

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri T K Jose, Chairman
Shri B Pradeep, Member
Adv. A.J Wilson, Member

OP No. 01/2025

In the matter of : Petition for the implementation of a proper Deviation Settlement Mechanism in Kerala State in the provisions of the Intrastate DSM for receiving power through intrastate open access.

Petitioner : M/s LULU International Shopping Malls Pvt Ltd.

Petitioner represented by : Adv. B.A Krishnakumar, Counsel for the Petitioner
Shri. Radhakrishnakumar, Consultant

Respondent : Kerala State Electricity Board Ltd (KSEBL)

KSEBL represented by : Shri. Rajan. M.P, Dy. Chief Engineer
Smt. Latha S.V, Executive Engineer
Shri. Shine Raj, Asst: Executive Engineer

Date of 1st hearing : 15.01.2025, 11:00 AM

Date of 2nd hearing : 06.02.2025, 11:00 AM

Order dated 11.03.2025

1. M/s LULU International Shopping Malls Pvt Ltd (hereinafter referred as petitioner or M/s LULU Mall) filed a petition on 17.12.2024 before the Commission with the following prayers:

“As the petitioner has taken the plant on lease for the usage of one consumer out of the four HT consumers in the same premises, we may be allowed to draw the power from the Solar Plant considering it as a wheeling and permission for Intra State Open Access.”

2. The Summary of the petition is given below;

(1) The petitioner M/s LULU International Shopping Malls Pvt Ltd, Thiruvananthapuram is an HT consumer of KSEBL with a contract demand of 8.98 MVA. The petitioner availed the power through 33kV from 110 kV substation at Kazhakkuttom through two numbers 3x400sq.mm XLPE cable.

The electric connections of M/s LULU Mall includes four HT connections under HT IV (B) tariff and 162 LT commercial connections for providing electricity to various tenants. The contract demand of each connection is given below.

SL No.	Consumer	Consumer No.	Contract Demand (kVA)
1	LULU MALL	LCN36/9725 (1345130076763)	4250
2	LULU HYPER	LCN36/9809 (1345130078503)	1200
3	FUNTURA	LCN36/9808 (1345130078501)	400
4	MULTIPLEX	LCN36/10255 (1345130085321)	630
5	LT-consumers (Tenants)(162 nos)	-	2500
	Total		8980

- (2) The petitioner had already availed 3 MW power through inter-state short term open access for LULU Mall, Consumer No. LCN 36/9725 from April 2022 onwards.
- (3) The Kerala Police Sports and Welfare Society (hereinafter referred as society), a charitable trust established for service and benefit of the public and Police Personals in the State, had installed a Solar plant of capacity 1MWp over the roof of Chandra Sekharan Nair Stadium, Palayam, Thiruvananthapuram. The plant was established as per the policy of the Central and Kerala State Governments to encourage the generation of Green Energy and thereby reducing the carbon emission.
- (4) The Manager, Chandrasekharan Nair Stadium after completing all statutory requirements, had signed the connectivity agreement with KSEBL on 05.11.2024.
- (5) Since the electricity consumption of the Stadium is very less compared to the generation of the plant, the society had decided to lease the plant to the LULU Mall on mutually agreed condition for utilizing power for the usage of the lessee.
- (6) The petitioner further submitted that, unlike any other commercial establishments, the consumption of the mall is starting from the morning itself. The petitioner and the society had entered into a lease deed on 08.10.2024.
- (7) Meanwhile, the petitioner on 29.11.2024 approached the Chief Engineer (Transmission System Operation) for the approval for the intra state open access after remitting the necessary fees.
- (8) The Chief Engineer (Transmission-System Operation) vide letter dated 03.12.2024 informed that "only after the implementation of a proper Deviation Settlement Mechanism in Kerala state for the settlement of deviations from the schedule and the automation of the complete open access process as per the provisions of the intrastate DSM Regulations to be

notified by the Kerala State Regulatory Commission, SLDC Kerala will be empowered to issue Intrastate open Access for bilateral transactions".

3. The Commission admitted the petition as OP No. 01/2025. The first hearing on the petition was held on 15.01.2025. Adv. B.A Krishnakumar, Counsel for the Petitioner along with Shri. Radhakrishnakumar and Shri. Ajithkumar appeared on behalf of the Petitioner. Senior Advocate Raju Joseph, Counsel for the respondent along with Shri. Rajan M.P Dy.Chief Engineer, Smt. Latha S V Executive Engineer represented the Respondent KSEB Ltd.

Based on the request of the Senior Counsel of the respondent KSEB Ltd for granting two weeks time, the Commission adjourned the hearing.

4. KSEBL vide the letter dated 04.02.2025 has submitted the remarks of the licensee against the petition filed by M/s LULU Mall and its summary is given below.

- (1) The 1 MWp solar plant installed by Kerala Police Sports and Welfare Society at Chandrasekharan Nair Stadium was connected to the grid on 05.11.2024. The petitioner M/s LULU Mall approached the Chief Engineer (Transmission- System Operation) for intra state open access on 29.11.2024. However SLDC vide the letter dated 03.12.2024 has intimated the petitioner as follows;

"only after the implementation of a proper Deviation Settlement Mechanism in Kerala state for the settlement of deviations from the schedule and the automation of the complete open access process as per the provisions of the intrastate DSM Regulations to be notified by the Kerala State Regulatory Commission, SLDC Kerala will be empowered to issue Intrastate open Access for bilateral transactions".

