

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

O.A No.16/2016

In the matter of : Application filed by KINESCO Power and Utilities Private Limited for approval of truing up of accounts for financial year 2010-11

Applicant : M/s KINESCO Power and Utilities Private Limited

Present : **Shri T.M.Manoharan, Chairman**
Shri K.Vikraman Nair, Member
Shri S.Venugopal, Member

ORDER DATED 20/03/2017

KINESCO Power and Utilities Private Limited (*hereinafter referred as KPUPL or the licensee*) has, on 5.5.2016, submitted its application for truing up of accounts for 2010-11, in accordance with the KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 (*hereinafter referred as Tariff Regulations*). The Commission, in exercise of the powers vested in it under Section 61, Section 62 and Section 64 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by KPUPL, the matters raised during the public hearing, and all other relevant materials placed before it, orders as follows:

Background

1. KPUPL has filed the application for the truing up of accounts for the financial year 2010-11 on 5-5-2016 and the same was admitted as OA No.16/2016. The Commission had, on 30-8-2008, issued the order in the application submitted by the licensee for the approval of ARR&ERC for 2010-11 in the multiyear format for the years 2008-09 to 2010-11. Thereafter, the Commission had, on 15.10.2010 issued a separate order for the year 2010-11.
2. M/s. KPUPL is a joint venture company formed by KINFRA and NTPC Electric Supply Company Limited (NESCL) 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 licence 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 as per the order dated 30-11-2009. M/s.KEPIP obtained the licence for distribution of electricity from the Government of Kerala as per the G.O.(P) No.18/2003/PD dated 8-5-2003. Based on a joint venture agreement between KINFRA, KEPIP and NESCL, the entire electricity distribution assets of M/s KEPIP was transferred to M/s KPUPL for operation, with effect from 1-2-2010. As part of transfer, M/s.KPUPL has taken over the operational control of the assets initially as the final asset transfer and the consideration for the asset transfer were not finalized then. In the order dated 6-12-2011 on truing up of accounts for the years 2004-05 to 2008-09, the Commission directed the licensee to complete the transfer process and report to the Commission. Further in the order on ARR&ERC for 2011-12 and 2012-13 for M/s KPUPL, the Commission again directed to submit the statement regarding transfer deed, position of assets etc., Since the licensee failed to comply with the directions, the Commission under Section 19(3) of the Electricity Act 2003 issued notice dated 18-12-2013 for revocation of distribution licence and in the order dated 5-6-2014 the Commission directed the licensee to submit a roadmap with timelines for complying with the conditions of licence and directives of the Commission. Accordingly, M/s KPUPL furnished a timeline in its letter dated 7-7-2014 as shown below and requested the Commission to refrain from revocation of licence.

Signing of PPA with KSEB	Before 30-8-2014
Asset transfer from KEPIP to KPUPL	On or before 31-10-2014
Application for truing up of accounts for KEPIP	On or before 30-9-2014
Truing up of accounts for KPUPL from 2010-11 to 2013-14	On or before 29-11-2014
Completion of electrical distribution network at Palakkad licence area	On or before 31-3-2015

3. The Commission in its letter dated 18-7-2014 communicated the acceptance of the timelines proposed by the licensee and directed the licensee report the status of activities to the Commission. In the meantime, the joint venture between KINFRA and NESCL was terminated and the share of NESCL was taken over by KINFRA in the 31st meeting of the Board of Directors of the company held on 15-12-2015. The licensee vide letter dated 29-9-2016, reported the status of the activities as shown below:

Activities	Date permitted by KSERC	Actual date of completion/expected date of completion.	Remarks/ reason for the delay
Signing of PPA with KSEB	Before 30-8-2014	1-10-2014, renewed/ fresh PPA signed with KSEB	PPA was signed with KSEB initially for one year upto 30-9-2015 for Kakkanad licence area. Renewal of PPA and enhancement of CD to 18 MVA at Kakkanad is signed on 10-6-2016. Fresh PPAs are signed for 500kVA for Palakkad on 10-6-2016 and 1 MVA for Kalamassery on 4-8-2016.
Asset transfer from KEPIP to KPUPL	On or before 31-10-2014	8-9-2016	Asset transfer agreements have been signed for Kakkanad and Kalamassery license areas separately with KEPIP and KINFRA on 7-9-2016. Copies of the agreements are submitted to the Commission on 7-9-2016.
Application for truing up of accounts for KEPIP for 2009-10	On or before 30-9-2014	30-9-2014	Submitted within the prescribed time schedule
Truing up of accounts for KPUPL from 2010-11 to 2013-14	On or before 29-11-2014	20-7-2016	Truing up petitions are submitted on 29-4-2016 for 2010-11, on 30-6-2016 for 2011-12 and 2012-13 and on 20-7-2016 for 2013-14.
Completion of electrical distribution network at Palakkad licence area	On or before 31-3-2015	5-8-2016	22kV substation was energized on 27-6-2016 after obtaining clearance from electrical inspectorate and on getting connectivity from KSEBL. Substation equipments and related networks were handed over to the company on 5-8-2016. The company was commenced licenced activities from 5-8-2016.

