

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/030/2025 (Present A. Chandrakumaran Nair) Dated: 17-06-2025

Appellant : Sri.Vinaya Chandran M.G
Sharavanam House,
Krishnabhavan, Manissery P.O.,
Vaniyamkulam, Palakkad(dt) - 678529

Respondent : The Assistant Executive Engineer
Electrical Sub Division,
KSE Board Ltd., Shornur
Palakkad (DT)

ORDER

Background of the case

The appellant Shri. Vinaychandran is a consumer of Licensee KSEBL with consumer no. 1167336009405 under the Electrical Section, Vaniyambalam with connected load 9.786 KW in 3 phase with LT 1 A tariff which was effected on 07/01/2010. The appellant had installed 5 KVA On Grid Solar Plant on 21/02/2019 and then he had become a Prosumer. The appellant had questioned the method of calculation of Fixed charges by the Licensee. The Licensee is charging fixed charges for the total consumption including the self used energy from the self generated by the solar panel. This way of charging fixed charges is not as per the KSEERC (RE & Net metering) Regulation 2020 which states that the energy charges are to be collected only for the net consumption. The appellant had filed the petition to the CGRF and CGRF issued order on completing the procedure on 04/04/2025. Aggrieved by the order of CGRF, this appeal petition is filed to the Kerala State Electricity Ombudsman.

Arguments of the Appellant

Roof Top Solar Plants installed by the prosumers are captive generation plants and Section 9 of Electricity Act 2003 deals with the basic laws related to the Captive Generation in detail. Accordingly,

- ◆ A person may construct, maintain, or operate a captive generating plant and dedicated transmission lines.
- ◆ The supply of electricity from the captive generating plant through the grid is regulated like any other generating station.
- ◆ No license is required to supply electricity generated from a captive generating plant to any licensee or consumer, as per the Act and related regulations.
- ◆ Operators of captive generating plants have the right to open access for transmitting electricity to their destination of use, subject to the availability of adequate transmission facilities determined by the Central or State Transmission Utility.

As per Section 39 of Electricity Act 2003, no surcharge is applicable when open access is provided to a person with a captive generating plant for transmitting electricity to their own use.

As such, the investment charges for the utilities related to the availability of transmission facilities and distribution infrastructure for captive generation shall be adjudicated by Appropriate Commission in tune with electricity act 2003, its subordinate regulations, policy frame work and policy directives of Government of India.

- ◆ The fixed Charges collected from a consumer, which is to be adjudicated on the basis of the volume of electricity supplied or network infrastructure allocated to a consumer by the utility is not at all linked with the energy generated in his captive plant. The retail tariff order issued by appropriate regulatory commission is meant to collect charges from the consumers of the utility (not from the generator/captive generation plant of the consumer) to whom electricity is supplied by it from its own generation or from the energy procured by it for the distribution of electricity in its area of supply.
- ◆ The Tariff order issued by KSERC vide order dated 8.7.2019 and the prevailing tariff orders have mandated KSEBL to collect charges (both fixed charges and energy charges) from the domestic consumers based on the quantity of electricity supplied. Accordingly, KSEBL is collecting energy charges based on the net energy supplied (Import electricity availed from the banking balance - Export) which is in tune with the prevailing tariff order and the tariff principles. But the same domestic consumer is being charged with fixed charges on the basis of total volume of the consumption of electricity which include the quantity of consumption from the self-

generation and the availed banked energy. Kindly note that the fixed charge is an integral part of the retail tariff structure based on the tariff order issued by KSERC for consumption of electricity and cannot be treated separately for charging the captive generation plants.

