# KERALA STATE ELECTRICITY REGULATORY COMMISSION

## THIRUVANANTHAPURAM

PRESENT: Sri.K.J.Mathew, Chairman
Sri.Mathew George, Member

**December 6, 2011**

**Petition OP No. 48/2010**

In the matter of

Truing up of Accounts of Kinfra Export Promotion Industrial Parks Limited (KEPIP) for 2004-05

**Petition OP No. 49/2010**

In the matter of

Truing up of Accounts of Kinfra Export Promotion Industrial Parks Limited (KEPIP) for 2005-06

**Petition OP No. 50/2010**

In the matter of

Truing up of Accounts of Kinfra Export Promotion Industrial Parks Limited (KEPIP) for 2006-07

**Petition OP No. 51/2010**

In the matter of

Truing up of Accounts of Kinfra Export Promotion Industrial Parks Limited (KEPIP) for 2007-08

**Petition OP No. 52/2010**

In the matter of

Truing up of Accounts of Kinfra Export Promotion Industrial Parks Limited (KEPIP) for 2008-09

Kinfra Export Promotion Industrial Parks Limited - Petitioner

# ORDER

**Background**

1. M/s Kinfra Export Promotion Industrial Parks Limited (KEPIP Limited), hereinafter referred to as *KEPIP or the licensee* filed petition for the truing up of accounts for 2004-05 to 2008-09. KEPIP obtained licence for distribution of electricity from Government of Kerala within the establishments in the parks as per the G.O.(P)No.18/2003/PD dated 8-5-2003. Later, as per the order dated 30-11-2009, the Commission transferred the distribution licence from M/s KEPIP to M/s.KINESCO Power and Utilities Private Ltd (KPUPL), which is a joint venture company formed by KINFRA and NTPC Electric Supply Company Ltd (NESCL).. The transfer was effective from 1-2-2010. Based on a joint venture agreement between KINFRA, KEPIP and NESCL, the entire electricity distribution assets of M/s KEPIP were transferred to M/s KPUPL and the energy division of M/s KEPIP was no longer a going concern from 1-2-2010. M/s KPUPL has taken over the operational control of the assets and the final asset transfer and the consideration for the assets transfer are still not concluded.

2. The Commission has been issuing ARR&ERC orders for M/s KEPIP from 2004-05 onwards. The Commission has directed all licensees to file truing up petition for the years for which ARR&ERC Orders have been issued. Accordingly, M/s KEPIP in its letter dated 23-12-2009 provided actual accounts for the year 2007-08 and 2008-09. The Commission vide letter dated 1-3-2010 again directed M/s KPUPL to file the truing up petitions for the years 2004-05, 2005-06, 2006-07 and 2008-09 as proper petitions with the required fee and affidavit. The Commission again vide letter dated 12-4-2010 issued a reminder for filing the truing up petition. M/s KPUPL forwarded the data pertaining to the years 2004-05, 2005-06 and 2006-07 received from M/s. KEPIP vide letter dated 29-4-2010. The Commission sought clarifications on the filings dated 22-7-2010 and also reminded to rectify the defects in the petition pointed out earlier. The Commission issued reminder vide letter dated 12-8-2010 and vide letter dated 3-9-2010 informed that action under Section 142 will be initiated if the required details are not provided before 15-9-2010. M/s KEPIP filed the affidavit and fee along with the clarifications vide their letter dated 16-9-2010. The Commission also sought the details of assets surrendered by the consumers vide its letter dated 30-9-2010. The information was submitted vide letter dated 8-10-2010.

3. The Commission held hearing on the petitions on 14-10-2010 at the office of the Commission. Kerala State Electricity Board made some observations on the

petition. In order to have detailed clarifications on the petition, a meeting was arranged with the licensee on 27-1-2011 at the Office of the Commission. Clarifications on several issues were sought during the discussion. The licensee submitted the clarifications sought by the Commission vide letter dated 25-6-2011, which was received at the office of the Commission on 25-7-2011. Since the members originally heard the matter retired from the service by then, the Commission decided to re-hear the matter on 23-9-2011.

**Hearing on the matter**

4. Hearing on the truing up petition was originally held on 14-10-2010. The representative of M/s KEPIP presented the petition for the years 2004-05 to 2008-09. The licensee stated that employee cost and A&G expenses are included in the licensee operations based on apportionment basis at 80% of the total cost. M/s. KEPIP also stated that the assets have to the transferred on book value to M/s KPUPL and the corresponding consideration of liability is not yet arrived at.

5. Kerala State Electricity Board in its comments on the petition stated that the surplus of the licensee is to be transferred to the Board and that considering the limited number of consumers the cost booked by the licensee is high. Since the Commission has not approved the allocation principle of 80%, the separation of accounts made by the licensee is not correct. Hence, the Commission may approve the reasonable level of expenses. The depreciation has to be as per the CERC norms. The licensee has availed loans correspondingly more than the capital investment made. According to the Board, since the addition to the consumer base is not substantial, prudency of the investments needs to be ascertained.

6. In the hearing held on 23-09-2011, KSEB made additional observations. KSEB mentioned that the power purchase cost shown by the licensee is different from the bills raised by KSEB. Even if the Duty under Section 3 and 4 of the Electricity duty Act is considered as stated by KEPIP, the difference still persists. KSEB also stated that the interest on loan claimed by the petitioner shall not be allowed as it is notional and the principle followed in the case of M/s Cochin Port Trust may be followed in this case also.

7. The Commission forwarded a copy of the objections of the Board to the petitioner KPUPL/KEPIP for reply giving time till 17-10-2011. The licensee submitted reply vide their letter dated 25-10-2010. In their reply, the petitioner denied the contentions of the Board. Regarding power purchase, the petitioner stated that

there is no over statement of power purchase costs in the accounts. The difference pointed out by the Board is on account of duty and taxes such as Section 3(1) duty, Section 4 duty, surcharge and thermal surcharge. However, the licensee admitted that there is a mistake in the accounts for the year 2006-07, where fixed charges were understated by Rs.16.98 lakhs, and energy charges were overstated by the same amount. But there was no change in the total charges. Hence, there is no impact on the accounts.