- (2) Non- Maintainability of the petition.

The Commission vide its Order dated 23.03.2023 in petition OP No. 70/2022 had already adjudicated a similar petition for notification of Intra State Deviation Settlement Mechanism in the State, and ordered that Regulations cannot be amended or framed based on the petitions filed by interested parties. The present petition filed by M/s Lulu Mall pertains to the same matter and as such it is not maintainable.

- (3) As per the Kerala Solar Energy Policy, 2013 notified by the Government of Kerala, KSEBL has the first right of refusal for power from plants established in private lands or premises, except in cases of self consumption or captive use. The sale of power to KSEBL shall be at a tariff decided by KSERC at the average pooled cost of power purchase of the utility. Since the solar plant of the Kerala Police Sports and Welfare Society is not a CPP, hence KSEBL retains the first right of refusal for the power generated by the plant. The society has not approached KSEBL for the procurement of power from the plant, nor KSEBL refused the power. As such the Society cannot sell power to a third party without first offering it to KSEBL.

- (4) The SLDC of KSEBL has intimated that, the petitioner has filed the application for open access without requisite fee and also not filed the application in the required format. Also the generator is not a registered entity with SLDC for intra-state open access.

SLDC is issuing NOC for Inter-state Short Term Open Access for power purchase through collective transactions in power exchange only. The scheduling, energy accounting and deviation computations are done in a manual manner with the help of excel formulae and techniques. The Scheduling, Accounting, Metering and Settlement of Transactions (SAMST) is under implementation stage and only after the completion of the project, the full procedure of open access will be automated.

- (5) As per the information received from the generator, no Special Energy Meter (SEM) is provided at the generator side for measuring the quantum of energy generated. Instead, digital multifunction meter of class-1 accuracy is provided in the two source feeders. As per the provisions of the KSERC (Renewable Energy and Net Metering Regulations) 2020, the generator has to provide SEM as specified in the CEA (Installations and Operations of Meters) Regulations, 2006 as amended from time to time for facilitating open access.
- (6) After setting up of 561.64 kW Solar Plant at their premises at Thiruvananthapuram on 18.05.2023, M/s LULU Mall become a prosumer cum embedded open access consumer having contract demand of 4.25MVA with KSEBL.
- (7) In compliance of the Order of the Commission dated 23.03.2023 in Petition OP No. 70/2022 in the matter of 'notifying Intra State Deviation Settlement Mechanism Regulation', a detailed report including suggestions were submitted to the Commission on 24.07.2023 and additional details also submitted on 07.09.2023.
- (8) Intra-state third-party long-term sales are being considered for the first time in Kerala. The absence of proper DSM Mechanism poses significant risks to grid to stability and efficient operations. Without a clear frame work for managing deviations, the system become vulnerable to unscheduled power flows, jeopardizing the reliability of the grid.
- (9) In addition to open access consumers, there are few captive renewable energy generators within the State who have availed Open Access to transmit power from their generation points to their consumption points. Presently, the variations in their schedule are absorbed by KSEBL, which bears the cost of DSM charges. This creates an additional burden to KSEBL and disrupts grid stability.
- (10) The petitioner's demand for availing open access for 1MW Solar Power may be considered only after implementing the Intra State DSM

Regulations in the State. The present petition is a reiteration of the matter already decided by the Commission in its Order dated 23.03.2023. Furthermore, the actions of the Kerala Police Sports and Welfare Society are in violation of the Kerala Solar Energy Policy 2013, and the power generated from the project cannot be sold to third parties without complying with the policy frame work.

(11) Considering the above aspects, KSEBL requested to reject the petition on grounds of non-maintainability and non-compliance with the applicable policy framework.

5. Second hearing on the petition was held on 06.02.2025 through hybrid mode. Adv. B.A Krishnakumar, Counsel for the Petitioner along with Shri. Radhakrishnakumar, Consultant appeared before the Commission on behalf of the Petitioner. Senior Advocate Raju Joseph, appeared on behalf of the respondent KSEBL. Chief Engineer (Transmission- System Operation) along with the Deputy Chief Engineer appeared on behalf of SLDC of KSEBL. Summary of the deliberations during the hearing is given below.

(1) The petitioner M/s LULU Mall submitted the following during the hearing;

(i) The petitioner, M/s LULU Mall is an HT consumer of KSEB Ltd having a Contract Demand of 8.98 MVA. At present the petitioner is having four HT connections under HT-IV (B) Tariff and 162 LT connections under LT-VII(A) Commercial tariff for its tenants.

(ii) The Kerala Sports Welfare Society is registered as a charitable Trust for service and benefit of public and police personals in the State. The society had installed a solar plant of capacity 1MWp over the roof top of Chandra Shekharan Nair stadium, Thiruvananthapuram. The society decided to lease the plant to the petitioner with mutually agreed terms and conditions for utilizing the power by the petitioner.

(iii) The petitioner approached SLDC of KSEBL for availing intra-state open access for transmitting and wheeling the electricity generated from the plant to the premises of the petitioner. However, Chief Engineer (Transmission-System Operation) vide the letter dated 03.12.2024 has intimated that, SLDC can issue intra-state open access for bilateral transactions only after the implementation of a proper Deviation Settlement Mechanism in the State.