- ◆ Charges for captive generation through solar roof top is not specified or envisaged in the relevant tariff order and using the tariff order for charging the generation from captive RTS plant is a violation of section 9 of electricity Act 2003, the tariff principles and natural justice. The tariff order issued by KSERC did not mandate or advise KSEBL to collect Fixed Charge based on the total volume of electricity used by the prosumer including the volume used by him from the self-generation of electricity from the solar plant (the RE captive plant) installed by him or from the energy availed from the banking balance of his captive plant.
- ◆ Actually, KSERC order on retail tariff is legally binding only for the charges applicable to the consumption part of prosumers who consumes electricity procured and supplied from the distribution utility. The charges applicable for generation part of the prosumer who are consuming electricity from the self-generation is governed by RE & Net-Meter regulations, 2020 and its amendments issued by KSERC.
- ◆ According to Regulation 21(6) of RE & Net-meter regulation 2020, prosumer is exempted from the payment of transmission charges, wheeling charges, cross subsidy surcharges for the electricity generated and consumed at the same premises from the renewable energy system under net metering facility. It may be noted that as per Section 39 of Electricity Act 2003, no surcharge is applicable when open access is provided to a person with a captive generating plant for transmitting electricity to their own use. Hence burdening prosumers with cross subsidy surcharges for open access of electricity generated from a captive plant for their own use (in this case it is a solar roof top plant) are illegal and violation of Electricity Act 2003 in India. In addition to this Kerala have exemption provision in KSERC, RE & Net-Meter Regulation, 2020.
- ◆ The Net- Metering, Energy Accounting, Banking and Settlement of Energy account from RTS plant is governed by regulation 21 (3 & 4) of RE & Net-Meter regulation. The said regulation has taken care of energy banking aspects, and its compensations requirement based on national policy frame work. Similarly, the regulation 17 (5) of RE & Net-Meter regulation 2020 deals with the distribution losses and the applicable charges involved in wheeling of excess electricity from one of the premises to another. As such, It may be pointed out that all the infrastructure charges involved in open access/ wheeling and banking of electricity has been considered and evaluated in KSERC RE & Net-Meter regulation, 2020 and appropriate charges are being collected by KSEBL from the prosumers.
- ◆ As such, the fixed charged levied based on the consumption from the self-generation and the electricity availed from banking balance for the

consumption in my own premise from my solar plant is illegal. It violates the spirits of the natural justice, the provisions in the electricity act, its subordinate regulations, provisions in KSERC RE & Net-Metering regulation and defeat the objectives perused in the national power policy. It is against policies and programs designed by Government of India & Government of Kerala for encouraging renewable generation and in particular, the roof top solar plants. It violates the essence of the tariff order issued by KSERC and KSERC (RE & Net-Meter) regulation, 2020.

- ◆ I am explaining below my grievance by taking my electricity bill of February 2025 as an example. As per this bill, my Net Energy Consumption is zero (Import - (Export+Bank)). Out of which, Import = 482 units, Export =651 units. Total Electricity Generation (Total Generation) = ₹ 763 units. Direct used from self-generation = 763-651 = 112 units. As a Prosumer, KSEB, the licensee, is required to bill me on the basis of net electricity consumption as per Regulation 21(3)(ii) of the Renewable Energy & Net Metering Regulations, 2020. Accordingly, as per the existing Tariff Order dated 05.12.2024 in OP No. 18/2023, the fixed charge that can be collected from me is only the minimum amount of Rs. 120/-. Previous to 2023, it is heard that the licensee was collecting fixed charge of a prosumer based upon his Imported Energy basis. If it is so, as per the Tariff Order the licensee could have collected Rs. 265/- for the Imported Energy of 482 units. But, now in this bill they collected Rs. 290/- as the fixed charge. Here I understand that the fixed charge is collected for 482+112 =594 units by adding 112 units directly consumed from the electricity generated by me along with 482 units imported. There is no basis for collecting such an amount as fixed charge under the various rules explained above. The tariff order from KSERC quoted above has no direction to collect such a different fixed charge from Prosumer, implemented only through an internal circular of the licensee. In this situation, my demand is that the additional fixed charge collected from me till date should be refunded along with interest as per Section 62(6) of the Electricity Act, 2003. For this, I also request that the decision should be taken considering my net electricity consumption as a Prosumer as per Regulation 21(3)(ii) of the Renewable Energy & Net Metering Regulations, 2020.

Therefore, my following prayers may be heard orders may be issued accordingly.