4. The licensee stated that all the directions issued by the Commission were complied with and hence the truing up petitions filed by the licensee be considered by Commission.
5. **Asset Transfer Agreement:** Both KEPIP and KPUPL have entered into an agreement of operations dated 27-1-2010 with effect from 1-2-2010, and both parties mutually agreed that utilities and fixed assets of KEPIP shall be transferred to KPUL at the depreciated book value as on 31-1-2010, the consideration for which shall be agreed to in the joint venture agreement entered into between KEPIP, KINFRA and KPUPL on 24-8-2008, which shall be effected through a separate instrument of transfer. Pursuant to the said agreement, the possession of immovable properties along with its improvements and assets of KEPIP was handed over on 1-2-2010 for the absolute possession and enjoyment for KPUPL. KEPIP also agreed to transfer the capital work in progress to KPUPL upon execution of work on a future date and KEPIP handed over the possession of the said assets to KPUPL on 1-4-2012 after completing the work.
6. M/s.KPUPL assumed the liabilities of prepaid metering advances received from various consumers of KEPIP amounting to Rs.164.64 lakh as on 31-1-2010. Accordingly, the gross amount to be paid for the assets was to be Rs.1424.08 lakh and after setting off the liabilities towards prepaid metering advances from M/s.KEPIP, the same shall be Rs.1259.43 lakh.
7. It was also mentioned in the agreement that M/s. KEPIP is providing depreciation in the books of accounts as per the rates prescribed in the Companies Act 1956, and the written down value of assets as per the books of accounts as on 31-1-2010 was Rs. 1341.63 lakh excluding the capital works in progress. However, for the purpose of truing up and in line with regulatory accounts, M/s.KEPIP provided depreciation as per KSERC norms and the written down value of the assets as on 31-1-2010 is Rs.1802.50 lakh. Accordingly there is a difference in the value of assets as per the asset transfer agreement and the regulatory accounts.
8. A comparison of the approved and actual expenditure and revenue for the year 2010-11 furnished by the licensee is given below:

Table- 1
KPUPL- Truing up of the accounts-
Comparison of approved ARR and the actuals claimed
in truing up for the year 2010-11

Particulars	Approved in the ARR Order (Rs.lakh)	As per the application for truing up (Rs.lakh)
Revenue from Sale of Power	2757.00	1873.80
Non – Tariff Income	24.5	13.82
Total Revenue	2781.5	1887.62
Purchase of Power	2324.3	1579.92
Repair & Maintenance	45.14	29.01
Employee costs	25.00	39.13
A & G Expenses	43.16	51.30
Depreciation	88.76	79.07
Interest & Finance Charges	162.75	12.74
Tax expenses (including deferred tax)	-	83.01
Total Expenses	2689.11	1874.18
Return on Equity	-	53.79
Aggregate Revenue Requirements	2689.11	1927.97
Surplus/(Deficit)	92.39	(40.35)

Hearing on the application

9. Hearing on the applications for truing up of accounts of the licensee for the year 2010-11 was held on 07-12-2016 at the Court Room, Office of the Commission, Thiruvananthapuram along with other truing up petitions of the licensee. M/s KINESCO Power and Utilities Private Limited (KPUPL) was represented by Sri. S.N. Ashok Kumar (Finance Consultant), Sri.G.Radhakrishna Pilla (Senior Consultant) and other officers of the licensee. Sri. S.N.Ashok Kumar presented the details of the applications on the truing up and gave clarifications on the queries of the Commission.

10. KSEB Ltd. was represented by Sri.Bipin Sankar, Deputy Chief Engineer (TRAC), Smt. Mehrunisa, Executive Engineer (TRAC) and Sri. Manoj. G, Assistant Executive Engineer (TRAC). Sri.Manoj presented the comments of KSEB Ltd and submitted written remarks on the applications. The main issues raised by KSEB Ltd are summarized below.

