KERALA STATE ELECTRICITY REGULATORY COMMISSION

THIRUVANANTHAPURAM

OA 26/2015

In the matter of	**Determination of ARR & ERC of M/s KINESCO Power and Utilities Private Limited for the first control period 2015-16 to 2017-18, based on the application submitted as per the provisions of KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014.**
Applicant	: M/s KINESCO Power and Utilities Private Limited (KPUPL)
PRESENT	**: Shri. T.M.Manoharan, Chairman** **Shri. K.Vikraman Nair, Member**

<u>ORDER DATED 16.12.2015</u>

1. The KINESCO Power and Utilities Private Limited (hereinafter called *KPUPL or the licensee*) is a joint venture company established on 17.09.2008, under the Companies Act, 1956, for the distribution of electricity in the industrial parks of KINFRA at Kakkanad, Kalamassery and Palakkad. The license for distribution of power was transferred to M/s KPUPL from M/s.KINFRA Export Promotion Industrial Parks Limited (KEPIP), a deemed distribution licensee**,** as per the first proviso of Section 14 of Electricity Act 2003.

2. The Kerala State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2014 (hereinafter referred to as Tariff Regulations, 2014), was notified on 14.11.2014 as per notification No.787/SEA/2011/KSERC. As per the provisions of the said regulations, the licensee should submit the application for determination of tariff on or before 31.12.2014.The licensee had filed OA No.26/2015 only on 09.02.2015.

3. Meanwhile, KSEB Ltd had filed a Writ Petition No. 465/2015 on 06.01.2015 with the following prayers,

- **(i)** Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Exhibit P5 and quash the same as illegal and it violates Article 14 of the Constitution of India;
- **(ii)** To issue writ of mandamus or any other appropriate writ, order or direction to the respondent to revise Exhibit P5 regulations strictly as per the legal mandate provided in the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and on the basis of past performance of KSEB including its audited accounts; and
- **(iii)** Issue such other writs, orders or directions which this Hon'ble Court may deem fit and proper to issue in the facts and circumstances of the case.

4. KSEB had also filed a petition for granting an ex-parte interim order staying the operation and implementation of Exhibit P5, pending adjudication of the writ petition. The Hon'ble High Court in its order dated 07.01.2015 issued an order to the effect that the tariff proposal if any submitted by the petitioner namely KSEB Ltd, shall not be rejected on the basis of Exhibit P5 regulations. The Exhibit P5 regulation is the Tariff Regulations, 2014. As soon as the copy of the writ petition was received by the Commission a detailed counter affidavit was filed on 17.03.2015. Further the Commission also filed a detailed petition to get the interim order dated 07.01.2015 vacated. So far the interim order dated 07.01.2015 has not been vacated and the writ petition has not been heard by the Hon'ble High Court. The licensees other than KSEB Ltd, are purchasing electricity from KSEB Ltd for the supply among their consumers. If different retail supply tariffs are fixed for the consumers of small licensees, who supply electricity to a very small number of consumers in comparatively very small areas, it is likely to create a sense of disparity among consumers. In the case of Thrissur Municipal Corporation, the supply of electricity within the area of corporation is done by the Thrissur Corporation Electricity Department (TCED) and KSEB Ltd. Therefore the tariff for consumers under TCED and KSEB Ltd would be different if differential retail supply tariff is adopted. Therefore the Commission has been following the principle of uniform retail supply tariff (RST) for all consumers in the State and differential bulk supply tariff (BST) for different licensees depending upon their consumer mix, expected revenue from charges and various constituents of the aggregate revenue requirement. Therefore the bulk supply tariff can be fixed for a small licensee only after the retail supply tariff is fixed based on the applications for determination of tariff filed by KSEB Ltd. The Commission found it difficult to apply the Tariff Regulation, 2014 to the small licensees and to exempt KSEB Ltd from the

application of the provisions of the said regulations. The issuance of orders on the application No.OA 26/2015 filed by the applicant is delayed in view of the fact that the writ petition challenging the validity of the Tariff Regulations, 2014 is pending before the Hon'ble High Court and that the interim order of the Hon'ble High Court dated 07.01.2015 has not been modified or vacated.

5. M/s KPUPL filed the application for approval of ARR&ERC for the first control period2015-16 to 2017-18 as per the Tariff Regulations, 2014 on 09.02.2015 and it was admitted as OA No.26/15. A comparative statement of the ARR&ERC for the year 2014-15 and for 2015-16 to 2017-18, the first control period as per the application is furnished below.

Table – 1

KPUPL-Comparative Statement of ARR & ERC

(Rs.lakh)

Particulars	ARR-ERC Approved.	Control Period Estimates		
	2014-15	2015-16	2016-17	2017-18
Income:				
Revenue from Sale of Power.	3985.53	4926.71	5457.00	5807.47
Other Income	45.05	28.10	30.10	30.10
Total Income.	4030.57	4954.79	5487.10	5837.57
Expenditure				
Purchase of Power	3756.67	4693.00	5200.00	5535.00
Repairs and Maintenance	46.00	74.00	64.00	75.00
Employee Cost	43.04	54.63	54.63	54.63
Administration and General Expenses	28.69	75.54	82.30	87.39
Depreciation	67.12	84.75	84.75	84.32
Interest and finance charges	-	-	-	-
Return on Equity	10.00	34.95	45.46	42.92
Total Expenditure.	3951.52	5016.87	5531.14	5879.26
Net Surplus/(Deficit)	(+)79.05	(-)62.06	(-)44.04	(-)41.69

Hearing on the matter

6. Public hearing was held on 03-08-2015 at the conference hall of KPUPL, Kakkanad, Ernakulam. In the hearing representatives of the licensee and KSEB Limited were present. Sri. J.Kurian, CEO, KPUPL presented the details of the application on ARR & ERC for the first control period and responded to the queries of the Commission on the application. Sri. B. Pradeep, Executive Engineer, KSEB