8. In reply to the issue of loan availed over and above the fixed assets, the licensee stated that in addition to the fixed assets and work in progress, amount advanced for security deposit with KSEB, margin money for bank guarantee and other current assets were financed using the loan. Further, the interest on security deposit and interest on fixed deposits were also charged on to income. In the case of A&G expenses also the petitioner justified the allocation method of 80%. Regarding the loan account with KINFRA, in the consolidated accounts of KEPIP, the interest payable is shown as contingent liability since the terms and conditions of the loan is yet to be ascertained. This fact is mentioned in the consolidated accounts. Since the funds are utilized for the licensee business, interest has been provided as cost of the licensee accounts. Though the interest is not actually paid, it has been adequately disclosed in the accounts.

9. Regarding the adjustment of depreciation booked as loan, the petitioner stated that the same is done to bring parity in the value of assets as per the Companies Act and KSERC regulations. According to the petitioner, due to the differences in depreciation rates, the written down value of electricity assets will be different as per the provisions of the Companies Act, which will also result in difference in profits/loss as per the books. The tax calculations also have implications. The deferred tax liability calculated assuming the block value under Companies Act would be lower than the block value under KSERC guidelines due to the difference in depreciation rates. To negate this, the difference in value of assets was treated as loan so that licensee would not lose the benefit of deferred tax calculation on the difference in value of assets due to difference of depreciation rates under various acts.

10. Regarding transfer of assets, the petitioner stated that even though assets have been transferred to KPUPL, the power purchase agreement has not been finalized and hence the transfer is not complete. The petitioner requested that KSEB may be instructed to complete the formalities of PPA so that transfer scheme can be concluded and submitted for approval. The surplus generated over the years has been utilized for setting up of the required infrastructure for

expansion of facilities by the licensee including new areas which would in turn benefit the consumers.

## Analysis and decision of the Commission

11. The Commission in this proceedings is taking up the truing up from 2004-05 to 2008-09 together. Based on the information furnished by the Licensee, the approved and actual ARR&ERC for the years 2004-05 to 2008-09 are as follows:

| | 2004-05 | | 2005-06 | |
|---|---|---|---|---|
| | Approved (Rs. lakhs) | Actual (Rs.lakhs) | Approved (Rs. lakhs) | Actual (Rs.lakhs) |
| Revenue from sale of power | 931.95 | 665.06 | 1210.53 | 1267.68 |
| Non-Tariff income | 3.00 | 2.57 | 5.00 | 60.45 |
| **Total income** | **934.95** | **667.63** | **1215.53** | **1328.13** |
| **Expenses** | | | | |
| Power purchase cost | 805.95 | 527.66 | 1018.41 | 1042.70 |
| R&M expenses | 28.40 | 22.92 | 38.00 | 24.84 |
| Employee costs | 4.50 | 12.15 | 15.60 | 10.07 |
| A&G expenses | 16.64 | 13.30 | 21.72 | 27.16 |
| Depreciation | 24.65 | 23.65 | 22.89 | 28.24 |
| Interest & financing charges | 53.48 | 50.78 | 66.61 | 133.97 |
| **Gross Expenses** | **933.62** | **650.46** | **1183.23** | **1266.98** |
| Less Exp. Capitalised | 0.00 | 0.00 | 0.00 | 0.00 |
| Less Interest capitalised | 0.00 | 0.00 | 0.00 | 0.00 |
| Net Expenses | 933.62 | 650.46 | 1183.23 | 1266.98 |
| **Surplus/(Deficit)** | **1.33** | **17.17** | **32.30** | **61.15** |
| Add Net prior period (charges)/credits | | **0.00** | | **11.20** |
| Less Deferred Tax liability | | **0.00** | | **3.56** |
| **Revenue Surplus/(Deficit)** | **1.33** | **17.17** | **32.30** | **68.79** |

| | 2006-07 | | 2007-08 | |
|---|---|---|---|---|
| | Approved (Rs. lakhs) | Actual (Rs.lakhs) | Approved (Rs. lakhs) | Actual (Rs.lakhs) |
| Revenue from sale of power | 1831.64 | 1355.03 | 2146.48 | 1252.71 |
| Non-Tariff income | 7.00 | 86.60 | 6.50 | 83.13 |
| **Total income** | **1838.64** | **1441.63** | **2152.98** | **1335.84** |
| **Expenses** | | | | |
| Power purchase cost | 1477.18 | 1105.09 | 1805.12 | 995.84 |
| R&M expenses | 45.80 | 13.28 | 82.28 | 15.44 |
| Employee costs | 23.23 | 17.88 | 26.25 | 12.07 |

| | 2006-07 | | 2007-08 | |
|---|---|---|---|---|
| | Approved (Rs. lakhs) | Actual (Rs.lakhs) | Approved (Rs. lakhs) | Actual (Rs.lakhs) |
| A&G expenses | 111.65 | 33.86 | 59.56 | 35.27 |
| Depreciation | 25.11 | 29.95 | 48.23 | 30.87 |
| Interest & financing charges | 112.03 | 119.78 | 109.14 | 87.20 |
| **Gross Expenses** | **1795.00** | **1319.84** | **2130.58** | **1176.69** |
| Less Exp. Capitalised | | 0.00 | | 0.00 |
| Less Interest capitalised | | 0.00 | | 0.00 |
| Net Expenses | 1795.00 | 1319.84 | 2130.58 | 1176.69 |
| **Surplus/(Deficit)** | **43.64** | **121.79** | **22.40** | **159.15** |
| Add Net prior period (charges)/credits | | **46.76** | | **12.97** |
| Less Deferred Tax liability | | **26.11** | | **9.39** |
| **Revenue Surplus/(Deficit)** | **43.64** | **142.44** | **22.40** | **162.73** |

| | 2008-09 | |
|---|---|---|
| | Approved (Rs. lakhs) | Actual (Rs.lakhs) |
| Revenue from sale of power | 1661.44 | 1741.95 |
| Non-Tariff income | 25.00 | 32.68 |
| **Total income** | **1686.44** | **1774.63** |
| **Expenses** | | |
| Power purchase cost | 1430.96 | 1266.58 |
| R&M expenses | 61.15 | 20.58 |
| Employee costs | 30.50 | 14.80 |
| A&G expenses | 66.97 | 40.28 |
| Depreciation | 69.86 | 28.50 |
| Interest & financing charges | 123.19 | 68.00 |
| **Gross Expenses** | **1782.63** | **1438.74** |
| Less Exp. Capitalised | | 0.00 |
| Less Interest capitalised | | 0.00 |
| Net Expenses | 1782.63 | 1438.74 |
| **Surplus/(Deficit)** | **-96.19** | **335.89** |
| Add Net prior period (charges)/credits | | **(24.68)** |
| Less Deferred Tax liability | | **73.26** |
| **Revenue Surplus/(Deficit)** | **(96.19)** | **237.95** |