- a. The A&G expenses claimed by M/s.KPUPL is Rs.51.30 lakh, which is inclusive of electricity duty under section 3 of Electricity Duty Act, the same is not admissible.
- b. The amount claimed under travelling expenses, conveyance, vehicle hire charges, miscellaneous expenses should be scrutinized.
- c. The revenue return is claimed at 3% of the value of net fixed assets employed at the beginning of the year. The figures given in Form J and form E are not consistent. Since the equity/rate base is not ascertained, the method followed in the previous years may be followed. The tax expenses of Rs.83.01 lakh should also be verified.
- d. The employee cost is 56.52% higher than the approved levels. The relatively high employee cost considering the fact that the operations are outsourced is to be examined.
- e. The power purchase cost as per the accounts of KPUPL and that is booked by KSEB are different. As per KSEB records the total power purchase cost is Rs.1607 lakh whereas the licensee has booked Rs.1579.90 lakh only. This may be due to the fact that the licensee was not paying the BST as per the orders of the Commission.

11. The Commission directed the licensee

- (i) to reconcile the cost of power purchase claimed as per the application for truing up and the same as claimed by KSEB Ltd.
- (ii) to submit the details on the objections raised by KSEB Ltd. The Commission also directed KSEB Ltd to present their views on the asset transfer agreement of the licensee.

Neither the licensee nor KSEB Ltd has submitted their comments.

Analysis and Decision of the Commission

12. The Commission considered the application of the licensee for the year 2010-11, the clarifications and the additional details submitted by the licensee thereon along with the comments of KSEB Ltd. The analysis and decisions of the Commission on the applications for truing up of accounts for the year 2010-11 are detailed below:

13. **Sale of energy:** The details of the number of consumers and the actual sales to various categories of consumers (HT connections, Deemed HT (DHT) consumers, LT consumers and temporary connections) reported by the licensee for the year 2010-11 are tabulated hereunder.

Table 2
KPUPL- Truing up of the accounts-
Number of Consumers and Actual Sale of power for 2010-11

Category	2009-10 (Actual)		2010-11	
	No.of consumers	Sales MU	No.of consumer	Sales MU
HT/DHT Consumers	24	36.14	28	42.17
LT Consumers & Temp. Connections	88	3.93	92	4.12
Total	112	40.07	120	46.28

14. The Commission approved 71.96 MU for 2010-11 as per the projections of the licensee. There is considerable difference between the approved and actual energy sales and the actual sale of energy is lower compared to the sale of energy approved by the Commission. According to the licensee, this situation arose due to non-materialisation of expected demand in Kalamassery licence area. After examining the details furnished by the licensee, the Commission approves the actual energy sales reported by the licensee for the purpose of truing up of accounts for the year 2009-10.
15. **Energy Input and Distribution Loss:** The details of the energy input and the actual distribution loss incurred by the licensee over the years from 2009-10 to 2014-15 are tabulated below.

Table – 3
KPUPL- Truing up of the accounts-
Actual Energy Requirement and Distribution Loss

Particulars	2009-10	2010-11	
	Actuals	Approved	Actuals
Energy Purchased (MU)	40.38	71.96	46.71
Energy Sold (MU)	40.07	69.8	46.28
Distribution loss(MU)	0.3	2.16	0.43
Distribution Loss %	0.77%	3.00%	0.92%

16. A comparison of the distribution loss target fixed by the Commission and the actual distribution loss is shown below.

Table – 4
KPUPL- Truing up of the accounts-
Comparison between Approved and Actual Distribution Loss

Particulars	Distribution loss target approved	Actual claim
2009-10	2.60 %	0.77 %
2010-11	2.74 %	0.92 %

17. It is also seen that the actual claim made by the licensee towards distribution loss is within the target fixed by the Commission for the year 2010-11. Accordingly, the Commission approves the actual distribution loss of 0.92% for the purpose of truing up.
18. **Cost of Power Purchase:** Details of power purchase cost approved and the actual cost incurred by the licensee for the year 2010-11 are shown below

Table -5
KPUPL- Truing up of the accounts-
Approved and actual Power Purchase Cost

Particulars	Unit	Approved	Actuals
Units purchased	MU	71.96	46.71
Fixed Charges	Rs.lakh	345.45	255.69
Variable Charges	Rs.lakh	1,978.85	1,324.23
Total charges	Rs.lakh	2,324.30	1,579.92
Average rate	Rs./kWh	3.23	3.38

19. The licensee in its letter dated 30-11-2016 submitted the reasons for the variation in the power purchase cost. According to the licensee, the difference was mainly on account of reduction in the volume of purchase from the approved quantity of 71.96MU. The licensee has also stated that the reduction was due to non-materialisation of demand in Kalamassery licence area as the operations could not be commenced due to connectivity issues with KSEB. The licensee on 30-11-2016 provided the details of demand charges and energy charges of purchase of power as given below:

Table -6
KPUPL- Truing up of the accounts-
Details of Power Purchase Cost

Particulars	2010-11
Energy purchase (MU)	46.71
Maximum Demand (KVA)	9840
Contract Demand (KVA)	9000
Excess Demand (KVA)	840
Demand Charges (Rs./KVA)	245
Total Demand charges (Rs in lakh) (A)	255.69
Energy Charges (Rs./kWh)	2.75/3.16
Total Energy Charges (Rs. in lakh) (B)	1324.23
Cost of power purchase	1579.92

20. The Commission in its suo motu proceedings on revision of Bulk Supply Tariff applicable to the licensees had issued an order dated 13-12-2010 and had increased the Bulk supply Tariff from 1-12-2010. Accordingly, the energy charge was increased from 2.75/kWh to 3.16/kWh. The month-wise details of energy purchase and cost furnished by the licensee are as shown below:

Table -7
KPUPL- Truing up of the accounts-
Month-wise details of Power Purchase Cost

	Energy Purchased (kWh)	Billing Demand (kVA)	Demand charges (Rs.)	Energy charges (Rs.)	Total charges (Rs.)
April	3579900	8390	2055550	9934223	11989773
May	3964500	8890	2178050	11001488	13179538
June	3784800	8500	2082500	10493674	12576174
July	3851800	8210	2011450	10680473	12691923
August	3840200	8130	1991850	10648007	12639857
September	3750600	8260	2023700	10314150	12337850
October	3757600	8350	2045750	10333400	12379150
November	3890300	8930	2187850	10698325	12886175
December	4020200	8760	2146200	12703832	14850032
January	3959800	8460	2072700	10889450	12962150
February	3792700	9150	2241750	10429925	12671675
March	4518800	9840	2410800	14417338	16828138
Total	46711200	8656	25448150	132544285	157992435

21. The Commission has examined the details furnished by the licensee and approves the cost of power purchase as given in the application for truing up.

Table – 8
KPUPL- Truing up of the accounts-
Details of power purchase cost approved for the FY 2010-11 (Rs.Lakh)

Particulars	ARR		Truing up	
	Quantity (MU)	Cost (Rs. in lakh)	Quantity(MU)	Cost(Rs. in lakh)
Claimed	71.96	2324.30	46.71	1579.92
Approved	71.96	2324.30	46.71	1579.92

22. **Interest and finance charges:** The licensee had reported Rs.12.71 lakh towards interest and finance charges against the approved interest and finance charges of

Rs.162.75 lakh. Considering this, the licensee requested to approve the interest charges.

Table -9
KPUPL- Truing up of the accounts-
Interest and financing charges for 2010-11

Particulars	2010-11	
	Approved (Rs.lakh)	Actuals (Rs.lakh)
Interest charges	162.75	12.74

23. The licensee has stated that the variation in actual and approved interest charges is due to the fact that capital structure expected in joint venture could not be finalized during the year. The Commission has examined the submission of the licensee. The interest charge booked by the licensee is Rs.12.71 lakh, which is towards the interest paid for the deposits from consumers. However, the Commission notes that the licensee is following a pre-payment metering system and there is no requirement of security deposit from the consumers. As per the records furnished by the licensee, there is no details furnished explaining the amount of security deposits received from the consumers. It is also to be noted that, till 2009-10, the licensee had not claimed interest on security deposit from consumers. In the absence of any conclusive evidence on the claims of the licensee, the Commission is not in a position to approve the interest and finance charges claimed by the licensee.

Table -10
KPUPL- Truing up of the accounts-
Interest and financing charges approved for 2010-11

Particulars	ARR (Rs.lakh)	Truing up (Rs.lakh)
Claimed	162.75	12.74
Approved	162.75	--

Depreciation:

24. The Commission in the orders on the ARR & ERC over the years and in the directives issued, had directed the licensee to submit statements regarding transfer deed, geographical position of the assets etc and necessary details on the transfer of the assets and liabilities immediately. The licensee failed to comply with the

directives repeatedly and thus the Licensee has failed to discharge the functions and obligations as per the terms and conditions of license and other legal provisions of Act/Regulations.