Ltd presented the comments of KSEB Ltd and submitted written remarks on the application which are stated here under:

a. The licensee has projected a T&D loss of 3.48%, 3.52% and 3.50% for each year of the control period respectively as against the approved level of 1.50% for the year 2014-15. KSEB Ltd suggested that the T&D loss may be allowed at the approved level of last year as T&D loss reduction is an important performance parameter.

b. It was submitted that the quantum of purchase and sale of power for the control period does not tally with the purchase of power computed. It was also pointed out that the submissions on the petition have discrepancies which may be considered by the Commission only after clarification.

c. The licensee has not proposed the O&M expenditure in tune with the Tariff Regulations, 2014and has projected all the expenses on the higher side. It was prayed that the Commission may allow the reasonable O&M expenses as per the prevailing regulations.

d. KSEB Ltd stated that capital expenditure proposed by the licensee for the control period may be considered only after analysis and scrutiny of the investment plans and the Commission may allow only prudent cost of the capital investments.

e. It was also submitted that the interest for the total revenue surplus identified for the period 2004-05 to 2008-09 based on the truing up is to be booked under other income, since it was ordered by the Commission that " the total revenue surplus provisionally arrived at as above, after truing up process shall be utilized for meeting the additional cost due to change in the Bulk Supply Tariff and the utilization if any shall be intimated to the Commission periodically.

f. The claim of depreciation was not as per the Tariff Regulations, 2014. It was further pointed out that the Commission might allow depreciation only after considering the vintage of the assets and after due consideration of the details pertaining to the age of the assets and method of accounting of consumer contributions received.

g. KSEB Ltd also raised their objection against the claim of RoE by the licensee. KSEB Ltd pointed out that RoE might be allowed only for the paid up capital as per the audited accounts as the paid up equity is shown as Rs.10 lakhs.

h. KSEB Ltd had prayed that Hon. Commission might allow only the prudent expenses as laid down under Tariff Regulations, 2014.

Analysis and decision of the Commission

7. The Commission has considered the application and clarifications filed by the licensee, oral submissions during the hearing and the observations presented by the KSEB Ltd on the application. The decision of the Commission is given in the following paragraphs.

8. **No. of Consumers and Sale of Power**: -As per Regulation 11 (10) of the Tariff Regulations, 2014, the applicant / distribution licensee shall develop the forecast of expected revenue at the existing tariff based on the estimates of contract demand and quantum of electricity to be supplied to the consumers and to be wheeled on behalf of the users of the distribution system for each financial of the control period. Further Regulation 73 of the Tariff Regulations, 2014, specifies as follows:

> *"73.Sales forecast. – (1) The distribution business/licensee shall submit, along with the application for approval of aggregate revenue requirement and determination of tariff, a forecast of expected demand and sale of electricity to different categories of consumers and to each consumption slab within each tariff category, in its area of supply.*
>
> *(2) Sale of electricity, if any, to electricity traders or other distribution licensees shall be separately indicated.*
>
> *(3) The Commission shall examine the forecasts for reasonableness based on the growth in number of consumers and in consumption, the demand of electricity in previous financial years, anticipated growth in the next financial year and any other factor, which the Commission may consider relevant and approve forecast of sale of electricity to the consumers with such modifications as deemed fit."*

9. As per the application submitted by the licensee, the sale of power for each year of the control period, is as follows.

Table - 2

KPUPL-Energy Sales Projections for the control period

Consumer Category	2015-16		2016-17		2017-18	
	No.of consumers	Sales MU	No.of consumers	Sales MU	No.of consumers	Sales MU
HT	18	52.41	20	58.08	22	61.85
DHT	47	15.25	47	16.89	48	17.99
LT	184	7.40	205	8.19	224	8.72
Total	**249**	**75.06**	**272**	**83.16**	**294**	**88.56**

10. From the details provided in the application the maximum number of consumers are in the LT category whereas, approximately 90% of the power purchased is sold to the HT and deemed high tension (DHT) consumers who constitute around 25% of the consumer base. The consumption pattern is driven by the consumption pattern of the HT and DHT consumers. The licensee expects the consumption pattern to remain the same for all the years of the control period. As per the records of the licensee, the consumption pattern for the control period is likely to be HT Consumers - 73.7%, DHT Consumers - 17.6% and LT Consumers -7.6%. As per the application, there are 65 HT consumers (including the DHT consumers) and 184 consumers in various categories at LT totaling to 249. The expected sale of power for the year 2015-16 is shown as 75.06 MU. For the subsequent years of the control period, sale of power is 83.16 MU for 2016-17 and 88.56 MU for 2017-18 respectively with an increase in the number of consumers.

11. The licensee has forecasted a growth rate of about 10% year-on-year on the demand as well as on the consumer base. The licensee has neither submitted the actual consumption of the previous years nor has it submitted the truing up of accounts since 2009-10.However they have submitted the audited final accounts of 2012-13 and 2013-14 along with the ARR documents. Even from the audited financial accounts submitted by the licensee it is not possible to arrive at a proper trend of the actual consumption in units. Hence the Commission is not in a position to check the veracity of the calculation and projections submitted by the licensee. Last year while approving the ARR, the Commission had observed that their sales projections are excluding the Palakkad area. During the current submission too, the licensee has stated that operations in Palakkad area has not yet started and that

they expect to start the same from August 2015 onwards. They have mentioned that they have executed a PPA with KSEB covering the Palakkad area. It is not clear whether their forecast is inclusive of Palakkad area. Hence the Commission, after considering the available information that has been provided and presuming that the basis as mentioned by the licensee in its ARR statements has been followed in letter and spirit, provisionally approves the figures given by the licensee. The licensee is hereby directed to submit the application for truing up of accounts with actual figures from 2010-11 and also to provide the details of units sold and units purchased as disclosure note to the annual accounts henceforth.