(iv) The Counsel of the petitioner further submitted that, the argument of the KSEBL that in view of the Order of the Commission dated 23.03.2023 in OP No. 70/2022, the present petition is not maintainable is without appraising the issues raised in the petition in detail. The instant petition was filed for

getting open access, whereas the cited Order in a KSEBL petition is with prayer for notifying regulation on 'Intra State Deviation Settlement Mechanism Regulations' in the State.

- (v) The petitioner further submitted that, the Kerala Police Sports and Youth Welfare Society' enhanced the capacity to 1 MW after getting the advise of KSEBL for third party sale and KSEBL has never raised its interest for procuring power from the project of the Society. Further, the Kerala Solar Energy Policy 2013, was the policy directive issued 12 years back. Further, the policies issued by the State Governments are only advisory in nature and the same is not mandatory to the SERCs.
 - (vi) The petitioner further submitted that, the generator has already installed SEM meters and RTU facilities for online communications. The entire power generated from the project is intended for purchase by the petitioner through open access.
- (2) The Senior Counsel of KSEBL reiterated that, without notifying proper Regulations for 'Intra State Deviation Settlement Mechanism' in the State, it is difficult to KSEBL to grant open access to the petitioner. KSEBL also submitted that, as per the Kerala Solar Energy Policy 2013, the first right of refusal for power generated from Solar IPPs installed in the State for third party sale is vested with KSEBL. However, the generator the 'Kerala Police Sports and Youth Welfare Society' has never approached KSEBL for sale of power from the plant to the licensee.
- (3) SLDC of KSEBL also raised the difficulties to grant open access facilities without having a proper Regulations on 'Intra State Deviation Settlement Mechanism' in the State. SLDC also clarified various queries of the Commission, the details are discussed below.
- (i) On a query to the Commission, SLDC informed that M/s LULU Mall had already registered for the Inter State Open Access customer, and as of now there is no need for them for registration for open access again. However, only after the implementation of the proper deviation settlement mechanism in Kerala, SLDC can issue permission for Intra State Open access for bilateral transactions.
 - (ii) The Commission observed that, as per the deliberations recorded in the Order dated 23.03.2021 in petition OP No. 29/2020 SLDC has clarified that they are capable of implementing 15 minute time block wise energy accounting for open access consumers.
 - (iii) Further, as per the deliberations recorded in the Order dated 28.08.2021 in petition OP No. 28/2021, SLDC has informed that, they had implemented the 15 minute time block wise energy

accounting of all open access consumers from May 2021 onwards. The Commission in the said Order has ordered that, from 28.08.2021 onwards, the energy accounting of all open access consumers shall be done for 15 minute time block wise.

- (iv) The Commission further clarified to the SLDC that, KSERC (Renewable Energy & Net Metering) Regulations, 2020 stipulates that, the Open Access to the RE energy shall be in accordance with the Open Access Regulations, 2013. The Open Access Regulations, 2013 has a framework to manage the deviations at the drawal side. SLDC is supposed to be a neutral umpire for enabling such open access transactions under the statute. However, if any difficulty had been faced, the SLDC has to approach the Commission for removing those difficulty.
- (v) The Commission has also directed the SLDC to clarify whether there is any inability or technical problem to permit the Open Access to the petitioner. SLDC submitted that, this is the first bilateral open access transaction that is requested by the petitioner. In the case of collective transactions, KSEB Ltd receives firm power through the power exchanges. However, in the absence of a deviation settlement mechanism and if more and more consumers opting for the bilateral transactions, the scheduling will be difficult to SLDC.
- (vi) Commission observed that, on the drawl side of all embedded consumers SLDC is already managing the deviation settlement mechanism. Hence in the case of LULU Mall which is a drawal customer, SLDC need not have any problems with the deviation settlement. SLDC submitted that, since the petitioner is already an open access consumer drawing power through collective transactions, the only issue that exists now is at the generation side where no ABT meters are installed. However, the Consultants of the petitioner clarified that, they already installed ABT meters and RTU facility at the generation side. There is some connectivity issues earlier, but the issue is now resolved and data has been communicated to the SLDC regularly.
- (vii) The Commission further noted that, SLDC is not insisting for 15 minute time block wise scheduling of generation of any of the generators at present.
- (viii) The Commission further clarified to the SLDC that, the absence of exclusive Regulations on deviation settlement cannot be considered as a reason for denying open access by the SLDC, since the KSERC (Connectivity and Intra-State Open Access) Regulations, 2013 provides for the procedures for grant of intra-state open access as well as the mechanism for accounting the deviations.

- (ix) SLDC submitted that, Scheduling, Accounting, Metering and Settlement of Transactions (SAMST) project is under implementation stage, and which is likely to be commissioned within three months. Once the SAMAST project is implemented, it have the facility for the energy accounting automatically.
- (x) Commission directed the SLDC that, they shall assist the Commission and provide all the necessary information and all the required analytical reports and data for framing the Regulations for Deviations Settlement Mechanism in the State, in the true spirit of the directions contained in the Order dated 23.03.2023 in petition OP No.70/2022.
- (4) The Commission during the hearing clarified that, the instant petition was filed by the petitioner based on the letter of the Chief Engineer (Transmission-System Operation), wherein the SLDC has denied the open access for want of implementation of a proper 'Deviation Settlement Mechanism in Kerala. Other issues raised by KSEBL vide its submission dated 04.02.2025 were not raised by SLDC while denying open access to the petitioner.
6. Subsequently, the Administrative Manager, Chandrasekharan Nair Stadium, Thiruvananthapuram vide the letter dated 21.02.2025 has produced a copy of the DO letter dated 30.10.2019 of the Chairman & Managing Director of KSEBL addressed to the Director General of Police & State Police Chief. The relevant paragraphs of the DO letter is extracted below for ready reference.