25. Since the licensee did not comply with the directions and the licensing conditions, the Commission initiated action under section 19(3) of the Electricity Act 2003 for revocation of licence. Hearing on the matter was held on 03-06-2014. The Commission in its order dated 05-06-2014 directed to the licensee furnish a roadmap including timelines for completing various steps. In compliance of the directions issued by the Commission, M/s KINFRA, filed an affidavit on the road map with time lines for the compliance on the licensing conditions and other directions of the Commission. The licensee filed the details of transfer deed, position of assets etc only on 7-9-2016.
26. The licensee has claimed depreciation for the year 2010-11 as shown below

Table – 11
KPUPL- Truing up of the accounts-
Depreciation claimed for the year 2010-11

	As per accounts in 2009-10 (Rs.lakh)	2010-11 (Rs.lakh)	
		Approved	Actuals
Depreciation	53.52	88.76	79.07

The asset class wise depreciation as claimed by the licensee is given below:

Table – 12
KPUPL- Truing up of the accounts-
The asset class wise depreciation booked for the year 2010-11

Asset class	Depreciation (Rs.lakh)	Average rate of depreciation
Sub-stations	25.75	3.97%
11kv Works	48.99	3.62%
Metering equipments	4.17	7.05%
Others	0.76	45.78%
Less Consumer contribution	-0.59	4.30%
Total	79.07	3.84%

The details of assets and asset additions in 2010-11 provided by the licensee are shown below:

Table – 13
KPUPL- Truing up of the accounts-
The asset additions for the year 2010-11

Particulars	GFA at the beginning of the year as on 01-04-2010 (Rs.lakh)	Asset additions made during 2010-11 (Rs.lakh)	Assets taken away after completion of full life period (Rs.lakh)	GFA at the end of the year 31-03-2011 (Rs.lakh)
Sub-stations	649.04	92.78	0	741.82
11kv Works	1354.31	6.55	0	1360.86
Metering equipments	59.18	3.29	0	62.47
Others	1.66	3.29	0	4.95
Total	2064.19	105.91	0	2170.10

27. The asset addition to the tune of Rs.105.91 lakh was made in the year 2010-11. It is also reported that the licensee has received Rs.13.72 lakh towards consumer contribution and depreciation to the tune of Rs.0.59 lakh is deducted from the total depreciation for the year 2010-11. The licensee had reported earlier that they have taken over the assets of the major consumers in 2007-08 and 2008-09. The details are given below:

Table – 14
KPUPL- Truing up of the accounts-
Details of assets taken over from consumers

Name of the consumer	2007-08 (Rs.lakh)	2008-09 (Rs.lakh)	Total (Rs.lakh)
Infopark	383.41	100.00	483.41
Koyenco	6.03		6.03
L&T infotech	11.63		11.63
Leela soft	21.33	96.38	117.71
Wipro technologies	12.63	76.03	88.66
Total	435.03	272.41	707.44

28. The Commission has examined the details furnished by the licensee. Though the Commission had directed to furnish the details of asset transfer agreement and the value of assets transferred, the licensee could provide the details only on 7-9-2016. The licensee could not produce any materials to substantiate the investment made, purchase consideration disbursed, asset additions during the year. Further, as per the details given by the licensee, during the period, licensee was under an agreement of operations with M/s KINFRA for the management of the distribution business.

29. In the distribution business, distribution assets are financed by loans sourced from financial institutions, the equity contribution of the shareholders or from the grants received from Government or any other institution or consumers. Depreciation cannot be allowed for the assets acquired by way of grants or for the assets created out of grants or contributions received from the Government or any other institution or consumers. In the present context, the crucial question is, whether or not the licensee had actually incurred any expenditure towards creation or acquisition of the capital asset in the financial year under consideration. If the licensee has actually incurred any expenditure for acquisition or creation of assets in the corresponding financial year, depreciation can be allowed. An asset transfer agreement with retrospective effect cannot confer any right on the licensee to claim depreciation, unless the licensee had actually incurred expenditure for acquisition or creation of asset in the corresponding years. The licensee could not furnish any details or documents to substantiate the expenditure incurred in acquisition of assets nor the settlement of purchase consideration. Accordingly, depreciation cannot be allowed at present.

Table -15
KPUPL- Truing up of the accounts-
Depreciation approved for 2010-11

Particulars	ARR (Rs.lakh)	Truing up (Rs.lakh)
Claimed	106.25	79.07
Approved	88.76	--

Employee Cost:

30. The licensee has claimed Rs.39.13 lakh towards employee costs for the year 2010-11 as against the approved employee cost of Rs.25.lakh for the year as shown below:

Table – 16
KPUPL- Truing up of the accounts-
Employee cost reported for the year 2010-11

	Approved in 2009-10 (Rs.lakh)	2010-11 (Rs.lakh)	
		Approved	Actuals
Employee expenses	16.25	25.00	39.13