Distribution Loss and Energy Requirement:

12. As per Regulation 74 of the Tariff Regulations, 2014, the licensee is to provide voltage level distribution loss and distribution loss trajectory for the control period. The results of necessary supporting studies shall also be submitted along with the application. The distribution licensee shall also propose the loss reduction targets for each financial year of the control period along with the distribution loss levels. The Commission has to approve the target level of losses based on the opening level of losses, the figures submitted by licensee and other relevant factors.

13. The Commission had approved a distribution loss at the rate of 1.5% for the year 2014-15 against the distribution loss claimed at the rate of 2.40%. The licensee now claims a distribution loss at a higher rate of 3.85% for each year of the control period. The distribution losses proposed by the licensee for the control period 2015-2016 to 2017-2018 are given below:

Table – 3

KPUPL-Distribution loss for 2014-15 and the loss proposed for the control period

Particulars	2014-15		2015-16	2016-17	2017-18
	Projected	Approved	Projected	Projected	Projected
Total Energy Requirement (MU)	68.48	67.83	78.05	86.50	92.11
Total Energy sales (MU)	66.81	66.81	75.05	83.17	88.57
Distribution loss(MU)	1.67	1.02	3.00	3.33	3.54
Distribution loss(%)	2.40%	1.50%	3.85%	3.85%	3.85%

14. The distribution losses reported by the licensee for the previous years are as shown below.

Table – 4

KPUPL- Distribution loss over the years

Particulars	2011-12 (Actual)	2012-13 (Actual)	2013-14 (Approved)	2014-15 (Approved)
Sales (MU)	54.72	59.40	65.27	66.81
Distribution Loss in MU	0.83	1.08	0.99	1.02
Energy input in MU	55.55	60.48	66.26	67.83
Distribution Loss %	**1.49%**	**1.80%**	**1.50%**	**1.50%**

15. The Commission considered the approved distribution loss for the year 2014-15 which was 1.50%. Unlike the majority of the licensees of the State, KPUPL has been showing an increasing trend in the T&D losses in the application filed for approval of ARR. The licensee has submitted that the actual T&D losses from 2010-11 to 2014-15 are 2.7%, 2.8%, 3.0%, 3.5% & 4.3% respectively. The above submission is at variance with the actuals submitted earlier. The licensee further states that considering the trend, T&D loss for 2015-16 is taken as 2.5% in the ARR, which is best-in-the-class even by global standards and that the global average is in between 3%& 7%. The licensee submitted figures which are never firmed up and keep on changing. While acknowledging that their T&D losses have been increasing over the years, the licensee has mentioned that they have approached Kerala Productivity Council to undertake an energy audit. This step is welcome. Licensee has reported that the major sources of T&D losses in the KINESCO system are technical loss in power transformer (0.55%), technical loss at HT Ring Mains (0.60%), technical loss in HT distribution network (0.9%) and technical loss at LT distribution network (0.5%). Based on the above parameters they have requested to keep the distribution loss at 2.5%. The Commission had earlier directed the licensee to take steps to ensure that the T&D losses are kept at the levels approved by the Commission. But it seems that the licensee is not taking any effective steps for the reduction of T&D loss. However, the decision of the licensee to undertake an energy audit of their system is a welcome step and it is directed to undertake the study immediately and report the results of the study and steps intended to be taken to reduce the loss. Usually the technical losses at the LT side should be higher than the HT side, but the licensee has reported the technical loss at HT side to be almost double that of the LT side. Considering the area of operation and the figures reported earlier by the licensee, which hovered around

1.5% to 2%, the Commission had fixed a target of 1.5%. The distribution loss reduction being a criterion for the improvement of the performance of the licensee and taking into consideration the limited area of operation, the admissible distribution loss is fixed at 1.50%.The Commission may have a relook at the figures taking into consideration the results of the study and the losses of similarly placed licensees in the state in size and extent of operations. Thus on the basis of the approved distribution loss, the energy requirements approved for the control period are shown below.

Table-5

KPUPL-Approved for the Control Period

Particulars	2015-16	2016-17	2017-18
Energy Purchased (MU)	76.20	84.44	89.92
Energy Sold (MU)	75.05	83.17	88.57
Distribution Loss (MU)	1.15	1.27	1.35
Distribution Loss %	1.50%	1.50%	1.50%

16. **AT&C Loss:** Since the licensee has prepaid metering system the collection efficiency is 100%. Hence the AT&C loss for 2014-15 is fixed at 1.50%.

17. **Cost of power purchase**: -As per Regulation 75 of the Tariff Regulation, 2014, the licensee has to submit a power procurement plan for the control period consistent with the sales forecast of unrestricted supply for electricity within the area of supply from each tariff category over the financial year. Tariff for estimating the cost of power purchase shall be the Bulk Supply Tariff determined by the Commission for the particular licenses for power purchase. Hence, the cost of power purchase shall be based on the forecast of sales and existing approved tariff.

18. As provided in the Tariff Regulation, 2014, the licensee has used the existing rate for calculating the cost of power purchase. The licensee has proposed an increase in the cost of power purchase for each year of the first control period, in line with the increased consumption. As per the petition submitted by the licensee the power purchase cost is Rs.4693 lakh for the year 2015-16, Rs.5200 lakh for the year 2016-17 and 5535 lakh for the year 2017-18 respectively. The present rate of power purchase is Rs.300/- as fixed charge per KVA and Rs.5.30 per unit as energy charge.

Table-6

KPUPL- Estimated Cost of Power Purchase for the control period

Particulars	2015-16	2016-17	2017-18
Energy requirement (MU)	78.05	86.50	92.11
Rate of demand charge (Rs./kVA)	300	300	300
Demand charges (Rs.lakh)	556.35	615.50	653.17
Rate of energy charges (Rs.kWh)	5.30	5.30	5.30
Energy charges (Rs.lakh)	4136.65	4584.50	4881.83
Total cost of power purchase	4693.00	5200.00	5535.00

The licensee has not provided the details of the maximum billed demand. After careful consideration of the details submitted by the licensee, and the maximum demand calculated by the Commission and subject to the observation of the Commission above (under the Supply and the T&D loss), the costs of power purchase approved for the control period are given in the table below.

