Energy and Net Metering) Regulations 2020, Generation based incentive at the rate of Rs.1.00/unit is available to the off-grid captive solar plants from 1-10-2019 to 30.09.2021.

Since the GBI as above will come into effect with statutory force, it is humbly submitted that KSEBL will be providing GBI to all eligible off grid solar generators in accordance with the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020, immediately on coming into effect of the regulations."

As above, KSEB Ltd vide the submission dated 01.06.2020 communicated that they will be providing GBI to all eligible off grid solar generators in accordance with the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020.

14. Further, KSEB Ltd vide the submission dated 28.07.2020 informed the Commission that, since the Commission vide the Order dated 24.04.2020 deferred the implementation of the order dated 11.11.2019, KSEB Ltd could not restart grant of GBI in compliance with the provisions of the Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020. Hence KSEB Ltd requested before the Commission to issue final decision on the review petition filed by KSEB Ltd dated 26.12.2019.

During the hearing held on 30.09.2020, KSEB Ltd further submitted that, they had no issue on implementing the Order dated 11.11.2019, on providing GBI @Rs 1.00/unit to all eligible off-grid captive solar power plants for a period of two years with effect from 01.10.2019.

Considering the submissions of the KSEB Ltd dated 01.06.2020 and 28.07.2020, and also the deliberations during the hearing held on 30.09.2020, the Commission decided to restore the Order of the Commission dated 11.11.2019, extending the validity of the Order of the Commission dated 30.09.2014 in the matter of providing Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants @Rs 1.00/unit, for a further period of 2 years from 01.10.2019.

Orders of the Commission

15. The Commission after duly examining the KSEB Ltd's review petition dated 26.12.2019, its submissions dated 01.06.2020 and 28.07.2020, and deliberations of the subject matter during the hearing held on 30.09.2020, as per the provisions of the Electricity Act, 2003, and KSERC (Renewable Energy and Net Metering) Regulations, 2020, hereby orders the following.

- (1) Restore the implementation of the Order of the Commission dated 11.11.2019, extending the validity of the Order dated 30.09.2014 in the matter of providing Generation Based Incentive (GBI) for Off Grid Captive Solar Power Plants @Rs 1.00/unit for a further period of 2 years from 01.10.2019.
- (2) KSEB Ltd shall provide GBI@Rs 1.00/unit to all eligible Off-Grid Captive Solar Power Plants for a period of 2 years from 01.10.2019.

The review petition disposed off.

Sd/-
Preman Dinaraj
Chairman

Approved for the issue,

Secretary