"Sub: Providing feasibility and open access facility for establishing a 808.7 kW On- Grid Solar Power Plant at Chandrasekharan Nair Stadium- Thiruvananthapuram- request- reg. Ref: Your DO letter No. KPS& YWS- 47806/2018 dated 05.10.2019.

Let me appreciate Kerala Police for this Green Initiative for Chandrasekharan Nair Stadium. On the clarification sought by you vide letter referred above, the following remarks are offered:

1. *To provide open access permission to sell extra units generated from the Plant to third parties.*

As per the provisions in the Electricity Act 2003 and the prevailing Regulations, open access for sale to third parties can be granted only in cases where the quantum of power exceeds 1000 kW. The proposed installation comprising 808.7kW is thus not eligible to avail open access for sale to third parties. However, generation from the Plant, can be used in any premises owned by the Department by availing open access. For availing open access exceeding three months for self consumption, the Nodal Officer processing the application is Chief Engineer, Transmission (South), Vidyuthi Bhavanam, Thiruvananthapuram. Therefore the formal application may be directed to be submitted to the Chief Engineer, Transmission (South), Vidyuthi Bhavanam, Thiruvananthapuram and the department officer in charge may be asked to be in touch with the Nodal Officers for further assistance.

2. *Feasibility report for connecting the system to grid.*

Feasibility for connectivity has been examined by local distribution office of KSEBL and it is found that the present 11 KV cable has enough capacity to evacuate power

from the plant. However, to evacuate power to the 11KV system, a transformer will have to be installed to convert the existing Low voltage to 11KV high voltage. To enable connectivity as above, your officers may be directed to contact the Office the Chief Engineer (Distribution South), KSEB Ltd., Power House, Thiruvananthapuram. Necessary direction has been issued from Corporate Office to the above office for issuing connectivity as early as possible.”

Analysis and Decisions of the Commission

7. The Commission having examined the petition filed by M/s LULU International Shopping Malls Pvt Ltd, objections and comments of KSEBL, the provisions of the Electricity Act, 2003, KSERC (Connectivity and Intra-State Open Access) Regulations, 2013, KSERC (Renewable Energy & Net Metering) Regulations, 2020 and its amendments, other Rules and Regulations in force, decide on the matter as follows;
8. The present petition is filed by M/s LULU International Shopping Malls Pvt Ltd with the prayer to allow them to draw power from the 1MWp Solar Plant established by Kerala Police Sports and Youth Welfare Society at Chandrasekharan Nair Stadium, by availing intra-state open access. The petitioner has taken the Solar plant of the society on lease at mutually agreed terms and conditions between the parties for 10 years.
9. The petitioner M/s LULU International Shopping Malls Pvt Ltd at Thiruvananthapuram is a consumer of KSEBL, having four HT connections and 162 Nos LT connections, as detailed in paragraph 2(1) above. The power from the 1MWp Solar Plant is for use at one of the HT connection bearing Consumer No. LCN 36/9725 (1345 1300 76763) having a contract demand of 4250 kVA. It is also submitted that, M/s LULU mall is availing inter-state short term open access to this connection for availing electricity through collective transactions at the power exchange.
10. Kerala Police Sports and Youth Welfare Society, has established the 1 MWp Solar plant at Chandrasekharan Nair Stadium at Thiruvananthapuram. The society has entered into connectivity agreement with KSEBL on 05.11.2024. The society is the generating company in terms of the Section 2(28) of the EA-2003, and the plant is a generating station in terms of Section 2(30) of the EA-2003.

Since the electricity consumption of the stadium is very meagre, they decided for third party sale by availing open access, and to lease the plant to the petitioner for 10 years.
11. The power plant under consideration is a Solar plant, which is a renewable source energy established within the license area of KSEBL. Thus, the electricity generated from the plant is governed by the provisions of the KSERC (Renewable Energy and Net Metering) Regulations, 2020 and its amendments (hereinafter referred to as RE Regulations, 2020). The relevant

provisions of the RE Regulations, 2020 which deals with open access, is discussed below.

(1) Regulation 2(bg). Definition of Renewable Energy System.

“(bg) ‘Renewable Energy System’ means the power plant and connected systems other than the conventional power plant, generating grid quality electricity from renewable energy sources.”

The 1 MWp solar plant established by the Kerala Police Sports and Youth Welfare Society is a RE system as per Regulation 2(bg) of the RE Regulations, 2020.

(2) Regulation 24 of the RE Regulations, 2020.

“ 24. Metering system.-

(1) The Renewable Energy Generator/ Captive Generating plant, the captive consumer and the open access customer as the case may be, shall install Special Energy Meters (SEM) as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time, for accounting the quantum of energy generated, the quantum of energy injected into the transmission and/or distribution system and the quantum of energy consumed.