Table-7

KPUPL- Cost of Power Purchase approved for the control period

	2015-16	2016-17	2017-18
Energy requirement (MU)	76.20	84.44	89.92
Maximum demand billed (KVA)	15454	17097	18144
Rate of demand charge (Rs./kVA)	300	300	300
Demand charges (Rs.lakh)	556.35	615.50	653.17
Rate of energy charges (Rs.kWh)	5.30	5.30	5.30
Energy charges (Rs.lakh)	4038.60	4475.32	4765.76
Total cost of power purchase	**4594.95**	**5090.82**	**5418.93**

19. **Capital Expenditure:** The licensee had proposed a capital expenditure of Rs.936.74 lakh in the write up submitted subsequently as shown below:

Table-8

KPUPL- Proposed Capital Expenditure for the control period

Licensee Area	Capital expenditure projected	Brief description and justification
Kakkanad licensee area	Rs. 25 Lakhs	For installation of a new web enabled system of pre-paid metering systems with new software and hardware to offer the most modern services available to the consumer enabling consumer to assess energy reading as well make payments online on real time basis along with a modern billing software. The system in use at present is outdated and is not capable of incorporating the changed tariff structure.

	Rs.70 Lakhs	For 150 nos. of Energy meters. Augmentation of the metering system to keep pace with the load growth and in the number of consumers.
	Rs. 135 lakhs	The cost of land comprising of 1.5 acres on which the electrical assets of Kakkanad licensee area are situated is proposed to be capitalized during the year.
Kalamassery	Rs. 10 lakhs	Existing supply of power is in High Tension. To cater to the needs of LT consumers, there is need to create a LT distribution system by using Transformers and feeder pillars.
	Rs. 10 lakhs	Same as above except for feeder pillar
Palakkad	Rs. 686.74 lakhs	The licensee operations at Palakkad have not been commenced as yet. Anticipating demand for power at Palakkad the company is in the process of setting up a distribution infrastructure at its licensee area at Palakkad which includes erection and commissioning of a new 22 kV substation along with RMUs. The work is proposed to be executed on a turnkey basis, which would be from concept to commissioning such substation. The estimated cost of the substation is around Rs 686.74 lakhs

20. The licensee has proposed the source of funding for Rs.686.74 lakh towards the supply/erection for the 22kV substations at Palakkad. It is proposed to be financed through debt either from the promoters or from the banks. Rs.146 lakh of capital expenditure for the augmentation of metering system and the cable network at Kakkanad licence area is proposed to be met out of internal sources.

21. Regulations 23 to 28 of the Tariff Regulations, 2014, provide for the procedure to be followed for addition of assets and the claiming of depreciation in the truing up of accounts of the year. As per sub-regulation (3) of regulation 23, the capital cost approved by the Commission after prudence check shall form the basis for determination of tariff. Unless the approval is obtained, it cannot be considered as eligible to be part of GFA.

22. The work pertaining to the licensed area at Palakkad has been shown in the capital expenditure proposals for the last three years and it is not clear as to what steps have been taken by the licensee to start the work. The licensee has also provided for metering systems in Kakkanad. However nothing is mentioned about the existing metering system, its age and its original cost. Similarly the proposal of incorporating the land cost in the current year's account too is not explained properly. Commission has noted that there is a qualification of the statutory auditor in 2014 accounts pertaining to asset which states that "....transfer agreement

including transfer of leased land with KEPIP and KINFRA has not been executed pending finalisation of certain terms and conditions". Thus the veracity of the figures given for assets cannot be taken at its face value. Commission has time and again given clear directives as to how the proposals for capital expenditure be backed up with relevant information to enable the Commission to exercise prudence check. In spite of the repeated directives, the licensee continues to provide very sketchy and vague information about the capital projects. Hence, the licensee is once again directed to submit to the Commission for its approval, the application as per the provisions of the Tariff Regulations, 2014, with detailed project estimate, cost benefit analysis, the necessity of the various expenditure and the likely impact on the quality of supply.

23. The licensee has claimed depreciation for all the proposed capital expenditure in each year of the control period depending upon the anticipated date of completion of the project as indicated by the licensee. The licensee has not actually executed the work and it has not incurred any expenditure. The Commission has all along been following the principle that the assets created out of grants or consumer contribution will not be eligible for depreciation or interest and finance charges or return on equity. In the absence of such inevitable data, the proposed expenditure prior to actual incurring of the expenditure and the commissioning of the project cannot be considered for granting the depreciation, RoE and interest and finance charges thereon. The claims for depreciation relating to the assets actually created will be duly considered as per the Tariff Regulation 2014, after commissioning of project, while the accounts of the licensee are taken up for truing up process.

24. **Interest and Finance Charges**: - The licensee has not claimed any interest and finance charges for the first control period in the application submitted. In the subsequent write up on the application which was later submitted, the licensee proposes an interest and finance charge of Rs. 27.03 lakh for the year 2015-16. The licensee has proposed only the charges for 2015-16.

    In the ARR&ERC order for the year 2014-15 the Commission had noted that:

    > *"It is to be mentioned that from 2012-13, the licensee has been maintaining the proposal of 22kV substation and associated works in Palakkad, but no signs are visible on the commencement of the work. The Commission has been allowing the interest charges in the last three ARR&ERC Orders and no progress of work could be shown by the*

licensee. Hence, the Commission is of the view that the licensee may roll out its investments in a feasible and prudent manner and the cost thereof will be allowed after prudence check during the truing up process. Hence, interest and financing charges proposed is disallowed for the time being."