12. **Energy sales:** Actual energy sales reported by the M/s KEPIP for the years 2004-05 to 2008-09 are as follows:

| Category | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 |
|---|---|---|---|---|---|
| HT Consumers (MU) | 14.02 | 28.12 | 29.41 | 23.3 | 27.94 |
| LT consumers (MU) | 1.11 | 2.6 | 3.77 | 3.39 | 3.23 |
| Temporary Connections (MU) | 0.16 | 0.28 | 0.31 | 0.59 | 0.24 |
| Total (MU) | 15.29 | 31 | 33.49 | 27.28 | 31.41 |

For the purpose of truing up the Commission allows the actual sales reported by the Licensee.

13. **T&D Losses:** Based on the energy sales and total energy input into the system actual T&D loss reported by the licensee is as follows:

| | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 |
|---|---|---|---|---|---|
| Sales (MU) | 15.29 | 31.00 | 31.41 | 27.28 | 33.49 |
| Energy Purchase (MU) | 16.32 | 31.73 | 31.86 | 28.03 | 33.53 |
| T&D loss (%) | 6.31% | 2.30% | 1.41% | 2.68% | 0.12% |

14. Though the Commission has issued ARR&ERC orders from 2004-05, the Commission did not fix Distribution loss targets for the licensee for 2 years ie., for 2004-05 and 2005-06. Distribution loss targets approved by the Commission for balance years are given below:

| | 2006-07 | 2007-08 | 2008-09 |
|---|---|---|---|
| Approved Energy loss | 3.0% | 3.0% | 2.41% |

15. The actual energy losses in all the years from 2006-07 to 2008-09 are lower than the approved losses reported by the licensee. Hence, no adjustment is proposed in the case of distribution losses.

**Expenses :**

16. **Power purchase cost :** The approved and actual power purchase cost as per the accounts are given below:

**Comparison of Power purchase cost (approved and Actual)**

| | Approved Rs. Lakhs | Actual Rs.lakhs |
|---|---|---|
| 2004-05 | 805.95 | 527.66 |
| 2005-06 | 1,018.41 | 1,042.70 |
| 2006-07 | 1,477.18 | 1,105.09 |
| 2007-08 | 1,805.12 | 995.84 |
| 2008-09 | 1,430.96 | 1,266.58 |

17. The Commission as part of the clarifications, sought the split up details of power purchase cost booked by the licensee. The licensee has mentioned that the power purchase cost is inclusive of electricity duty under Section 3 and Section 4 of the Kerala Electricity Duty Act 1963. The duty is added to the variable charges while preparing the accounts. The details furnished by the licensee are as follows:

**Section 3 and Section 4 duty included as part of power purchase cost**

| Year | Sec 3 Duty Rs. In Lakhs) | Sec 4 Duty Rs. In Lakhs) | Total Rs. In Lakhs) |
|---|---|---|---|
| 2004-05 | 3.61 | 20.22 | 23.84 |
| 2005-06 | 18.56 | 38.46 | 57.02 |
| 2006-07 | 18.89 | 39.80 | 58.69 |
| 2007-08 | 16.35 | 40.61 | 56.95 |
| 2008-09 | 19.99 | 45.76 | 65.75 |

The split up details of power purchase cost given by the licensee are as follows:

**Split up details of power purchase cost**

| | Fixed Charges (Rs,lakhs) | Variable Charges (Rs.lakhs) | Section 3 duty (Rs.lakhs) | Section 4 duty (Rs.lakhs) | Total Power purchase cost reported (Rs.lakhs) |
|---|---|---|---|---|---|
| 2004-05 | 97.44 | 406.39 | 3.61 | 20.22 | 527.66 |
| 2005-06 | 189.25 | 834.73 | 18.72 | | 1,042.69 |
| 2006-07 | 192.11 | 854.29 | 18.89 | 39.80 | 1,105.09 |
| 2007-08 | 187.65 | 751.24 | 16.35 | 40.61 | 995.85 |
| 2008-09 | 201.19 | 999.63 | 19.99 | 45.76 | 1,266.58 |

18. The licensee has mentioned that in 2005-06, the Section 4 duty was not included as part of the Power purchase, though it was collected and remitted to the Government. The Commission notes that as part of power purchase cost, the section 3 and section 4 duty payable to the Government cannot be admitted. As per the Kerala Electricity Duty Act, Section 3 duty cannot be passed on to the consumers. The Hon. Appellate Tribunal has also ruled that section 3 duty is not payable by the consumers. The Section 4 duty on the other hand is collected from the consumers in the bill along with electricity charges, which is to be remitted to the Government. Hence, both these items do not form part of the expenses of the licensee. The licensee has replied that the discrepancy pointed out by KSEB on the power purchase cost as per the accounts and the bills issued by KSEB is due to the surcharge and electricity duty. Considering the above, the

Commission approves the power purchase cost for the purpose of truing up as follows:

**Power purchase cost approved for truing up**

| Year | Actual reported by the Licensee (Rs.lakhs) | Power purchase cost allowed in Truing up (Rs.lakhs) | | |
|---|---|---|---|---|
| | | Fixed charges | Variable charges | Total |
| 2004-05 | 527.66 | 97.44 | 406.39 | 503.83 |
| 2005-06 | 1,042.69 | 189.25 | 834.73 | 1,023.98 |
| 2006-07 | 1,105.09 | 192.11 | 854.29 | 1,046.40 |
| 2007-08 | 995.85 | 187.65 | 751.24 | 938.89 |
| 2008-09 | 1,266.58 | 201.19 | 999.63 | 1,200.83 |

19. **Depreciation**: The depreciation booked as per the actual accounts and the approved depreciation is as follows:

**Comparison of Depreciation**

| | Approved (Rs.lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| 2004-05 | 24.65 | 23.65 |
| 2005-06 | 22.89 | 28.24 |
| 2006-07 | 25.11 | 29.95 |
| 2007-08 | 48.23 | 30.87 |
| 2008-09 | 69.86 | 28.50 |

20. The depreciation accounted for the distribution business is based on the rates as per the CERC regulation. However, the licensee has stated that as per the books of Accounts, the depreciation is as per the Companies Act 1956. Since there is difference in the rates, the difference is set off in the inter division loan of the licensee and the interest payable on these loans. The licensee has clarified that this has been mentioned in the accounting policy. The licensee further stated that the intention is reconciliation in value between the assets in the books as per the Companies Act and as well as the provisions of KSERC. The Commission is of the view that such treatment of depreciation is not as per the principle. The depreciation allowed to the licensee is as per the CERC norms. The method of accounting the difference in depreciation of two methods under the loans and in the interest and financial charges is essentially resulting in accounting the depreciation as per the Companies Act, which cannot be admissible. Since the licensee could not provide an estimate of the difference in depreciation, the Commission has to make provisional adjustments in the interest and financial charges for the difference accounted in depreciation. The Licensee can provide

the details as per the principles set out in Electricity Act for tariff determination and the adjustments shall not be made while presenting the regulatory accounts.

21. The Commission notes that the licensee is registered as per the Companies Act. However, distribution of electricity is a licensed business to be carried out as per the provisions of Electricity Act. As per Section 51 of the Electricity Act, a licensee has to separate the other businesses. Section 616 of the Companies Act provides for following Electricity Acts by companies engaged in generation and supply. Thus, the adjustments made by the licensee in the accounts are not necessary and the electricity distribution function is to have separate accounts as per the provisions of the existing statutes. Such adjustments will not reflect a true and fair view of accounts.

22. The Commission also notes the objections of KSEB on accounting of other assets and the depreciation claimed thereon. The licensee has provided the details of other assets, which mostly comprise of office equipments and computer accessories, and furniture and fixtures. The licensee has accounted 80% of other assets for the licenced business. The Commission allows the depreciation for other assets.

23. As per the letter dated 8-10-2010, the licensee provided the details of assets funded/taken over from the consumers. The value of assets taken over in each year is given as shown below:

**Assets taken over from consumers (Rs.lakhs)**

| | Date of take over | 2007-08 | 2008-09 |
|---|---:|---:|---:|
| Infopark | | 383.41 | - |
| Koyenco | | 6.03 | - |
| L&T Tech park | 19-1-2008 | 11.63 | - |
| Leela soft | 24-12-2007 | 21.33 | - |
| Wipro Technology | 19-9-2007 | 12.63 | - |
| Infopark | 27-3-2009 | - | 100.00 |
| Wipro Technologies | 27-2-2009 | - | 76.03 |
| Leela soft | 15-12-2008 | - | 96.38 |
| **Total** | | **435.03** | **272.41** |

24. The GFA for the period and the average depreciation claimed shows that the licensee has not included the depreciation for the assets created out of consumer contribution/assets taken over from consumers.

| | GFA (Rs.lakhs) | Actual (Rs.lakhs) | Average rate of Depreciation % |
|---|---|---|---|
| 2004-05 | 729.18 | 23.65 | 3.24% |
| 2005-06 | 900.61 | 28.24 | 3.14% |
| 2006-07 | 935.35 | 29.95 | 3.20% |
| 2007-08 | 1,627.10 | 30.87 | 1.90% |
| 2008-09 | 2,300.20 | 28.5 | 1.24% |

25. Considering this, the Commission allows the depreciation claimed by the licensee as per the actual accounts. The Commission notes that the licensee has not properly accounted the assets and the corresponding liabilities in the balance sheet reflecting the consumer contribution, which has to be corrected. The licensee shall make appropriate adjustment entries in the accounts to nullify the effect of adding the difference in depreciation as per the companies Act and CERC regulations in the loan account.

26. **Interest and financing charges:** Interest and financing charges reported by the licensee as per the accounts are as follows:

**Comparison of interest and financing charges**

| | Approved (Rs.lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| 2004-05 | 53.48 | 50.78 |
| 2005-06 | 66.61 | 133.97 |
| 2006-07 | 112.03 | 119.78 |
| 2007-08 | 109.14 | 87.20 |
| 2008-09 | 123.19 | 68.00 |

27. As per the statement of the licensee, the loan component comprises of the loan taken/availed from Government by KINFRA assigned for the distribution business. The interest is taken at a rate of 10%, though the rate of interest for the Government loans is 11%. The licensee while furnished clarifications has stated that in the consolidated accounts of KEPIP, interest payable to Kinfra has been shown as contingent liability since the terms and conditions including the interest and repayment for the loan advanced by the Kinfra to KEPIP are yet to be ascertained. Thus the interest booked is based on the accrual principle. The licensee also stated that so far the loan and interest have not been paid to the Government and hence the interest charges booked in the distribution account is only notional.

28. The Commission examined the claims of the licensee in detail. The balance sheet presented by the licensee for the distribution business is as follows:

### Balance Sheet of KEPIP licensed business over the years

| Balance sheet | 2004-05 (Rs.lakhs) | 2005-06 (Rs.lakhs) | 2006-07 (Rs.lakhs) | 2007-08 (Rs.lakhs) | 2008-09 (Rs.lakhs) |
|---|---|---|---|---|---|
| **Capital funds** | | | | | |
| Share capital/capital reserve | 10.16 | 17.38 | 146.05 | 657.25 | 657.43 |
| Reserves & Surplus | | | | 425.45 | 663.42 |
| **Total** | 10.16 | 17.38 | 146.05 | 1,082.70 | 1,320.85 |
| Loan from Others | 725.43 | 1,339.66 | 1,521.06 | 872.00 | 679.99 |
| **Total** | **735.59** | **1,357.04** | **1,667.11** | **1,954.70** | **2,000.84** |
| **Fixed Assets** | | | | | |
| Gross fixed assets | 729.18 | 900.61 | 935.35 | 1,627.10 | 2,300.20 |
| Less Accumulated Depreciation | 30.95 | 55.93 | 85.88 | 116.75 | 170.72 |
| **Net fixed assets** | 698.23 | 844.68 | 849.47 | 1,510.35 | 2,129.48 |
| CWIP | 0 | | 93.81 | 357.14 | |
| **Total** | 698.23 | 844.68 | 943.28 | 1,867.49 | 2,129.48 |
| **Deferred tax assets** | | 12.13 | 6.34 | | |
| **Current assets** | | | | | |
| Total Current Assets | 304.25 | 948.53 | 1,251.64 | 612.69 | 605.17 |
| Total Current Liabilities | 266.89 | 448.31 | 534.17 | 525.48 | 733.83 |
| **Net current assets** | 37.36 | 500.22 | 717.47 | 87.21 | (128.66) |
| **Total application of funds** | 735.59 | 1,357.03 | 1,667.09 | 1,954.70 | 2,000.82 |

29. As per the consolidated accounts of the KEPIP (including the distribution business) the funding pattern is as follows:

30.