Provided that, if the RE generator/ consumer, elects to purchase his own special energy meter, he shall purchase the same from the firms empaneled by the STU/ distribution licensee, as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time:

(2) Special Energy Meters installed shall be capable of measuring the 15 minutes time-block-wise ‘active energy and reactive energy’, in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time and the provisions of State Grid Code. The metering system shall have remote terminal unit (RTU) to facilitate real time monitoring by the SLDC as and when specified by the Commission.

(3) Special Energy Meters shall be open for inspection by any person authorized by the STU or the State Load Despatch Centre or the distribution licensee, as the case may be. “

As above, all the RE generators and open access consumers are required to install SEM meters as specified in CEA (Installation and Operation of Meters) Regulations, 2006 and its amendments from time to time.

During the deliberations of the subject matter, the petitioner M/s LULU Mall has intimated that, the petitioner had already installed SEM meters

at the drawl side. It is also intimated that the generator has installed the same at the injection side.

(3) Regulation 25. Open Access

“ 25. Open Access.-

(1) Any person generating electricity from renewable sources of energy, shall have the right for open access to the distribution system/ transmission system of the licensee/ STU in the State, for transmitting and/or wheeling the renewable energy, subject to the terms and conditions specified as follows,-

- (i) Open Access shall be granted as per the provisions under KSERC (Connectivity and Intra State Open Access) Regulations, 2013.
- (ii) Open Access charges such as application fee, SLDC/ NLDC charges, Transmission/ distribution losses, transmission/ wheeling charges, reactive energy charges, deviations and grid support charges, surcharges etc., as per Electricity Act, 2003/ Kerala State Electricity Regulatory Commission (Connectivity and Intra State Open Access) Regulations, 2013 and the Tariff orders issued by the Commission from time to time, as the case may be, applicable to the persons availing open access.

(2) The Renewable Energy Generator shall follow the Indian Electricity Grid Code 2010, Kerala State Grid Code and the relevant CERC/ KSERC Regulations and procedures for forecasting, scheduling and dispatch of renewable energy, as amended from time to time.

As extracted above, all the open access transactions under RE Regulations 2020, shall be governed by the provisions of the KSERC (Connectivity and Intra-State Open Access) Regulations, 2013. Further, the customers availing open-access facilities has to bear charges and losses, as approved by the Commission from time to time.

(4) Regulation 28 of the RE Regulations deals with the general conditions and charges applicable for availing open access by RE generators established as Independent Power Plants (IPPs). The relevant Regulations is extracted below.

“28. General Conditions and charges applicable, for usage of the transmission and distribution system by an independent renewable power generator/ open access consumer. -

(1) A consumer purchasing power from an independent renewable power generator or a Renewable Power Generator supplying power to a third party by availing open access of the distribution system of a licensee shall pay to the licensee the following charges approved by the Commission from time to time, -

- (i) Transmission charges.
- (ii) Wheeling charges;
- (iii) Cross subsidy surcharges;
- (iv) Transmission losses and Distribution losses; and

(v) Any other charges approved by the Commission.

(2) All other terms and conditions specified in the KSERC (Connectivity and Intra State Open Access) Regulations, 2013 is applicable for the IPPs and open access consumers who intend to avail open access in the transmission system and/or distribution system of the licensee.

(3) The distribution licensee is not obliged to extend the time period wise adjustment, banking facilities or any such other facility under these Regulations for open access consumers and Independent Renewable Energy Generators.”

As extracted above, Regulation 28 of the RE Regulation further specifies the charges payable by RE generators for availing open access for third party sale. It is also specified therein that, open access consumers under this category is not eligible for banking facilities, time period wise adjustments and any other such facilities available to prosumers and captive consumers. Hence, the consumers intending to purchase power from independent RE generator through open access has to consume the entire energy generated from such plants. The surplus energy, if any, injected to the grid at any time in each of the 15 minute time blocks, after considering consumption in respective time blocks shall lapse and KSEBL is not liable to pay compensation for the same.

12. The Commission has also examined the provisions of the KSERC (Connectivity and Intra-State Open Access) Regulations, 2013 (herein after referred to as Open Access Regulations, 2013). The relevant Regulations of the Open Access Regulations, 2013, is extracted below for ready reference.

- (1) Regulation 3(14). Definition of ‘embedded open access consumer”

2(14) “*embedded open access consumer*” or in short ‘*embedded consumer*’ means a consumer who has a supply agreement with the distribution licensee in whose area of supply the consumer is located and avails the option of drawing part or full of its demand from any other person by availing open access, in any one or more time slots during a day or more in any month or more during the year, without ceasing to be a consumer of the said distribution licensee and continues to pay monthly demand charges and other charges as per rate schedule applicable to relevant category;

In terms of Regulation 3(14) of the Open Access Regulations, 2013, the LULU Mall is an embedded open access consumer of KSEBL.

- (2) Regulation 3(26) of the Open Access Regulations, 2013 defines the ‘open access customer’ as follows.

“(26) “*open access customer*” means a consumer, trader, distribution licensee or a generating company who has been granted open access under these regulations.

As per Regulation 3(26) of the Open Access Regulations, 2013, both the petitioner M/s LULU Mall and the generator 'Kerala Police Sports and Youth Welfare Society' both are eligible to become 'open access customers' in the State.