The licensee has made the same proposal for the control period also.

However as per the audited financial statement provided by the licensee for the period ended 31.03.2014, the amount of financial expenses booked in the accounts is Rs.18.16 lakh and it is further stated in the notes that it consists of interest payable to KEPIP as per terms provided the Agreement for Operations and interest paid against deposits of consumers. The detailed break up cannot be ascertained. The Commission in the ARR order for the year 2014-15 had disallowed the claim of the licensee and ordered that the cost thereof will be allowed after prudence check during the truing up process. The Commission is of the same view and the claim of interest and finance charges is therefore disallowed. It will be considered during the truing up process of the relevant years, if the correct figures of interest relating specifically to the business of distribution of electricity are submitted after audit. The licensee is directed to give all the relevant break-up of the expenditure booked under finance charges , at the time of submission of truing up figures, so as to enable the Commission to take an informed decision.

25. **Depreciation**: - The depreciation approved for the year 2014-15 is Rs.67.12 lakhs. The total depreciation claimed after considering the asset addition etc. is Rs.85.00 Lakhs for each year of the control period. The claim for the control period is mainly on the account of deprecation of substation equipment. The licensee has stated that the increase in the projected depreciation is on account of addition to the Gross Fixed Assets. As per clause (c) of sub-regulation (2) of Regulation 28, the licensee shall submit all such details and documentary evidences as may be required, to substantiate their claims for depreciation. The details of vintage of assets are required for the same. However the licensee has not provided such details which shall be submitted without fail while preferring the claims for depreciation. The Commission views that the split up details submitted by the licensee are not properly streamlined and the pattern followed for estimation of depreciation is not proper. The details of the claim of depreciation are tabulated below:

Table-9

KPUPL- Depreciation proposed for the control period

(Rs lakh)

Particulars	Depreciation rate	2015-16 Depreciation Claim	2016-17 Depreciation Claim	2016-17 Depreciation Claim
HT Distribution System				
Substation equipment	5.28%	125.00	125.00	125.00
LT Distribution System				
Substation equipment	5.28%	9.00	9.00	9.00
Communication equipment	6.33%	5.00	5.00	5.00
Meters	5.28%	4.00	4.00	4.00
Office Equipment	6.33%	0.20	0.20	0.20
IT Equipment	15.00%	1.00	1.00	1.00
Less Consumer Contribution	5.28%	58.00	58.00	58.00
Total		**85.00**	**85.00**	**85.00**

26. The licensee has claimed in addition to the existing assets, depreciation for the additional asset planned to be created in each year of the control period. As already discussed earlier, the commission cannot at present allow the claim for depreciation for the planned assets. The claims for depreciation will be duly considered as and when the project is commissioned and necessary data and details are submitted. Moreover the mode of the accounting for Consumer's contribution by the licensee has been brought to the attention of the Commission by KSEB Ltd. In the notes to account of March 31, 2014, it is mentioned that:

"*The consumer surrenders the equipments relating to the distribution of power, installed at their cost to the Company while executing the agreements for the supply of electricity. Till 31.03.2013, the consumer contribution to fixed assets were being taken into books at their fair value. However, consequent to the decision taken, the consumer contribution to fixed assets have been taken a nominal value of Re.1.00 with retrospective effect by reversing the fair value. The fair value of the assets surrendered by the consumers as on 31.03.2014 amounts to Rs.39,106,440".*

The above treatment is in sync with the accepted accounting practices as laid down in Accounting Standard 12. However in the regulatory accounts for the approval of ARR and for truing up of accounts, the licensee shall follow the method of accounting the Consumer's Contribution separately and the Fixed Assets at Gross value. This will ensure that the details of accumulated consumer contribution and the additional contribution collected each year and the details of the cost of the assets against which the same were collected will be explicitly displayed in the regulatory accounts submitted to the Commission. Therefore the Commission directs that the assets created out of the consumer contribution shall be accounted separately every year along with the consumer contribution collected and submitted to the Commission along with the application for approval of ARR and for Truing up of accounts.

27. The Commission in the order on ARR &ERC for the year 2014-15 dated 12-05-2014 on OP 34/2013 had viewed the following which is quoted hereunder:

> *"The Commission notes that the licensee has so far not provided the opening value of GFA after the asset transfer scheme. However, for the purpose of estimating the depreciation, the Commission has provisionally adopted the closing value of GFA as per the details given by the licensee, subject to the finalisation of transfer scheme. As per the estimates of the licensee, the GFA as on the close of 2011-12 was Rs.1723.83 lakh. Since the Commission has not allowed any capital expenditure programme effective from 2012-13 for the purpose of estimation of depreciation, asset value as on 1-4-2012 is taken for estimation of depreciation. Accordingly, the depreciation is estimated as shown below*:

Depreciation Approved for 2014-15

Particulars	*GFA as on 1-4-2012*	Rate of depreciation	Depreciation for 2013-14
Substations	1,645.80	5.28%	86.90
Metering equipment	71.53	6.30%	4.51
Others	6.50	6.30%	0.41
Total	**1,723.83**		**91.81**
Less consumer contribution	391.98	6.30%	24.69
Allowable depreciation			**67.12**

> *As per explanation given by the licensee, the asset transfer has not taken place as it is made conditional by the promoters and it should precede signing of PPA. The PPA with KSEBL has not been signed so far and as per the claim of the licensee, the same will be completed shortly. Thus even after three years of transfer of licence, the fact*

remains that M/s. KPUPL does not have any distribution asset. In the absence of distribution assets owned by M/s. KPUPL, it is not proper to allow the benefit of depreciation to M/s. KPUPL......".