### Extracted details of Balance sheet of KEPIP (Consolidated)

| | 2004-05 (Rs.lakhs) | 2005-06 (Rs.lakhs) | 2006-07 (Rs.lakhs) | 2007-08 (Rs.lakhs) | 2008-09 (Rs.lakhs) |
|---|---|---|---|---|---|
| Shareholders fund | | | | | |
| Share capital | 25.01 | 25.01 | 25.01 | 25.01 | 25.01 |
| Grant from Govt of India | 1,000.00 | 1,000.00 | 1,000.00 | 1,000.00 | 1,000.00 |
| Grant from ASIDE | | | 375.00 | 750.89 | 750.89 |
| Value of Assets taken over | | | | 657.71 | 621.29 |
| P&L A/c | | 51.61 | 263.74 | 534.29 | 958.21 |
| Unsecured loan –Kinfra | 3,722.11 | 3,628.30 | 638.62 | 607.59 | 610.99 |
| **Total Liabilities** | **4,747.12** | **4,704.92** | **2,302.37** | **3,575.49** | **3,966.39** |

| | 2004-05 (Rs.lakhs) | 2005-06 (Rs.lakhs) | 2006-07 (Rs.lakhs) | 2007-08 (Rs.lakhs) | 2008-09 (Rs.lakhs) |
|---|---|---|---|---|---|
| **Assets** | | | | | |
| Gross Fixed Assets | 928.15 | 1,120.72 | 1,154.55 | 1,851.24 | 2,504.25 |
| Net Block | 780.40 | 851.61 | 778.16 | 1,354.75 | 1,794.41 |
| Capital work in progress | 2,808.45 | 2,564.55 | 282.73 | 589.83 | 408.37 |
| Investments | | 15.16 | 7.93 | | |
| Current Assets | 872.35 | 1,189.27 | 1,502.33 | 2,106.15 | 2,364.64 |
| Current liabilities & provisions | 197.22 | 329.86 | 268.76 | 475.22 | 601.01 |
| **Net current Assets** | **675.13** | **859.41** | **1,233.57** | **1,630.93** | **1,763.63** |
| Others | 483.11 | 414.19 | | | |
| **Total Assets** | **4,747.09** | **4,704.92** | **2,302.39** | **3,575.51** | **3,966.41** |

31. As per the consolidated accounts, of the total funds, Government of India grant is Rs.1000 lakhs and grant from ASIDE is Rs.750 lakhs. About Rs.658 lakhs worth of assets are taken over from the consumers free of cost. Hence, substantial part of the assets is funded from the grants. However, the effect of the same is not brought in the balance sheet of licensed business. A comparison of the ratio of loans to the GFA, shows that the percentage is substantially lower in the case of consolidated accounts. The total grants as on 31-3-2009 in consolidated accounts is Rs.2372.18 lakks (GoI grant -Rs.1000 lakhs, Assets taken over Rs.621.29 lakhs, Grant from ASIDE Rs.750.89 lakhs), where as the total GFA is Rs.2504.25 lakhs. Correspondingly, in the distribution licensee accounts, the GFA is Rs.2300.20 lakhs, which is funded by loans Rs.679.99 lakhs, capital reserves, Reserves and surplus of Rs. 1320.85 lakhs. The share of grants is not specifically mentioned in the licensed business accounts. Thus, while preparing the balance sheet of the licensed business, the effort was mainly to show higher share of funding from the loans, though no such loan was seen availed actually. This approach of the licensee is not reasonable. The licensee has mentioned that loan shown in the licensed business is taken from Kinfra, and interest is booked on accrual basis. However, it is noted that in the books of accounts of the consolidated accounts of Kinfra, this fact is not disclosed. Though the Commission has sought the details of the commitment for repayment, the licensee could not provide any details on this account. The outstanding loan liability as per the accounts and the interest charges for the loan shown by the licensee are given below.

**Outstanding liability and interest charged booked**

| | Outstanding loan as per the accounts (Rs.lakhs) | Interest charged (Rs.lakhs) | Rate of interest (Rs.lakhs) |
|---|---|---|---|
| 2004-05 | 725.43 | 50.78 | 7% |
| 2005-06 | 1,339.66 | 133.97 | 10% |
| 2006-07 | 1,521.06 | 119.78 | 8% |
| 2007-08 | 872.00 | 87.20 | 10% |
| 2008-09 | 679.99 | 68.00 | 10% |

32. The licensee has notionally taken 7 to 10% interest on the loan taken from Kinfra. The licensee has prepared the accounts in such a way that outstanding loan has been decreased over the years. The consolidated accounts of Kinfra for the corresponding years did not reflect such adjustments. The licensee has clarified that the loan taken by Kinfra from the Government has not been repaid and the adjustment shown is only book adjustments in the interdivisional accounts. However, as per the consolidated accounts, there is no loan from the Government and hence the interest charges booked by the licensee cannot be admitted in full. The licensee further mentioned that the difference in depreciation between CERC norms and the Company's Act has been included as loan. The details of adjustment was not provided by the licensee. The licensee in the filing for 2008-09 has mentioned that the depreciation as per schedule XIV of the Companies Act 1956 for the licensee assets for the year is Rs.151.38 lakhs, where as the depreciation booked in the licensed business as per CERC norms is only Rs.28.50 lakhs. The Gross Fixed Assets as on 31-3-2009 for the consolidated business (KEPIP) is Rs. 2504.25 lakhs, whereas for the distribution business GFA is Rs.2300.20 lakhs (ie., about 92% of the total). The difference in depreciation in the consolidated accounts as per the Companies Act is Rs.709.84 lakhs and in the distribution business is Rs.170.72 lakhs. As per the disclosure of the licensee, in 2008-09, the difference in depreciation about Rs.500 lakhs (approximately Rs.709.84 lakhs – Rs.170.72 lakhs), is booked under the loan account, which shows that out of the loan of Rs679.99 lakhs, about Rs.500 is on account of this difference. Hence, detailed scrutiny of the separation of accounts is necessary to ascertain the facts.