- (3) Regulation 31 of the Open Access Regulations, 2013 specifies the procedure for Scheduling for embedded open access consumers, which is extracted below for ready reference.

“31. Scheduling for embedded open access consumers. - (1) Scheduling shall be done in accordance with the relevant provisions of IEGC for inter-State transactions and in accordance with the relevant provisions of the State Grid Code for intra-state transactions.

(2) By 10.00 hours every day, the embedded consumers shall prepare and submit to the SLDC, the daily schedule of power in MW, separately showing schedule of power from licensee and that from another supplier through open access for the next day, i.e. from 00.00 hours to 24.00 hours of the following day, along with copy to distribution licensee:

Provided that in case the quantum of energy as per accepted bid is less than the quantum applied by the embedded open access consumer, then he shall inform the SLDC / distribution licensee about the quantum of energy as per approved bid and also the quantum of energy he would be drawing from the distribution licensee during the period in which supply was scheduled through open access.

(3) Time of the Day (ToD) charges shall not be applicable for the energy scheduled and drawn under open access.

(4) Deviation from the schedule shall be settled as provided in regulation 45.”

- (4) Regulation 35(2) of the Open Access Regulations 2013, authorize the SLDC to schedule of 'intra state open access transactions'. The relevant Regulations is extracted below.

“35. Scheduling. – (1) Scheduling of inter-State open access transactions shall be done in the manner as specified by the Central Electricity Regulatory Commission from time to time.

(2) Scheduling of intra-state open access transactions shall be done by SLDC in accordance with the provisions of the State Grid Code or in accordance with the detailed procedure as approved by the Commission.

(3) Revision of scheduled energy shall be permitted in accordance with the provisions of IEGC or the State Grid Code as the case may be.”

- (5) The Commission vide the approval dated 07.05.2015, has approved the 'Detailed procedure for grant of connectivity and open access in intra-state transmission system' prepared by the Coordination committee under Regulation 55 of the Open Access Regulations, 2013. Paragraph 23 of the detailed procedure deals with the 'scheduling of

intra-state open access transactions in the State. The relevant paragraph is extracted below.

23. Scheduling

23.1 *Each open Access customer (generating company, trader, etc.) shall provide the schedule to SLDC for each 15 minutes time block for a day, on a day ahead- basis by 10.00Hrs with intimation to STU & Distribution Licensee. If it is requiring to wheel electricity from more than one generating station with the interface points located at different locations, they shall submit separate schedule for the injection from each generators.*

23.2 *SLDC will intimate the above schedule, station wise MW / 15 minute block entitlements to the respective beneficiaries by 11.00Hrs. Beneficiaries shall communicate the station-wise requisitions and details of bilateral exchanges to SLDC by 14.00Hrs.*

23.3 *SLDC shall convey the ex-power plant despatch schedule to each station and net drawal schedule to each beneficiary by 17.00Hrs.*

23.4 *Generating Stations / Beneficiaries shall inform the modifications, if any, for incorporating in the final schedule by 21.00Hrs.*

23.5 *SLDC shall issue the final despatch and drawal schedule by 23.00Hrs to the respective open access customers.*

23.6 *Wind generators under RRF mechanism shall declare their schedule up to 70% of the capacity, as above.*

23.7 *In the event of failure to submit the schedule in accordance with above clause, latest wheeling schedule available with SLDC shall be treated as effective schedule.*

23.8 *The sum total of the capacity allocation by an open access Generator for any time block to the entire schedule shall not exceed the available capacity from the generating plant being not higher than the installed capacity or contracted open access capacity, which- ever is lower.*

23.9 *The embedded open access consumers and limited open access consumers shall in advance provide the 15 minutes time-block wise drawal schedules from KSEB Ltd., after accounting for the power availed on open access, before 10:00 Hrs of the previous day. Any deviation from schedule and gaming would be penalized as specified by the Commission.*

23.10 *The customer's coordinator shall coordinate with each of the other Utilities involved, and furnish the transaction details to each of the licensees and STU involved, on a daily basis, so as to enable the SLDC to incorporate the transaction in the day-ahead schedules and revisions thereof for the 96 time blocks. In case mismatches are found in the transaction details it will not be possible for SLDC to schedule the same and the customer shall be intimated accordingly.*

23.11 *The ramp-up/ramp-down, if required, in the daily schedules on account of such transactions, shall commence at the time of commencement of the transaction and shall end at the time of termination of the transaction.*

23.12 Rescheduling of transactions, if any, required would be as per provisions in the state grid code.”

- (6) Regulation 43 of the Open Access Regulations, 2013 provides for deferment of UI pricing in the State. The relevant Regulation is extracted below.

“43. Unscheduled interchange (UI) pricing.- The Commission may, from time to time, as the occasion may require, by separate order, and in accordance with tariff policy issued under section 3 of the Act, determine the unscheduled interchange charges payable by the generators, licensees and consumers:

Provided that the actual payment of such unscheduled interchange charges may be deferred by the Commission till such period which may be determined by the Commission having regard to the extent of demand for open access and the extent of involvement of private operators in power generation and distribution:

Provided further that this regulation is applicable only when intra-state availability based tariff system is introduced in the State.”

As above, UI pricing mechanisms is deferred in the State for the time being till the situation warrants. Till date the total open access transactions in the State is less than 1.5% of the total electricity transactions in the State.