28. The Commission, after considering the proposals and submissions for the current control period and the auditor's qualified opinion, has noted that there has been some inconsistencies in the calculations submitted and that the figures of the Gross Fixed Assets has been made taking into the consideration the proposed additions. The amount arrived at as per the observation of the Commission, is approximately equal to the amount of depreciation claimed by the licensee without taking into consideration the additions of the assets. However the Commission will have a relook at the figures at the time of truing up of accounts for the period. Thus the depreciation approved for the control period based on the existing gross asset base as on 01-04-2012 as shown below, is provisionally approved.

Table-10
KPUPL- Depreciation approved for the control period

(Rs. lakh)

Particulars	*GFA as on 1-4-2012*	Rate of depreciation	Depreciation approved
Substations	1,645.80	5.28%	86.90
Metering equipment	71.53	5.28%	3.78
Others	6.50	5.28%	0.34
Total	**1,723.83**		**91.02**
Less consumer contribution	391.98	5.28%	20.70
Allowable depreciation			**70.32**

O&M expenses

29. As per the provisions of the Tariff Regulations, 2014, O&M expenses consist of employee costs, repair and maintenance expenses and administration and general expenses. The O&M expenses projected by the licensee for the control period is much on the higher side as compared with the norms laid down in the KSERC (Terms and Conditions for Determination Of Tariff) Regulations, 2014

30. **Employee cost**: -.Commission had approved a total employee cost of Rs.43.04 lakh for the year 2014-15. As per the petition filed by the licensee under the MYT framework, the employee expenses are estimated at Rs.54.63 lakh for each year of the control period. In the application for the approval of ARR&ERC for the control

period, the licensee shows no increase in the employee cost. The details of the claim of the licensee are shown below.

Table-11

KPUPL-Proposed Employee Cost for each year of the control period

(Rs. in lakh)

Particulars	Amount
Basic Salary	40.00
Medical Reimbursement	2.00
Staff welfare expenses	0.16
Terminal Benefits	12.41
Others	0.06
Total	54.63

According to the prevailing Tariff Regulations, 2014, the employee cost can be approved only as per regulation 81(4) of the Tariff Regulations, 2014 which states as follows:

"Kinesco Power and Utilities Private Limited (KPUPL)shall be allowed to recover operation and maintenance expenses as per the norms specified in Annexure-IX to these Regulations for each financial year of the control period."

31. The employee cost as per the Tariff Regulations, 2014 is as given in the table below: The Commission approves the same.

Table-12

KPUPL – Employee cost approved for the control period

(Rs in lakh)

Financial Year	2015-16	2016-17	2017-18
Employee expenses	21.90	23.18	24.54

32. The employee expenses claimed by the licensee and approved by the Commission are given in the table below:

Table-13

Employee costs approved for the control period

(Rs.lakh)

Financial Year	Projected	Approved
2015-16	54.63	21.90
2016-17	54.63	23.18
2017-18	54.63	24.54

33. **Repair and Maintenance Charges**: - The Commission in the order on ARR & ERC for the year 2014-15 had approved Rs.46.00 Lakh. The licensee has projected Rs.74 lakh for the year 2015-16 and for the subsequent years of the control period, the licensee proposes the repair and maintenance cost to be Rs.64 lakh and Rs.75 lakh respectively. The licensee later submitted a detailed write up on the application and had revised the R&M expense of 2015-16 to Rs.86.61 lakh. The split up details of the claim is shown below.

Table-14

KPUPL- Proposed Repair & maintenance expenses for the control period

(Rs. in lakh)

Item of Projected expenditure	Amount
1. Operation and maintenance of the substation and Distribution system at Kakkanad and Kalamassery	57.80
2. O&M of the Pre-paid metering system, GSM Network etc..	7.49
3. Replacement Cost of RMU and Spares	13.12
4. Painting of yard	2.41
5. Revamping of Fire fighting system	0.52
6. Repair of office equipment	0.52
7. Overhauling of DG Set	4.72
Total	86.61

34. The R&M expenses claimed are not in sync with the relevant provisions in Tariff Regulations, 2014. Commission approves the admissible R&M expenses as per the Regulation 81(4) of Tariff Regulations, 2014, which are shown below.

Table-15

KPUPL-R&M expenses approved for the control period

(Rs. in lakh)

Financial Year	Amount
2015-16	30.45
2016-17	32.23
2017-18	34.12

35. **Administration and General Expenses**: - The A&G expense approved for the year 2014-15 was Rs.28.69 lakh against the proposal of Rs.76.92 lakhs. A&G expenses constitute a controllable item. As per the petition, the licensee has claimed Rs.76 lakh as the A&G expense for the year 2015-16. The proposed A&G expense for the year 2016-17 and 2017-18 are Rs.82 lakh and Rs.87 lakh respectively.

Table-16

KPUPL-Administration and General Expenses proposed for the control period

(Rs in lakhs)

Particulars	2015-16	2016-17	2017-18
Rent Rates & Taxes	4.00	4.00	4.00
Insurance	3.00	3.00	3.00
Telephone & Postage, etc	1.00	1.00	1.00
Legal Charges	1.00	1.00	1.00
Audit Fees	1.00	1.00	2.00
Consultancy Charges	1.00	1.00	1.00
Other professional charges	2.00	2.00	2.00
Conveyance	8.00	8.00	9.00
Entertainment	1.00	1.00	1.00
Printing and stationary	2.00	2.00	2.00
Miscellaneous Expenses	2.00	2.00	2.00
Advertisement Expenses	1.00	1.00	1.00
Bank Charges	5.00	5.00	6.00
Office expenses	0.20	0.20	0.20
License fee and other fee	2.00	3.00	3.00
Cost of services procured	0.20	0.20	0.20
Books and periodicals	0.10	0.10	0.10
Computer Stationery	1.00	1.00	1.00
Ele. Duty u/s 3(I), KED Act	**45.00**	**50.00**	**53.00**
A&G Expenses	76.00	82.00	87.00

36. One of the major expenses booked under A&G expense is the duty payable by the licensee to the Government under Section 3(1) of the Kerala Electricity Duty Act 1963. Duty under Section 3(1) proposed for the year 2015-16 is Rs.45 lakh. Commission has not been admitting duty as a revenue expenditure stating that the duty under this section on the sales of energy should be borne by the Licensee and shall not be passed on to the consumers. The expenses under Section 3(1) for the subsequent two years of the control period are Rs.50 lakh for 2016-17 and Rs.53 lakh for the year 2017-18.

