

One Time Settlement Scheme (OTS-2021) – implementation of KSERC order – sanctioned - Orders issued.

CORPORATE OFFICE (PLANNING)

Office Order(CMD) No.226/2021(TRAC/GL/OTS-2021/20-21)dated,Thiruvananthapuram 15.02.2021

Read:- 1. Petition No. OP 40/20 filed by KSEBL in the matter of One Time Settlement of Arrears
2. KSERC Order dated 11.02.2021 in Petition OP No.40/20
3. Note No. TRAC/GL/OTS-2021/20-21 dated 15.02.2021 of the Deputy Chief Engineer (Commercial & Planning) with full powers of the Chief Engineer

ORDER

The Hon'ble KSERC as per the order read as 2nd paper above has given approval for implementing the One Time Settlement (OTS-2021) scheme from 15.02.2021 to 31.03.2021 with certain modifications in the proposal submitted by KSEBL. Further, it was also directed that the consumer wise details of the arrears settled under OTS-2021 with all particulars including the tariff category, principal amount, age of arrears, amount settled under OTS, interest due, interest settled, instalment facilities availed by the consumer etc. has to be submitted within one month after the closure of OTS -2021 scheme.

Considering the fact that, an effective implementation of another OTS scheme can restrict the accumulation of arrears to a great extent, the Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer as per the note read as 3rd paper above has recommended for implementing the OTS-2021 scheme, as approved by the Hon'ble Commission. Having considered the note read above, the Board has resolved to accord sanction for the following;

- (i) To implement the OTS-2021 scheme from 15.02.2021 to 31.03.2021.
- (ii) To approve the terms & conditions and the Guidelines for settling cases under litigation for OTS-2021 scheme prepared as per the approval given by KSERC attached herewith as Annexure 1&2 respectively.
- (iii) To authorise the Accounts Officer, Arrear Clearance Cell, O/o the Chief Internal Auditor to collect the consumer wise details of the arrears settled under OTS-2021 scheme with all particulars specified by the Hon'ble Commission within one month after the closure of OTS-2021.

Orders are issued accordingly

By Order of Chairman and Managing Director

Sd/-

Jayashree T K.

Secretary (Administration)

To

The Deputy Chief Engineer (Commercial & Planning) wfp of Chief Engineer
The Chief Engineer, Distribution (South/Central/North/ North Malabar)
The Special Officer (Revenue)
The Accounts Officer, Arrear Clearance Cell

Copy to:

The Financial Advisor/ Deputy Chief Engineer (TRAC)

The All Deputy Chief Engineer, Electrical Circles

The Chief Internal Auditor

T.A to (Chairman & Managing Director)/ T.A to Director (D,IT & HRM)

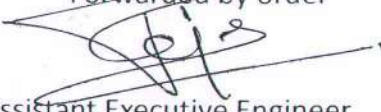
T.A to Director (Gen. Civil) / T.A to Director (T&SO)

T.A to Director (Gen. Ele & SCM)/T.A to Director (PIng & REES)

PA to Director (Finance)/ Sr. CA to Secretary/CA to ADGP (CVO, KSEB),

CPRO/Fair Copy Superintendent / Library.

Forwarded by order



Assistant Executive Engineer

I. Terms and conditions of One Time Settlement Special Scheme (OTS-2021)

1. Eligibility

Consumers with arrears for more than two (2) years will be eligible to apply for One-time-settlement scheme 2021. ie; arrear that resulted from demand raised prior to 01.01.2019 only. The scheme will also be open to those cases where revenue recovery action is initiated and for those who have challenged the dues before Courts subject to the condition that such arrears have arisen as a result of bills raised prior to 01.01.2019. . As a one –time relaxation, one additional chance for fresh settlement under this Scheme is given to those cases which were “settled” under previous OTS schemes, but could not avail the benefit due to various reasons. However theft cases booked under section 135 of Electricity Act 2003 will not be considered.

2. Period of the scheme:

The scheme shall be open from 15.02.2021 to 31.03.2021.

3. Time schedule of the scheme

15.02.2021 -	Intimating consumer about the scheme.
20.02.2021 -	Acceptance of application.
20.02.2021 -	Commencement of issue of demand notice
25.03.2021 -	Last date of accepting application form
31.03.2021 -	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 of age below 5 years old and above 2 years, a reduced flat interest rate of 6.65% per annum instead of 18% interest will be applicable for the entire arrear, for arrears more than 5 years old and below 15 years old, a reduction to flat 6% interest rate will be applicable for the entire arrears and for arrears more than 15 years old a one-time interest rate of 4% will be applicable for the entire arrear. For arrears of continuous nature, the entire arrear will be split agewise and the applicable rate of interest will be applied. ie; 4% interest rate for arrears above 15 years, 6% interest on arrears between 5 to 15 years, 6.65% interest rate for arrears between 2 to 5 years and the ruling rate of 18% for arrears less than 2 years from the date of OTS. 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 equal monthly installments shall be provided on the principal amount by Deputy Chief Engineer of the concerned circle office and for installments above 6 and upto 18, the approval of the Full Time Directors is

needed. Such equal monthly installments upto 12 will bear an interest rate of 12% per annum and for above 12 installments upto 18 will bear an interest rate of 14%.

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 compliance with the interest rates approved by the Hon'ble Commission. 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 in compliance with the interest rates approved by the Hon'ble Commission to Full Time Directors for decision.

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)

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 2.

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.

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.

II. Guidelines for settling arrears entangled in court cases and similar issues by the District level committee as per OTS 2021.

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 -2021) for favour of implementing. The present scheme covers arrears for more than two years but specifically **excludes theft cases booked under Section 135 of the Electricity Act 2003**. The scheme includes all other pending arrears including amounts charged under meter faulty cases.

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 - 2019.

a. 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.

b. 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 rate for age wise category as per the OTS-2021 scheme can invariably be extended to the consumers in such cases.

c. 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 as per the OTS-2021 scheme.

d. 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.

e. 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.

f. 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 rate based on age wise category as per the OTS-2021 scheme and suitable instalments can be considered in genuine cases.

g. 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 based on the rates approved in the OTS-2021 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 sanitization of the debt burden.

h. LITIGATIONS PERTAINING TO ASSESSMENTS FOR TEMPORARY EXTENSION UNDER LT VIII AND LT IIIB

Probable situations and positions: It is a settled legal proposition that penalization 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-2021 rates of interest.

i. GENERAL ISSUES

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

i) 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.

ii) 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 -2021 rates and the balance amount if any, to the principal.

iii) 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 made applicable only in the case of deserving consumers whose average monthly consumption is below 100 units.

iv) 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: Any request received from the consumer under the OTS-2021 scheme may be processed immediately and the final payable arrear amount after extending the benefit of the scheme may be intimated to the consumer for favour of taking a decision on joining the scheme.