- (7) Regulation 45(4) of the Open Access Regulations, 2013 deals with the deviation and grid support charges payable by the embedded open access consumers in the State. The relevant Regulations is extracted below.

45. Deviations and grid support charges.- (1) Scheduling of all transactions pursuant to grant of long-term open access or medium-term open access or short-term open access shall be carried out on day-ahead basis in accordance with the relevant provisions of IEGC, regulations on inter-State open access issued by the Central Commission, State Grid Code and / or orders of the Commission on intra-state transactions.

.....

(4) In the case of deviation by open access customer who is also an embedded open access consumer of distribution licensee, the difference between the applicable scheduled open access energy and actual drawal shall be accounted and settled in accordance with the following:

(a) In case actual energy drawal is more than the scheduled drawal and the recorded maximum demand is within the contract demand, customer shall be liable to pay for such over drawal at the applicable tariff rates as determined by the Commission from time to time.

(b) In case the actual drawal of energy is more than the scheduled energy drawal and the total recorded maximum demand is more than the contracted demand, payment for the capacity over and above the contract demand,

shall have to be made at the penal rate as specified by the Commission for such categories of customers in the tariff schedule from time to time.

(c) In the case of under drawal as a result of non-availability of the distribution system or unscheduled load shedding, the open access customer (who is also embedded consumer) shall be compensated by the distribution licensee by an equal quantum of energy injected by the participating generator in the same time block and the generator will not be eligible for any compensatory payments for that quantum of energy.

[Explanation.- For the purpose of this regulation, unscheduled load shedding means, load shedding during hours other than the hours for which load shedding has been announced by the distribution licensee after obtaining approval from the Commission and will also include unscheduled shutdowns of lines.]

As above, the Regulation 45(4) of the Open Access Regulations, 2023 clearly specified the procedure for addressing the deviations by the embedded open access consumers. The regulation is silent on the underdrawal of the power by the embedded open access consumers except the case of under drawal as a result of non-availability of the distribution system. In case the open access consumer fails to fully avail the schedule of power from the generator, there is no provision in the Regulation for paying compensation by the distribution licensee for such under drawal by the consumers, until UI pricing is introduced in the State.

- (8) Regulation 45(2) (e) of the Open Access Regulations, 2013 deals with the excess energy injected into the grid by generating stations participating in 'intra-state open access. The relevant Regulations is extracted below.

“45 (2)(e): In the case a generating station participating exclusively in intra-state open access transactions, injects energy in excess of schedule, or the net actual energy drawal by intra-state customers is less than the injection during any time blocks, such excess injection shall be compensated by the distribution licensee at the unscheduled interchange rates applicable for the time block and quantum of such excess injections.”

Since the Commission deferred the implementation of UI billing in the State, the generators will not get any compensation for such excess injections, if any, into the grid. Since the petitioner is reportedly availing power also through inter-state open access through collective transactions in the power exchange, the net energy drawal (actual energy drawn in any 15-minute time block minus the energy scheduled in the same time block under the inter-state open access) in any of the 15 minute blocks shall be offset against the energy injected from the solar plant after deducting the transmission and distribution losses to arrive at the excess injections, if any, in each time block.

- (9) Paragraph 31 of the 'detailed procedure to the Open Access Regulations, 2013' provides for energy accounting of the open access transactions.
- (10) Regulation 48 of the Open Access Regulation, 2013 deals with the billing, collection and disbursement for 'intra-state transactions. The relevant Regulation is extracted below.

“48. Intra-state transactions. - (1) STU in consultation with the SLDC, transmission licensees other than STU and distribution licensee, as the case may be, shall raise bills by the third working day of the succeeding calendar month directly to the longterm open access customers and medium-term open access customers for the open access charges and other charges payable by them.

(2) The long-term and medium-term open access customers shall pay the charges to the STU within five working days from the date of receipt of the bill and the STU shall disburse the charges payable to SLDC, transmission licensee other than STU and distribution licensee by fifteenth day of every month.

(3) SLDC shall raise bills for the open access and other charges payable by the shortterm open access customers to the SLDC, STU, intra-state transmission licensee other than STU and the distribution licensee along with the letter to be issued to them intimating grant of open access.

(4)The short-term open access customer shall make payment within three days from the grant of the short-term open access by the nodal agency and SDLC shall disburse such charges to the STU, intra-state transmission licensee other than STU and distribution licensee on a weekly basis, after retaining the charges due to the SLDC.”

13. As discussed in paragraphs 11 and 12 above, the existing Open Access Regulations, 2013 and also the Detailed Procedure to Open Access Regulations, 2013 approved by the Commission provides the procedure for scheduling, energy accounting and billing of intra-state open access transactions in the State. The prevailing Regulations also address the deviations, if any, by the embedded open access consumers in the State. Hence, there is no rational, or legal basis for the SLDC, through the Chief Engineer(Transmission-System Operation), denying open access to the petitioner for transmitting and wheeling electricity from the 1 MWp Solar plant to its premises.
14. As already discussed, the consultant of the petitioner, who is also the consultant of the generator, during the hearing clarified that, the generators has already installed SEM capable of measuring time block wise energy measurements as per the CEA (Installation and Operation of Meters) Regulations, 2006 as amended from time to time. The generator has also established remote terminal unit (RTU) to facilitate real time monitoring of the data by SLDC. It is also submitted that, at present the generating data is being communicated to SLDC on real time basis. However, before granting open access, the SLDC has to ensure that, the generator has installed SEM and RTU as per Regulations 36 of the Open Access Regulations, 2013.