33. In the above circumstances, the Commission is not in a position to reasonably ascertain the loan and interest commitment of the licensee. The Commission has also considered that the terms of loan and repayment conditions for the amount shown notionally as loan is yet to be finalized. Hence, the interest liability booked

by licensee is only provisional and has to be reasonably fixed. The Commission has engaged a consultant to examine and separation of common expenses of small licensees. The final position on this issue will be taken once the study is completed. The matter is deferred till then and no interest charges are admitted at present.

34. The licensee has also clarified that though initially the security deposit from consumers was collected, it was later refunded and no interest on security deposit has been paid. The licensee is following pre-payment metering system.

35. **Repair and maintenance expenses:** Repair and maintenance expenses as per the approved and actual accounts are as follows:

**Comparison of R&M expenses**

| | Approved (Rs.lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| **2004-05** | 28.40 | 22.92 |
| **2005-06** | 38.00 | 24.84 |
| **2006-07** | 45.80 | 13.28 |
| **2007-08** | 82.28 | 15.44 |
| **2008-09** | 61.15 | 20.58 |

36. As per the information provided by the licensee, the separation of accounts was made from 2006-07. The R&M expenses represents charges paid to the Agency employed for maintenance. The increase in R&M expenses from 2006-07 is due to the increase in the charges for the agency. In 2004-05 and 2005-06, R&M expenses include charges towards maintenance of LT service lines, which is about Rs.6.73 lakhs and Rs.5.27 lakhs respectively for 2004-05 and 2005-06. The Commission is of the view that R&M expenses relating to the distribution business alone shall be included under the head and the agency shall be selected on competitive basis. The Commission also notes that it is also possible to identify the R&M expenses for distribution separately and joint costs are rare. With these observations, the Commission allows the R&M expenses booked by the licensee for the purpose of truing up. Hence forth, the licensee shall separately account the R&M expenses for distribution and include the expenses relating to distribution only for the purpose of recovery from tariff of consumers.

37. **Employee costs:** The employee costs approved and actual for the five years under consideration are as follows:

**Comparison of Employee costs**

| | Approved (Rs.lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| **2004-05** | 4.50 | 12.15 |
| **2005-06** | 15.60 | 10.07 |
| **2006-07** | 23.23 | 17.88 |
| **2007-08** | 26.25 | 12.07 |
| **2008-09** | 30.50 | 14.80 |

38. The licensee has stated that while providing the ARR&ERC petition till 2006-07, the projected employee costs of persons exclusively deployed for distribution business alone were considered, and later the portion of the salary of senior officers involved in other operations has also been included. In the truing up accounts, the licensee has apportioned 80% of the total employee costs in to the distribution business. The rationale given by the licensee for 80% apportionment is that the income from the distribution business is about 80% of the total business and expenditure and other income have been apportioned on that basis. The Commission sought the details of apportionment method and the income of the licensee. The details provided by the licensee are as follows:

**Share of income from licenced business**

| | Total Income, as per Consolidated Profit & Loss Account of KEPIP (RS. lakhs_ | Income from Sale of Power (Rs.Lakhs) | Income from sale of power as % of total income (Rs.lakhs) |
|---|---|---|---|
| 2004-05 | 713.11 | 650.99 | 91.3% |
| 2005-06 | 1,343.23 | 1,241.96 | 92.5% |
| 2006-07 | 1,519.10 | 1,350.48 | 88.9% |
| 2007-08 | 1,450.24 | 1,242.36 | 85.7% |
| 2008-09 | 1,967.69 | 1,472.48 | 74.8% |

39. The income of the licensee included in the consolidated accounts includes, interest on fixed deposits, common facility charges/service charges, water charges, service connection charges etc., The licensee has apportioned the employee costs based on the 80% benchmark as follows:

**Apportionment of employee costs for the distribution business** (Rs.lakhs)

| **2005-06** | Consolidated Business | Apportioned to Distribution business |
|---|---|---|
| Salaries | 10.77 | 8.62 |
| Other allowances | 1.82 | 1.45 |
| **Total** | **12.59** | **10.07** |

| 2006-07 | Consolidated Business | Apportioned to Distribution business |
|---|---|---|
| Salaries | 19.94 | 15.95 |
| Other allowances | 2.41 | 1.93 |
| **Total** | **22.35** | **17.88** |
| **2007-08** | Consolidated Business | Apportioned to Distribution business |
| Salaries | 14.32 | 10.84 |
| Other allowances | 2.07 | 1.23 |
| **Total** | **16.39** | **12.07** |
| **2008-09** | Consolidated Business | Apportioned to Distribution business |
| Salaries | 14.25 | 12.59 |
| Other allowances | 2.67 | 2.20 |
| **Total** | **16.92** | **14.80** |

40. The Commission notes that though the details on direct expenses on each account had been sought, the licensee has given only the apportionment of employee cost for the distribution business. The Commission is of the view that it is possible to identify the costs directly attributable to the distribution business. The licensee has to separate expenses on the distribution business from the consolidated business and for the purpose of regulatory reporting. The Commission approves the employee costs as reported by the licensee for the purpose of truing up.