31. As shown above, the actual employee cost is about 56% higher than the approved level. It is also about 1.4 times higher than the approved level in previous year (2009-10). The licensee has stated that it cannot limit the employee cost to the approved level and the increase is due to the annual increment and increase in dearness allowance payable to the employees of the JV partner NESCL deputed in the service of the licensee during the year. Unlike in the previous year, after the distribution business was taken over by M/s KPUPL, the entire employee cost is allocated to distribution only.
32. As per clause 15(3) of KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006. O&M Expenditure ie., employee cost, administration and general expenses, repairs and maintenance expenses and other miscellaneous expenses may be indexed to predetermined indices such as Consumer Price Index, Wholesale Price Index or a combination of both indices to 70% of CPI and 30% of WPI. The WPI and CPI for the period are as given below:

Year	WPI		CPI		CPI:WPI at 70:30 Basis
	Index	Yearly increase	Index	Yearly increase	
2006-07	111.40		125.00		
2007-08	116.60	4.67%	132.75	6.20%	5.74%
2008-09	126.00	8.06%	144.83	9.10%	8.79%
2009-10	130.80	3.81%	162.75	12.37%	9.80%
2010-11	143.30	9.56%	179.75	10.45%	10.18%
2011-12	156.10	8.93%	194.83	8.39%	8.55%
2012-13	167.60	7.37%	215.17	10.44%	9.52%
2013-14	177.60	5.97%	236.00	9.68%	8.57%
2014-15	181.19	2.02%	250.83	6.29%	5.01%
2015-16	176.68	-2.49%	265.00	5.65%	3.21%

33. As shown above, the weighted average of the indices CPI:WPI in the ratio of 70:30 for 2010-11 is 10.18% and the maximum employee cost that can be approved for the year 2010-11 is as shown below:

	2009-10	2010-11
	Rs.lakh	Rs.lakh
Yearly increase at CPI:WPI basis		10.18%
Employee cost	16.25	17.90

34. Accordingly employee cost for 2010-11 is approved as shown below:

Table – 17
KPUPL- Truing up of the accounts-
Employee cost approved for the year 2010-11

Particulars	ARR (Rs.lakh)	Truing up (Rs.lakh)
Claimed	83.26	39.13
Approved	25.00	17.90

Repairs and Maintenance Charges:

35. Comparisons on the approved and actual repair and maintenance expenses for the year 2010-11 are furnished below

Table – 18
KPUPL- Truing up of the accounts-
R&M Expenses Approved & Truing up claimed

	2008-09 (Approved) (Rs.lakh)	2009-10 (Rs.lakh)	2010-11 (Rs.lakh)	
			Approved	Actual
Repair & Maintenance expenses	20.58	22.52	45.14	29.01

36. It may be seen that the licensee in the application has claimed lower amounts towards R&M cost compared to the approved R&M expenses for the year 2010-11. According to the licensee, the works envisaged at the time of filing the ARR petition could not be materialized. The R&M expenses booked for 2010-11 is about 29% higher than the previous year. The licensee did not give reasons for this increase. However, the R&M expenses booked is only about 1.40% of the total GFA at the beginning of the financial year, which is reasonable. As per the provisions of the regulations, R&M expenses have to be approved based on the WPI:CPI indexation and the R&M expense for 2010-11 is as shown below:

R&M expenses approved for 2009-10	Rs. Lakh	22.52
Allowable rate of increase based on CPI:WPI indexation	Percent	10.18%
Employee cost allowable for 2010-11	Rs. Lakh	24.81

Table – 19
KPUPL- Truing up of the accounts-
R&M expenses approved for the year 2010-11

Particulars	ARR (Rs.lakh)	Truing up (Rs.lakh)
Claimed	45.14	29.01
Approved	45.14	24.81

37. **Administration and General Expenses:** The actual amount booked on A&G expense for the year was Rs.51.30 lakh against Rs.45.16 lakh approved for the year. The licensee has stated that the increase was due to the payment of Electricity duty under Section 3 of the Kerala Electricity duty Act to the tune of Rs.27.97 lakh was included in the A&G expenses.

Table – 20
KPUPL- Truing up of the accounts-
A&G expenses claimed for the year 2010-11

	2008-09 (approved) (Rs.lakh)	2009-10 (Rs.lakh)	2010-11 (Rs.lakh)	
			Approved	Actual
A&G expenses	40.28	44.23	45.16	51.30

38. The duty under Section 3(1) of the Kerala Electricity Duty Act 1963 is a statutory levy. Section 3 of the said Act 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 nayepaise per unit of energy sold or a price more than 12 nayepaise 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.”