1. Illegal collection of excess fixed charge may be stopped immediately.
2. Excess amount collected without KSERC authorization maybe refunded with interest.
3. Cost may be allowed towards the expense of the petition and the human hours spent.

4. Action may be recommended against the licensee officials who are responsible for harassment by the unreasonable excessive electricity bills.

Arguments of the Respondent

The complaint of the consumer is regarding collecting the fixed charge on the basis of the total consumption of the energy by clubbing the energy imported from the utility net work and the energy self generated used by him from the installed solar plant. It is submitted that the charges for electricity consists of fixed charges in addition to the charges for the actual electricity supplied and consumed. Further, it is submitted that there is no any specific directions either in the prevailing tariff order or in the previous tariff orders regarding fixed charges to be collected from the prosumers.

The Regulation 21(3) (ii) of Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020 reproduced here under

In case the Electricity supplied by the distribution licensee during any billing period exceeds the electricity injected into the grid by the prosumer from his renewable energy system, the distribution licensee shall raise a bill for the net electricity consumption at the prevailing tariff, after adjusting any excess electricity banked from the previous billing period.

A plain reading of the above clause would indicate that the distribution licensee shall raise a bill for the net electricity consumption at the prevailing tariff rate. A copy of relevant part of Kerala State Electricity Regulatory Commission (Renewable Energy and Net Metering) Regulations, 2020 produced herewith as Exhibit-1 consumption of a prosumer is that the energy consumed from the grid of KSEBL places the Net electricity energy consumed from the self generation (solar plant) by the consumer. The electricity charges are levied accordingly as per the prevailing tariff order and the same can be clarified from the OrumaNET software generated monthly bill issued for the month of 02 / 2025 which is as mentioned below.

Import (Electricity consumed from the KSEBL grid)

<u>Zone</u>	<u>Unit consumed</u>
Normal period	170
Offpeak period	162
Peak period	150
Total	482
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Export (Electricity injected into the grid of KSEBL)

<u>Zone</u>	<u>Unit injected</u>
Normal period	651
Offpeak period	0
Peak period	0
	<hr/>
	651

<u>Solar generated Zone</u>	<u>Unit generated</u>
Normal period	762
Offpeak period	0
Peak period	1
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Total	763

The unit consumed by the prosumer from self generation = 763-651
= 112 unit

Net electricity consumption = 482+112
= 594 unit

ie, the total energy consumed by the prosumer is 594 Units. As per the prevailing tariff order, the Fixed Charge to be levied is Rs. 290/-. The banked units upto the period of 31. 01. 2025 is 1323 Units. Since the consumption is less than the banked units, the energy charge has not been levied. From the above, it can be seen that the fixed charge levied from the prosumer as consumer is as per the prevailing tariff rate which is issued by the Hon'ble Kerala State Electricity Regulatory Commission and hence the arguments of the petitioner is absolutely wrong.

Counter Arguments Filed by the Appellant

Fixed charge is wrongly collected from me on the basis of total consumption of energy by clubbing the energy imported from the utility network and the energy self-generated used by me directly from my solar plant. As per the spirit of electricity act 2003, its subordinate regulations and relevant tariff orders, fixed charge is to be calculated on the basis of volume of electricity supplied or infrastructure allocated to a consumer (not a generator) by the utility. Accordingly, the retail tariff orders issued by appropriate regulatory commission is meant to collect charges from the consumers of utility (not from the generator) to whom electricity is supplied by it from its own generation or from the energy procured by it for the distribution of electricity in its area of supply.

The Tariff order issued by KSERC vide order dtd 8.7.2019 and the prevailing tariff orders have mandated KSEBL to collect fixed charge only on the basis of volume of consumption of electricity supplied by it to its consumers only. The tariff order issued by KSERC did not mandate or advised KSEBL to collect FC based on the total volume of electricity used by the prosumer including the volume used by him from the self-generation of electricity from the solar plant installed by him.