15. The Commission further clarify that, once the Commission notify the Regulations on 'Intra-state Deviation Settlement Mechanism' in the State, and/or Regulations on 'Forecasting, Scheduling and Deviation Settlement of Renewable Energy Generating Stations in the State of Kerala', the deviations from the schedule by the RE generators participating in third party sale shall be governed as per the provisions of the said Regulations.
16. The Commission further noted that, SLDC during the deliberations of the petition OP No. 29/2020 clarified that, they are capable of accounting the 15 minute time blockwise energy transactions of all open access consumers as per Open Access Regulations, 2013 in the State.

SLDC of KSEBL during the hearing of the petition OP No. 28/2021 had submitted that, it had commenced implementing the system of '15 minutes time block wise accounting of energy' for all embedded OA consumers in the State from May 2021 onwards.

The Commission vide the Order dated 28.08.2021 in Petition OP No. 28/2021 had ordered to implement 15 minute time block wise energy accounting of all the open access consumers in the State w.e.f 28.08.2021.

Since the SLDC has been implementing the 15 minute time block wise energy accounting of all embedded open access consumers in the State since 28.08.2021, there is no reason to deny open access to another embedded open access consumer M/s LULU Mall for availing power from the 1 MWp Solar plant taken on lease by the consumer.

17. The Commission has also noted the argument of the KSEBL that, as per the Kerala Solar Energy Policy 2013, the first right of refusal to purchase the electricity generated from the Solar Plants established in the State under IPP and also for excess generation over self consumption from CPP is vested with KSEBL. However, Kerala Police Sports and Youth Welfare Society' has not approached KSEBL with the offer for sale of power before deciding for third party sale. Hence, without getting consent of KSEBL, the society cannot sell power from the project to the petitioner.

In this matter, the Commission has also noted the communication dated 05.10.2019, between CMD, KSEBL addressed to the DGP & State Police Chief regarding the installation of the proposed Solar Plant at Chandrasekharan Nair Stadium, which is discussed under paragraph 6 of this Order. In the paragraph-1 of the said letter given advise to the DGP to increase the installed capacity of the plant from 808.7kW to 1000kW to get the eligibility to avail open access for third party sale. However, KSEBL has not given any offer to purchase the power in case the electricity from the plant is offered for third party sale.

The society also had entered into connectivity agreement with the KSEBL on 05.11.2024. The society already had entered into lease agreement with the petitioner on 08.10.2024. As per the provisions of the Electricity Act, 2003,

and other relevant Regulations in force, the petitioner can avail power from any source within or outside the State through open access facility on payment of applicable charges and losses. The Commission cannot deny such facility to any customers in the State.

The Commission further clarify that, KSEBL as the distribution licensee fully owned by the State Government have the obligation to implement the policy directives of the Government, if such directives are consistent with the provisions of the Electricity Act, 2003. Hence, if there is any dispute between the KSEBL and an independent generator producing electricity with the natural resources such as water, wind, solar etc, regarding the implementation of any policy directives of the State Government, the matter may be taken up with the State Government for resolution.

Hence, if KSEBL have any dispute on third party sale of power from the 1 MWp Solar power plant established by Kerala Police Sports and Welfare Society, the matter may be taken up with the State Government for resolution.

Since the plant is already connected to the State Grid on 05.11.2024, and the electricity is being generated from the plant since then, and also in view of the lease deed entered into between Kerala Police Sports and Welfare Society and the petitioner M/s LULU Mall, the petitioner may be allowed to draw power from the plant by availing open access facility.

However, this approval is subject to the final decision of the State Government on the disputes, if any, raised by KSEBL before the State Government regarding third party sale by Kerala Police Sports and Welfare Society, on non-compliance of the provisions, if any, of the Kerala Solar Energy Policy 2013.

Order of the Commission

18. The Commission, after examining the petition filed by M/s LULU International Shopping Malls Pvt Ltd, objections and comments of KSEBL, the provisions of the Electricity Act, 2003, KSERC (Connectivity and Intra-State Open Access) Regulations, 2013, KSERC (Renewable Energy & Net Metering) Regulations, 2020 and its amendments, other Rules and Regulations in force, ordered as follows;
 - (1) The SLDC and KSEBL shall permit the petitioner M/s LULU International Shopping Malls Pvt Ltd to transmit and wheel power from the 1 MWp Solar Power plant at Chandasekaharan Nair stadium, Thiruvananthapuram by availing Intra-state Open Access as per the provisions of KSERC (Renewable Energy & Net Metering) Regulations, 2020 & its amendments, and also as per KSERC (Connectivity & Intra-State Open Access) Regulations, 2013 and its amendments, subject to the conditions specified in last proviso to paragraph-17 of this Order.

- (2) The RE generator and the petitioner M/s LULU International Shopping Malls Pvt Ltd is not eligible for 'time period wise adjustment' and 'banking facilities' or 'any other facilities' while availing intra-state open access for transmitting and wheeling power from the 1MWp solar plant.

The petition disposed of. Ordered accordingly.

Sd/-
T K Jose
Chairman

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Approved for issue

Sd/-

C.R Satheesh Chandran

Secretary