

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

**Present:        Shri. Preman Dinaraj**  
**Adv. A. J. Wilson**

**OP. No. 09/2022**

In the matter of        : Condonation of delay in filing Truing up petition for the financial  
   Year 2020- 21.

Petitioner                : M/s Kerala State Electricity Board Limited

**Order dated 08.02.2022**

1. The instant petition is filed by M/s. Kerala State Electricity Board Limited for condoning the delay in filing of the truing up petition by the petitioner for the financial year 2020-21.
2. KSEB Ltd submitted that as per proviso to Regulation 10 (1) (b) of the KSERC (Terms and Conditions for the Determination of Tariff) Regulations, 2018 truing up petition for 2020-21 was due to be filed on 30.11.2021. However, the petition could be filed only on 03.02.2022. KSEB Ltd submitted the following reasons for the delay in filing the petition:
  - (i) Truing up petition is filed on the basis of the accounts audited and certified by the statutory auditors, received on 16.02.2020. The supplementary audit report was issued by C&AG on 19.06.2021.
  - (ii) The truing up Order for 2017-18 was issued on 25.06.2021 and KSEB Ltd filed a review on the same on 22.10.2021. Also, the Commission directed KSEB Ltd to file additional details after conducting public hearing on the MPR petition (OP No 13/2020) comprising of Truing up petition for 2018-19, mid-year review for 2019-20 and revised projection for 2020-21 and 2021-22 on 29.07.2021. KSEB Ltd filed the reply on 30.07.2021 and 01.10.2021.
  - (iii) Meanwhile, draft Tariff Regulation, 2021 was notified on 06.08.2021. Numerous related works were to be attended by KSEB Ltd. The final Tariff

Regulation, 2021 was notified on 16.11.2021, on which also certain urgent works, which are directly connected with O&M norms, were to be undertaken.

- (iv) During the public hearing on 15.09.2021, KSEB Ltd and various stake holders prayed before the Hon'ble Commission regarding the difficulties faced by the licensee on account of the under recovery of the employee cost against the increase in employees since the year 2009-10. Hon'ble Commission during the hearing had clarified that, the matter is now sub judice before the Hon'ble APTEL in view of the Appeal Petitions filed by KSEB Ltd against the orders of the Commission. KSEB Ltd took steps to remove sub judice before the Hon'ble APTEL and filed a petition on 06.12.2021 seeking re determination of employee strength since 31.03.2009.
  - (v) KSEB Ltd submitted that the delay in filing of truing up petition for 2020-21 was not due to any latches or negligence, but there was some procedural delay in getting comments/ remarks/additional details from various offices based on which the petition is prepared.
  - (vi) Hon'ble Supreme Court of India, vide Judgment dated 23.09.2021 in MA No. 665 of 2021 in S. M. W. (C) No.3 of 2020, ordered that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15/03/2020 till 02/10/2021 shall stand excluded. Hon'ble Apex Court further ordered that all persons shall have a limitation period of 90 days from 03/10/2021.
  - (vii) Hon'ble Commission, as per letter 2515/Con (F) /2021/KSERC/1105 dated 22.12.2021 was pleased to extend the time limit for submitting truing up petitions for 2019-20 and 2020-21 up to 05.01.2022. The truing up petition for 2020-21 was filed only on 03.02.2022.
3. KSEB Ltd, therefore, prayed before the Hon'ble Commission that the delay in filing the Truing up Petition for the year 2020-21 may kindly be condoned.
4. The Commission examined the matter in detail and observed that the Judgement of the Hon'ble Apex Court was applicable for any proceedings upto a period of 02/10/2021, with 90 days limitation period. In the instant case, KSEB Ltd was to file the petition on or before 30.11.2021, which is outside the period of the Order of the Hon Apex Court dated 23.09.2021 in MA No. 665 of 2021 in S. M. W. (C) No.3 of 2020. The Commission, based on the request of KSEB Ltd, allowed time upto 05.01.2022 to KSEB Ltd to file petition. However, the petition for truing up for the FY 2020-21 was received at the Office of the Commission on 04.02.2022. Also, even though time upto 05.01.2022 was given to file the petition considering the request of KSEB Ltd, the condonation for delay was to be obtained by KSEB Ltd by filing a proper petition. The Hence there was a delay of 65 days in filing the petition.

5. The Commission, considering all these reasons for delay as above stated by the petitioner, is of the considered view that, the delay of 65 days in filing the truing up petition for the financial year 2020-21 can be condoned.

#### **Orders of the Commission**

6. After considering the matter in detail, the Commission hereby condones the delay of 65 days in filing the truing up petition by the petitioner for the financial year 2020-21 and admits the petition for further processing.

**Sd/-**

**Adv. A.J. Wilson**  
**Member (Law)**

**Sd/-**

**Preman Dinaraj**  
**Chairman**

Approved for issue

C R Satheeshchandran  
Secretary