41. **Administrative and General Expenses:** The A&G expenses approved and the actual as per the accounts are as follows:

**Comparison of A&G expenses**

| | Approved (Rs.lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| 2004-05 | 16.64 | 13.30 |
| 2005-06 | 21.72 | 27.16 |
| 2006-07 | 111.65 | 33.86 |
| 2007-08 | 59.56 | 35.27 |
| 2008-09 | 66.97 | 40.28 |

42. In the case of A&G expenses also the licensee has apportioned the expenses at 80%. The Commission has sought the details of directly attributable A&G expenses to the distribution business. The details provided by the licensee for various years is as follows:

**Apportionment of A&G expenses (Rs.lakhs)**

| | Directly attributable to Distribution business | 80% apportioned from the total expenses | Total A&G expenses booked |
|---|---|---|---|
| 2004-05 | 0.98 | 12.32 | 13.30 |
| 2005-06 | 3.55 | 23.60 | 27.16 |
| 2006-07 | 2.66 | 31.20 | 33.86 |
| 2007-08 | 8.08 | 27.20 | 35.27 |
| 2008-09 | 12.33 | 27.95 | 40.28 |

43. The directly assigned cost in distribution includes, licence fee, insurance, technical fees and other professional charges. The balance is apportioned from the other business. In 2007-08 and 2008-09 , the increase in direct expenses is on account of consultancy charges and professional charges. The licensee has also booked about 80% of the security expenses on to the distribution business, which is not realistically attributable to the licensed activity. The Commission notes that there are discrepancy in the allocation of expenses provided by the licensee. While allocating the total costs, many of the expenses which are unrelated to the distribution business is also assigned to the distribution business. Hence the licensee shall separate the expenses and only the reasonable expenses which are related to the distribution shall be apportioned to the distribution business. The Commission approves the A&G expenses as reported by the licensee for the purpose of truing up.

44. Though the licensee has mentioned that accounts have been separated from 2006-07, the available records clearly show that the process is not complete and foolproof.. The indirect/joint costs are comparatively higher than the direct costs. The licensee shall take earnest effort for identifying the expenses which are directly attributable to the licensed activity and reasonable methods may be applied for apportioning the joints costs. Since the licence has been transferred to KPUPL for exclusive distribution business, it may be possible without much effort.

45. **Net prior period Charges/Income :** The licensee has included the net prior period income as shown below:

**Net prior period charges and credits**

| | Prior period credits/(charges) Rs.lakhs |
|---|---|
| 2004-05 | - |
| 2005-06 | 11.20 |
| 2006-07 | 46.76 |
| 2007-08 | 12.97 |

| | |
|---|---|
| 2008-09 | (24.68) |

46. As per the accounts, the net income was for three years 2005-06, 2006-07 and 2007-08. The income is on account tof reversal of excess remuneration, amount excess debited to Kinfra and reversal of unclaimed liabilities. The charges relating to short provision of A&G expenses and reversal of excess supervision charges was credited to income. The Commission allows the same as given in the accounts.

47. **Return on investment:** The licensee has not shown the allowed return in the filing. Generally 14% return on equity invested in the business is allowed for the distribution business. However, in the case of the licensee, the exact amount of equity in the business cannot be ascertained and the licensee has stated that the business is developed from the loan from Kinfra, which was sourced from Government of Kerala. In the absence of actual equity invested in the electricity business, the Commission is not in a position to allow return. The Commission proposes to conduct a study to ascertain the possible level of equity/rate base for allowing return for the licensees. Till such time, the Commission is of the view that certain provision for return is needed for sustaining the business in a continuous manner. Accordingly, the Commission provisionally allows Rs.10 lakhs for each of the years considered for truing up.

48. **Provision for income tax/Fringe benefit tax**: The licensee has charged as deferred tax liability in the actual accounts as shown below:

**Provision for taxes**

| | Rs.lakhs |
|---|---|
| 2004-05 | |
| 2005-06 | 11.20 |
| 2006-07 | 26.11 |
| 2007-08 | 9.39 |
| 2008-09 | 73.26 |

49. The licensee has stated that the deferred tax liability has been accounted as per the provisions of Accounting standard 22. The licensee is entitled to earn regulated surplus as per the provisions of the Act. Hence, income tax is applicable on the surplus allowed. The Commission has allowed provisional return at a rate of Rs.10 lakhs per year since, the base on which the return is to be calculated is uncertain. Until the consultancy study is over it is not possible to

ascertain the ratebase on which return is to be allowed. Hence, the Commission is of the view that the tax liability can be allowed once the position on the return is certain. Thus the claim on deferred tax liability is not admitted at present, which can be considered once the actual tax liability based on the regulated return is ascertained.

50. **Revenue from sale of power**: The total revenue from sale of power reported by the licensee and the actual are given below:

**Revenue from sale of power**

| | Approved (Rs. lakhs) | Actual (Rs.lakhs) |
|---|---|---|
| 2004-05 | 931.95 | 665.06 |
| 2005-06 | 1210.53 | 1267.68 |
| 2006-07 | 1831.64 | 1355.03 |
| 2007-08 | 2146.48 | 1252.71 |
| 2008-09 | 1661.44 | 1741.95 |

51. The consumer category wise details are as follows:

**Consumer category wise revenue from sale of power** (Rs.lakhs)

| **Sale of Power** | **2004-05** | **2005-06** | **2006-07** | **2007-08** | **2008-09** |
|---|---|---|---|---|---|
| (I) H T Consumers | 573.60 | 1,091.09 | 1,009.17 | 1,028.26 | 1,327.91 |
| (ii) L T Consumers | 61.88 | 121.00 | 314.98 | 152.44 | 174.77 |
| (iii) Temporary Connections | 15.96 | 29.87 | 26.33 | 61.66 | 34.18 |
| **Total** | **651.44** | **1,241.96** | **1,350.48** | **1,242.36** | **1,536.86** |
| Service connection charges | 24.26 | 25.72 | 4.55 | 10.35 | 11.63 |
| Other Charges | | | | | 193.46 |
| **Revenue from tariffs** | **675.70** | **1,267.68** | **1,355.03** | **1,252.71** | **1,741.95** |

52. The revenue from tariff includes the income from self consumption /common use. As per the details provided by the licensee, the self consumption is accounted as part of LT category. In 2008-09, Rs.4.88 lakh is accounted as revenue from self consumption. Though self consumption is low, as a matter of principle, the licensee has to meter all connections and revenue based on the appropriate tariff has to be included in the ARR. The street lights are also to be billed separately and revenue to be shown in appropriate tariff category. The licensee also stated that, the fuel surcharge was collected and transferred to KSEB and not included as part of the revenue from tariffs. After scrutiny, the Commission accepts the revenue booked by the licensee.