Section 3 of the Kerala Electricity Duty Act, 1963 is quoted hereunder,-

> *"3. Levy of electricity duty on sales of energy by licensees.- (1) Save as otherwise provided in sub-section (2); every licensee in the State of Kerala shall pay every month to the Government in the prescribed manner, a duty calculated at 6 naye paise per unit of energy sold or a price more than 12 naye paise per unit;*

Provided that no duty under this sub-section shall be payable by the Kerala State Electricity Board on the energy sold by it to another licensee.

(2) Where a licensee holds more than one licence, duty shall be calculated and levied under this section separately in respect of each licence.

(3) The duty under this Section on the sales of energy should be borne by the licensee and shall not be passed on to the consumer."

From the above statutory provision it can be concluded that,

(i) the electricity duty under Section 3 (1) of the Kerala Electricity Duty Act, 1963, is payable by the licensee to the Government

(ii) the duty shall be calculated at the rate of 6 paise per unit of energy which is sold at a price of more than 12 paise per unit.

(iii) duty shall be calculated only on the energy sold.

(iv) the duty paid by the licensee under Section 3 (1) cannot be passed on the consumer and therefore it cannot be claimed as an expenditure in the ARR.

37. The amount of electricity duty under Section 3 (1) of the Kerala Electricity Duty Act, 1963, cannot be admitted as an item of expenditure in the ARR**.** The Commission has, in its previous orders also, taken this consistent stand on the issue relating to electricity duty payable by the licensee under Section 3 (1) of the Kerala Electricity Duty Act. The licensee is hence directed to limit the administrative and general expenses as per provisions of the Tariff Regulations, 2014. Accordingly the A&G expenses approved by the Commission as per the regulation are given below.

Table-17

KPUPL-A&G expenses approved for the control period

(Rs. in lakh)

Financial Year	Projected amount	Approved amount
2015-16	76.00	59.60
2016-17	82.00	63.09
2017-18	87.00	66.78

38. **Return on Equity:-** The licensee proposes RoE equal to 3% of the net fixed assets at the beginning of the period for each year of the control period. The Commission had allowed a provisional return of Rs.10.00 lakh as RoE for the past years.

Table-18
KPUPL- RoE proposed for the control period

(Rs.lakh)

Financial Year	2014-15	2015-16	2016-17	2017-18
Return on Equity in lakhs	10.00	35.00	45.00	43.00

As per Regulation 29 (2) of the Tariff Regulations, 2014, if the equity invested in a regulated business is not clearly identifiable, return at the rate of 3% shall be allowed on the net fixed assets at the beginning of the financial year for such regulated business. However, in the case of licensee, from the information provided in its audited financial statements, it is stated that the licensee is a Limited Company incorporated under the Companies Act, 1956. As per the audited statements its share Capital is Rs.10 lakh and in its notes to accounts it is mentioned that "Operational activities of the Company related to distribution of power are carried out by the external agencies on contract basis and such expenses incurred are booked as Operation and Maintenance expenses". Hence, RoE allowable can be assessed only at 14% of its paid up capital.

Table-19
KPUPL- RoE approved for the control period

(Rs.lakh)

Financial Year	2015-16	2016-17	2017-18
Return on Equity in lakhs	1.40	1.40	1.40

39. **Aggregate Revenue Requirement:** The Aggregate Revenue Requirements approved for the control period are summarised as given below.

Table 20
KPUPL-Aggregate Revenue Requirement approved for the control period

(Rs in lakh)

Particulars	Projected	**Approved**	Projected	**Approved**	Projected	**Approved**
Financial Year	2015-16	**2015-16**	2016-17	**2016-17**	2017-18	**2017-18**
Expenditure						
Purchase of Power	4693.00	4594.95	5200.00	5090.82	5535.00	5418.93
Depreciation	84.75	70.32	84.75	70.32	84.32	70.32
Interest & Finance Charges	-	-	-	-	-	-
Employee Cost	54.63	21.90	54.63	23.18	54.63	24.54
Repairs and Maintenance	74.00	30.45	64.00	32.23	75.00	34.12
Administration and General Expenses	75.54	59.60	82.30	63.09	87.39	66.78
Return on Equity	34.95	1.40	45.46	1.40	42.92	1.40
Total Expenditure	5016.87	4778.62	5531.14	5281.04	5879.26	5616.09

40. **Revenue from Tariff:** The licensee has projected the revenue from sale of power for the control period at the prevailing rates for the control period. The projection for the control period is tabulated here under. The Commission has already made a detailed analysis of the power requirement and its trend while dealing with energy requirement. Thus taking into consideration the approved T&D loss of 1.5% and the approved energy requirement the Commission approves the following Revenue Projections for the control period as given by the licensee.