Actually, KSERC order on retail tariff is legally binding only for the charges applicable to the consumption part of prosumers who consumes electricity supplied from the distribution utility. The charges applicable for generation part of the prosumer who are consuming electricity from the self-generation is governed by RE & Net-Meter regulations, 2020 and its amendments issued by KSERC. As per regulation 21(3)(ii) of RE & Net-Meter regulations, 2020, only net electricity consumption is chargeable. For most of the Prosumers, the net electricity consumption is being zero, only the minimum fixed charge (Rs. 120/- as per the ongoing Tariff Order dated 5/12/24) as per Part-A (1) is chargeable.

As per regulation 21 (6) of KSERC (RE & Net-Meter) regulation 2020, a prosumer is exempted from payment of transmission charges, wheeling charges and cross subsidy charges for electricity generated and consumed in the same premises from renewable energy system under net-metering facility. The banking charges for the entire prosumers and wheeling charges for wheeling of electricity to other premises are also governed by the same regulations.

As such, the fixed charged levied from me based of the self-generation and its consumption in my own premise from my solar plant is illegal and violation of electricity act, its subordinate regulations. It is against the spirit of the policies and programs designed by GoI for encouraging roof top solar plants. It violates the essence of the tariff order issued by KSERC and KSERC (RE & Net-Meter) regulation, 2020 as explained above.

Analysis and findings

The hearing of this appeal petition was conducted on 11/06/2025 at 12:00 p.m. in the KSEB IB, Sulthanpett, Palakkad. The hearing was attended by the respondent, Sri. K.Girish Babu, Assistant Executive Engineer, Electrical Sub Division, Shornur, Palakkad (Dist.) and the appellant Sri. Vinayachandran was not attended the hearing.

The appellant is a consumer under the Electrical Section, Vaniyamkulam of the Licensee. The appellant had installed a 5Kwp Grid Interactive Solar Power Plant on 21/02/2019 and thus he was a prosumer since 02/2019. The

appellant's argument is that the fixed charge billed by the Licensee is not as per the regulation. The electricity bills raised by the Licensee is having two parts namely (1) Fixed charge (2) The charges for the electricity actually supplied and consumed. The Electricity act 2003, Section 45 states about the Power of Licensee to recover the charges.

Section 45. (Power to recover charges):

(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

(2) The charges for electricity supplied by a distribution licensee shall be -

(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include

(a) a fixed charge in addition to the charge for the actual electricity supplied;

(b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

The charges thus to be recovered by the Licensee is decided by the Electricity Regulatory Commission as per the Section 62 of the The Electricity Act 2003. The Kerala State Electricity Regulatory Commission is exercising this authority through the regular tariff orders. The tariff order issued by the Commission states that the Fixed charges are to be recovered based on the monthly consumption slabs. The respondent states that the Monthly consumption means the total consumption which includes self generated and self used energy also.

The Orumanet of the Licensee is designed to calculate the Fixed charges as per the following formula

Consumption = Import energy + Self generation - Export energy

Which means

Total Consumption = Import energy + Self used energy from the self generated

The Hon'ble KSERC has not taken any corrective action on the Licensee in the method of calculation of fixed charges. The Electricity Act 2003, Section 45 states also that the Licensee can charge for the electricity supplied.

The regulation 21 of The KSERC (RE & Net metering) Regulation 2020, explains about the net metering, Energy accounting, Banking and Settlement.

21. Net metering, Energy Accounting, Banking and Settlement.-

(1) The distribution licensee shall take the meter reading of the renewable energy system' regularly for each billing period' and record the readings of both the renewable energy meter and the net meter.

(2) For each billing period, the distribution licensee shall make the following information available in its bill to the prosumer:

(i) Time period wise (normal hours, peak hours and off-peak hours) Renewable energy generation recorded in the energy meter for the prosumer with connected load above 20 kW, and total generation from the RE system for the prosumers with connected load 'of and below 20kW'.

(ii) Time period wise electricity consumption of the prosumer with connected load above 20 kW, and total consumption in the case of the prosumer with connected less than 20 kW.

(iii) Net billed electricity, if any, for which payment is to be made by the prosumer;

(iv) Excess energy brought forward from the last billing period;

(v) Excess energy carried forward to the next billing period.