53. The income from other sources accounted is the interest from fixed deposits. The details are shown below:

**Revenue from non-tariff income**

| | Approved Rs.lakhs | Actuals Rs.lakhs |
|---|---|---|
| 2004-05 | 3.00 | 2.57 |
| 2005-06 | 5.00 | 60.45 |
| 2006-07 | 7.00 | 86.60 |
| 2007-08 | 6.50 | 83.13 |
| 2008-09 | 25.00 | 32.68 |

54. As per the details provided by the licensee, 80% of the income from fixed deposits is accounted in the licensed business. The Commission has noted that the revenue from other business of the licensee is comparatively low and the extra surplus generated for fixed deposits is mainly from the licensed business. Hence, the rationale used by the licensee for apportioning the other income is not reasonable. In the mean time, Commission takes the entire income from interest on fixed deposits as income of the licensed business.

55. **Aggregate Revenue requirements and Income:** The revenue gap/surplus after the truing up process is as shown below:

| Particulars | 2004-05 | | 2005-06 | |
|---|---|---|---|---|
| | Actual (Rs.lakhs) | True up (Rs.lakhs) | Actual (Rs.lakhs) | True up (Rs.lakhs) |
| Revenue from sale of power | 665.06 | 665.06 | 1267.68 | 1267.68 |
| Non-Tariff income | 2.57 | 3.21 | 60.45 | 70.43 |
| **Total income** | **667.63** | **668.27** | **1328.13** | **1338.11** |
| **Expenses** | | | | |
| Power purchase cost | 527.66 | 503.83 | 1042.70 | 1,023.98 |
| R&M expenses | 22.92 | 22.92 | 24.84 | 24.84 |
| Employee costs | 12.15 | 12.15 | 10.07 | 10.07 |
| A&G expenses | 13.30 | 13.30 | 27.16 | 27.16 |
| Depreciation | 23.65 | 23.65 | 28.24 | 28.24 |
| Interest & financing charges | 50.78 | | 133.97 | |
| Return on investment | | 10.00 | | 10.00 |
| **Total Expenses** | **650.46** | **585.85** | **1266.98** | **1124.29** |
| Add Net prior period (charges)/credits | **0.00** | **0.00** | **11.20** | **11.20** |
| Less Deferred Tax liability | **0.00** | **0.00** | **3.56** | |
| **Revenue Surplus/(Deficit)** | **17.17** | **82.42** | **68.79** | **225.02** |

| Particulars | 2006-07 | | 2007-08 | |
|---|---|---|---|---|
| | Actual (Rs.lakhs) | True up (Rs.lakhs) | Actual (Rs.lakhs) | True up (Rs.lakhs) |
| Revenue from sale of power | 1355.03 | 1355.03 | 1252.71 | 1252.71 |
| Non-Tariff income | 86.60 | 103.06 | 83.13 | 90.14 |
| **Total income** | **1441.63** | **1458.09** | **1335.84** | **1342.85** |
| **Expenses** | | | | |
| Power purchase cost | 1105.09 | 1,046.40 | 995.84 | 938.89 |
| R&M expenses | 13.28 | 13.28 | 15.44 | 15.44 |
| Employee costs | 17.88 | 17.88 | 12.07 | 12.07 |
| A&G expenses | 33.86 | 33.86 | 35.27 | 35.27 |
| Depreciation | 29.95 | 29.95 | 30.87 | 30.87 |
| Interest & financing charges | 119.78 | | 87.20 | |
| Return on investment | | 10.00 | | 10.00 |
| **Total Expenses** | **1319.84** | **1151.37** | **1176.69** | **1042.54** |
| Add Net prior period (charges)/credits | **46.76** | **46.76** | **12.97** | **12.97** |
| Less Deferred Tax liability | **26.11** | | **9.39** | |
| **Revenue Surplus/(Deficit)** | **142.44** | **353.48** | **162.73** | **313.28** |

| Particulars | 2008-09 | |
|---|---|---|
| | Actual (Rs.lakhs) | True up (Rs.lakhs) |
| Revenue from sale of power | 1741.95 | 1741.95 |
| Non-Tariff income | 32.68 | 36.53 |
| **Total income** | **1774.63** | **1778.48** |
| **Expenses** | | |
| Power purchase cost | 1266.58 | 1,200.83 |
| R&M expenses | 20.58 | 20.58 |
| Employee costs | 14.80 | 14.80 |
| A&G expenses | 40.28 | 40.28 |
| Depreciation | 28.50 | 28.50 |
| Interest & financing charges | 68.00 | |
| Return on investment | | 10.00 |
| **Total Expenses** | **1438.74** | **1314.99** |
| Add Net prior period (charges)/credits | **(24.68)** | **(24.68)** |
| Less Deferred Tax liability | **73.26** | |
| **Revenue Surplus/(Deficit)** | **237.95** | **438.81** |

56. Based on the above, the total revenue gap/surplus after the truing up process is as follows:

**Surplus after truing up**

| | Actual (Rs.lakhs) | True up (Rs.lakhs) |
|---|---|---|
| 2004-05 | 17.17 | 82.42 |
| 2005-06 | 68.79 | 225.02 |
| 2006-07 | 142.44 | 353.48 |
| 2007-08 | 162.73 | 313.28 |
| 2008-09 | 237.95 | 438.81 |
| Total | 629.08 | 1,413.01 |

57. The total provisional revenue surplus after the truing up of accounts for the year 2004-05 to 2008-09 is Rs 1375.07 lakhs against Rs.629.08 lakhs as per the accounts of the licensee. The surplus arrived at above, is subject to the final decision on interest charges and ratebase to be determined after the scrutiny of accounts by the Consultants.

**Orders of the Commission:**

58. The total revenue surplus provisionally arrived at as above, after the truing up process shall be utilized for meeting the additional cost due to change in Bulk Supply Tariff and the utilisation if any shall be intimated to the Commission periodically. As mentioned in para 37, the licensee shall take efforts for separation of accounts more seriously.

59. Considering the continuous nature of the licensed activity, though the petitions are filed by KEPIP, the order is applicable to both KEPIP and KPUPL. It is further directed that the transfer process shall be finalized immediately and transfer scheme with complete details shall be filed before the Commission for approval.

60. Petitions disposed of. Ordered accordingly.

**Sd/-** **Sd/-**

**Mathew George**
**Member**

**K.J.Mathew**
**Chairman**

Approved for Issue

Secretary