Table-21
KPUPL-Revenue Projections for the control period

Tariff category	2015-16			2016-17			2017-18		
	No of consumers	MU	Total charges (Rs.lakh)	No of consumers	MU	Total charges (Rs.lakh)	No of consumers	MU	Total charges (Rs.lakh)
LT IV A	15	0.53	30.08	15	0.58	33.33	16	0.62	35.49
LT IV B	123	5.75	358.52	138	6.37	397.32	150	6.79	423.02
LT VI A	1	0.09	5.14	1	0.10	5.70	1	0.10	6.07
LT VI C	10	0.05	6.02	11	0.05	6.67	13	0.06	7.09
LT VI F	27	0.85	64.98	30	0.94	72.01	33	1.00	76.67
LT VII A	8	0.13	15.93	10	0.15	17.65	11	0.15	18.77
HT I A	4	19.52	1123.92	4	21.63	1244.85	5	23.03	1324.94
HT I B	11	31.67	2194.02	12	35.10	2430.08	13	37.38	2585.91
HT II	1	0.14	9.23	1	0.16	10.22	1	0.17	10.87
HT III B	1	0.94	34.10	1	1.04	37.76	1	1.11	40.19
HT V	1	0.14	10.36	2	0.15	11.47	2	0.16	12.21
DHT I A	1	0.54	30.71	1	0.59	34.04	1	0.63	36.24
DHT I B	42	13.86	967.62	42	15.36	1071.62	42	16.36	1140.31
DHT IV	4	0.85	76.08	4	0.94	84.28	5	1.00	89.69
Total	**249**	**75.06**	**4926.71**	**272**	**83.16**	**5457.00**	**294**	**88.56**	**5807.47**

41. **Non-Tariff Income:**. The projection of the non-tariff income for the year 2015-16 is Rs.28.10 lakhs. The licensee states that the projected non-tariff income for the year 2015-16, included Rs.20 lakh to be earned from interest on fixed deposits in banks and an estimated Rs.8 lakh from miscellaneous receipts, trading and recoveries. The licensee has also projected Rs.30.1 lakh for the year 2016-17 and 2017-18 from the non-tariff income. The Commission had approved Rs.45.05 lakh as non-tariff income for the year 2014-15 against the submission of Rs.23.05 lakh for the year. The Commission provisionally approves the non-tariff income as projected by the licensee for the entire control period

42. **Revenue Surplus/Gap:** Based on the above, the revenue surplus/gap for the control period estimated by the licensee and that approved by the Commission are as follows

Table -22

KPUPL- Revenue Gap, Projected by the licensee and Approved by the Commission for the control period

(Rs. in lakhs)

Particulars	2015-16		2016-17		2017-18	
Financial Year	Projected	Approved	Projected	Approved	Projected	Approved
Income						
Revenue from Sale of Power.	4926.71	4926.71	5457.00	5457.00	5807.47	5807.47
Other Income	28.10	28.10	30.10	30.10	30.10	30.10
Total Income	4954.81	4954.81	5487.10	5487.10	5837.57	5837.57
Expenditure						
Purchase of Power	4693.00	4594.95	5200.00	5090.82	5535.00	5418.93
Depreciation	84.75	70.32	84.75	70.32	84.32	70.32
Interest & Finance Charges	-	-	-	-	-	-
Employee Cost	54.63	21.90	54.63	23.18	54.63	24.54
Repairs and Maintenance	74.00	30.45	64.00	32.23	75.00	34.12
Administration and General Expenses	75.54	59.60	82.30	63.09	87.39	66.78
Return on Equity	34.95	1.40	45.46	1.40	42.92	1.40
Total Expenditure	5016.87	4778.62	5531.14	5281.04	5879.26	5616.09
Net Surplus/(Deficit)	(-)62.06	(+)176.19	(-)44.04	(+)206.06	(-)41.69	(+)221.48

Directives of the Commission

43. In view of the facts and reasons explained in earlier paragraphs, the Commission gives the following directives. The licensee shall,

(i) Promote demand side management and energy efficiency measures within its area of licence.

(ii) Promote renewable energy either by generation or by purchase of renewable energy certificates.

(iii) Bring down the distribution loss to the approved level.

(iv) Submit the results of the Energy Audit conducted and the steps taken to reduce the distribution loss.

(v) Submit the details of assets taken over from KEPIP and KINESCO and the detailed valuation and the financing mix in which the takeover was put through.

(vi) Submit the details of Consumer's contribution collected year wise and accumulated amount till date along with the details of the assets to which it pertains to.

(vii) Submit necessary details of the existing assets and their vintage and the details of projects commissioned during the control period for proper assessment of depreciation, interest and finance charges and return on equity, and

(viii) Submit the capital investment plan to the Commission and obtain the approval of the Commission.

(ix) Submit the truing up accounts from 2010-11 onwards.

(x) Submit the details of units sold to consumers, category wise for the last five years.

(xi) The assets created out of the consumer contribution shall be accounted separately every year and submitted to the Commission along with the application for approval of ARR and for Truing up of accounts.

Orders of the Commission

44. (1) After carefully considering the claims of the applicant and the views expressed by M/s KSEB Ltd and in view of the pendency of Writ Petition No. 465/2015 filed by M/s KSEB Ltd before the Hon'ble High Court of Kerala, the Commission hereby approves provisionally the ARR and ERC for the licensee for the first control period as stated below,-

Financial Year	**ARR** (Rs. in lakh)	**ERC** (Rs. in lakh)	**Surplus /** (Revenue Gap)
2015-16	4778.62	4954.81	(+)176.19
2016-17	5281.04	5487.10	(+)206.06
2017-18	5616.09	5837.57	(+)221.48

(2) The licensee shall limit the expenditure to the levels approved by the Commission.

(3) The existing RST and BST shall continue until further orders.

(4) The licensee shall follow the gross method of accounting for the contributions made by the consumers, rather than netting it off against the Fixed Assets.

These orders are issued subject to the result of the judgment of the Hon'ble High Court in Writ Petition No. 465/2015 filed by KSEB Ltd, in the view of the fact that impact, if any, on the ARR and ERC of KSEB Ltd may have consequential impact on the ARR and ERC of the licensee, since the Commission is following the principles of uniform retail supply tariff (RST) and differential bulk supply tariff (BST).

The application is disposed of and it is ordered accordingly.

Sd/-
K. Vikraman Nair
Member

Sd/-
T.M.Manoharan
Chairman

Approved for issue,

Sd/-
Santhosh Kumar. K. B.
Secretary