(3) The energy accounting, banking and settlement of energy generated, drawn and injected by a prosumer with connected load of and below 20 kW shall be done as below;

(i) The distribution licensee, during a billing period shall extend the facility to the prosumer having connected load of and below 20 kW under net metering arrangements, to draw back from the grid, the electricity injected during a time block at a different time period without any restriction.

(ii) In case the electricity supplied by the distribution licensee during any billing period exceeds the electricity injected in to the grid by the prosumer from his renewable energy system, the distribution licensee shall raise a bill for the net electricity consumption at the prevailing tariff, after adjusting any excess electricity banked from the previous billing period;

(iii) In case the electricity injected by the prosumer's renewable energy system exceeds the electricity consumed from the 26 distribution licensee during the billing period, such excess energy shall be allowed to be banked and be carried forward to the next billing period as specified under Regulation 20(1) above.

The regulation 21 (3) (ii) states that the Licensee shall raise bills for the net electricity consumption at the prevailing tariff. The respondent argue that the net electricity consumption is meant for the energy charges and not for the fixed charges. However the tariff orders which are released after the regulation 2020 has not considered any provision for the prosumers.

Further the Hon'ble KSEERC has not taken any corrective action to the Licensee, if the method of charging the Fixed charges is not as per the regulation. Then the Hon'ble KSEERC has to bring more clarity on this issue. The Fixed charges are to be payable by the consumer to the Licensee for reserving the power infrastructure up to the connected load from generation through transmission, substation , distribution network, distribution transformer, service line up to the connection point. Eventhough the consumer installed solar plants, if this is an On - Grid System , the power Infrastructure of the Licensee is always to be reserved. As such the basis of charging of fixed charges is to be decided by the Hon'ble Commission. In addition to the above, the Hon'ble KSEERC has cleared its stand on the letter issued to Shri.Asok Kumar as the answer to a question as RTI Act. The paragraph as follows:-

- 4) *In the case of a prosumer, even though part/full energy requirement of the prosumer is met from the solar plant, the 'power requirement' during nonsolar hours is fully met by the licensee. Thus, the grid connected solar prosumers is also bound to pay based on retail supply tariff which includes the 'fixed charge'/ 'demand charge' based on their 'connected load/ contract demand' with the licensee, even if their net consumption (net drawal from the grid) is zero or even when the prosumer injects surplus energy to the grid, at the rate of 'fixed charge'/ 'demand charge' approved in the Tariff Order notified by the Commission from time to time.*

None of the orders of this Commission has exempted the prosumers from the payment of fixed charge based on their 'connected load/ contract demand' with the licensee.

- (5) *In the case of domestic consumers, the Commission is yet to approve the payment of fixed charge based on connected load, since majority of the domestic consumers (out of the more than 104 lakhs domestic consumers) is yet to disclose their changes in connected load, with the licensee, after availing the connection. Hence, the Commission has decided to levy fixed charge from domestic consumers based on their monthly consumption, since the total energy consumption normally reflect the 'power requirement' of the consumer (connected load) to some extent.*

Hence, as per the prevailing Tariff Orders in force, like other Solar prosumers, the grid connected domestic prosumers are also mandated to pay fixed the grid is zero or even when prosumers inject surplus power to the grid. Till the

Commission approves the fixed charge based on connected load for domestic consumers, the licensees are authorised to levy fixed charges from grid connected solar prosumers based on their total consumption.

This clear the position of Hon'ble KSERC that the existing arrangement is to be continued till a clear decision is taken by the Commission in the charging of fixed charges from prosumers. As such the billing of fixed charges based on the total consumption is to be continued.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The existing method of calculation of Fixed charges by the Licensee is to be continued till a decision is taken by the Hon'ble KSERC.
2. No other costs sanctioned.

ELECTRICITY OMBUDSMAN

No. P/030/2025/_____ dated: 17/06/2025.

Delivered to:

1. Sri. Vinaya Chandran.M.G, Sharavanam House, Krishnabhavana, Manissery P.O, Vaniyankulam, Palakkad - 678529 (Dist.)
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Shornur, Palakkad (dt)

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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam KSE Board, Gandhi Rd, Kozhikode - 673032