39. From the above it is clear that the duty under Section 3(1) is payable by the licensee to the Government calculated at a rate of 6 paise per unit for energy sold at a price more than 12 paise per unit. Further the duty paid under this section is not to be passed on to the consumer. Hon.APTEL in the order dated 12-11-2009 in appeal no 94/2008 had also ruled that the Section 3(1) duty cannot be passed on to the consumers.
40. Hence, 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 view of the above

statutory provisions and orders of APTEL. The Commission has been, in its previous orders also, taking consistent stand on this issue.

41. The major items under A&G expense claimed by the licensee other than electricity duty are consultancy charges (Rs.5.16 lakh), travelling expenses (Rs.4.53 lakh), other expenses (Rs.3.2 lakh) etc. The licensee has not claimed cost for security arrangements, which was the major item in the previous year. As per the provisions of KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 the O&M expenses have to be indexed to CPI and WPI at 70:30 basis. However, A&G expenses net of electricity duty under section 3 of the Act are Rs.23.33 lakh only. Accordingly, the same is approved for the year 2010-11.

Table – 21
KPUPL- Truing up of the accounts-
A&G expenses approved for the year 2010-11

Particulars	ARR (Rs.lakh)	Truing up (Rs.lakh)
Claimed	45.16	51.30
Approved	43.16	23.33

Return on Equity:

42. As per the application for truing up submitted by the licensee, the return on equity claimed for the year 2010-11 is Rs..53.79 lakh. The licensee has estimated the reasonable return on the basis of 3% of the net fixed assets employed at the beginning of the financial year. After the takeover of the business by KPUPL, in the balance sheet of KPUPL, the capital (share capital and reserves and surplus) is shown as Rs.22.25 lakh only. The licensee has furnished the details of the transfer of Assets only recently. As pointed out in para 29, the Commission is of the view that the licensee has not established the rationale for claiming return on equity as no document has been produced to support the claim of investment in the business. Hence, the Commission is constrained to allow only a lumpsum amount of Rs.10 lakh towards return on equity.

43. **Aggregate Revenue requirements:** Based on the submissions made by the licensee in the applications for truing up of accounts, responses during the hearing, comments made by KSEB Ltd, the analysis and the decision of the Commission the aggregate revenue requirements for the year 2010-11 approved for the purpose of truing up of accounts of the years are tabulated hereunder.

Table – 22
KPUPL- Truing up of the accounts-
ARR approved for the year 2010-11

Particulars	2010-11 (Rs.lakh)	
	As per the application for truing up	Approved in truing up
Purchase of Power	1,579.92	1,579.92
Interest & Finance Charges	12.74	-
Depreciation	79.07	-
Employee costs	39.13	17.90
Repair & Maintenance	29.01	24.81
A & G Expenses	51.30	23.33
Return on Equity	53.79	10.00
Total Expenses	1,844.96	1,655.96

44. **Revenue from Sale of Power:** The licensee has reported revenue from sale of power at Rs.1873.80 lakh for the year 2010-11. The details are given below:

Table – 23
KPUPL- Truing up of the accounts-
Revenue from sale of power for the year 2010-11

Sale of Power	2009-10 (Rs.lakh)	2010-11 (Rs.lakh)
HT/DHT Consumers	1504.45	1696.65
LT Consumers	162.52	177.15
Temp. Connections	20.65	
Total	1687.62	1873.80

45. As per the details furnished by the licensee the total revenue from sale of power is as shown below:

Table – 24
KPUPL- Truing up of the accounts-
Revenue from sale of power for the year 2010-11

Sale of Power	2009-10 (Rs.lakh)	2010-11 (Rs.lakh)
HT/DHT Consumers	1,504.45	1696.65
LT Consumers	162.52	177.15
Temp. Connections	20.65	
Total	1,687.62	1873.80
Recovery of electricity duty and other State levies		68.09
Misc. charges from consumers Penalty+Marginal Cost+Meter Rent	6.38	
Fuel Surcharge		37.86
Other Receipts		
Gross Revenue from sale of Power	1694.00	1979.75

Less		
Electricity duty collected u/s 4 of Kerala Electricity Duty Act and payable to Govt.	66.24	57.55
Other State levies payable		48.40
Revenue from sale of Power	1627.76	1873.80

46. From the above details, it can be seen that the licensee has included fuel surcharge and electricity duty collected from the consumers u/s 4 of the Kerala Electricity Duty Act 1963. Revenue from fuel surcharge has to be remitted to KSEB Ltd and the electricity duty collected from the consumers u/s 4 of the Kerala Electricity Duty Act 1963, has to be remitted to Government. Therefore the above amounts will not form part of the revenue of the licensee and such amounts are being deducted from the gross revenue of the licensee. The Commission also notes that there is difference between the amount of electricity duty collected and that remitted. However, the net revenue from sale of power has been properly booked by the licensee as shown below:

Table – 25
KPUPL- Truing up of the accounts-
Revenue from sale of power for the year 2010-11

	As per Accounts (Rs.lakh)	Sale of Power	As approved (Rs.lakh)
HT/DHT Consumers	1,696.65	HT/DHT Consumers	1,696.65
LT Consumers	177.15	LT Consumers	177.15
Temp. Connections		Temp. Connections	
Total	1,873.80	Total	1,873.80
Recovery of electricity duty and other State levies	68.09	Recovery of electricity duty and other State levies	68.09
Fuel Surcharge	37.86	Fuel Surcharge	37.86
Gross Revenue from sale of Power	1,979.75	Gross Revenue from sale of Power	1,979.75
Less		Less	
Electricity duty collected u/s 4 of Kerala Electricity Duty Act and payable to Govt.	57.55	Electricity duty collected u/s 4 of Kerala Electricity Duty Act and payable to Govt.	68.09
Other State levies payable	48.40	Fuel surcharge	37.86
Revenue from sale of Power	1,873.80	Revenue from sale of Power	1,873.80

The Commission approves the revenue from sale of power as reported by the licensee

47. **Non-Tariff Income:** The licensee has stated that the non-tariff income includes interest on investments in fixed deposits as well as miscellaneous receipts. The non-tariff income reported for the year 2010-11 is Rs.13.82 lakh. The split up details of the non-tariff income as specified in the applications for truing up is shown below.

Table- 26
KPUPL- Truing up of the accounts-
Details of Non-tariff income 2010-11

Particulars	2009-10 (Rs.lakh)	2010-11 (Rs.lakh)
Interest on Bank Fixed Deposits	19.84	7.45
Profit on sale/hire etc. of apparatus / transfer of assets	2.02	
Other miscellaneous receipts	1.49	6.37
Interest from income tax refunds		
Other Income		
Total	23.35	13.82

48. The Commission notes that the licensee has not included the interest on security deposits held with KSEB for power purchase. As reported by the licensee, the amount of interest that can be available on the security deposit held by KSEB is about Rs.12.74 lakh. The same has to be considered as interest under non-tariff income. The Commission in its order dated 6-12-2011 has arrived at an accumulated surplus of Rs.1413.01 lakh after the truing up of accounts till 2008-09. Further, after the truing up of accounts for 2009-10, the accumulated surplus is arrived at by the Commission is Rs.1735.56 lakh. The licensee is holding the surplus and the interest on the same is also to be accounted under non-tariff income. Interest income at a rate of 9% on the accumulated surplus of Rs. 1735.56 lakh is Rs. 156.20 lakh. Since the licensee has already shown Rs.7.45 lakh as interest from fixed deposits, the net interest is to be accounted is Rs.148.75 lakh. Accordingly, the non-tariff income approved for 2010-11 is as shown below:

Table- 27
KPUPL- Truing up of the accounts-
Non tariff income approved for 2010-11

Particulars	Claimed (Rs.lakh)	Approved (Rs.lakh)
Interest on Bank Fixed Deposits	7.45	7.45
Other miscellaneous receipts	6.37	6.37
Interest on security deposit held with KSEB		12.74
Interest on accumulated surplus		148.75
Total	13.82	175.31

49. **Revenue Surplus/(gap):** The Commission after considering the applications of the licensee for truing up of accounts for the 2010-11, the clarifications and the additional details submitted by the licensee thereon along with the comments of KSEB Ltd, the revenue surplus/gap approved for truing up of accounts for 2010-11 as shown below:

Table 28
KPUPL- Truing up of the accounts-
ARR&ERC approved after truing up for the year 2010-11

Particulars	2010-11 (Rs.lakh)	
	As per the application for truing up	Approved in truing up
Purchase of Power	1,579.92	1,579.92
Interest & Finance Charges	12.74	-
Depreciation	79.07	-
Employee costs	39.13	17.90
Repair & Maintenance	29.01	24.81
A & G Expenses	51.30	23.33
Return on Equity	53.79	10.00
Total Expenses	1,844.96	1,655.96
Revenue from Tariff	1,627.76	1,873.80
Non-Tariff income	23.44	175.31
Total Revenue	1,651.20	2,049.11
Revenue (Deficit)/Surplus	-193.76	393.15

50. The revenue surplus for the year 2010-11 after truing up of accounts is Rs.393.15 lakh as against a revenue gap of Rs.193.76 lakh presented by the licensee as per the truing up application. The accumulated revenue surplus after truing up till 2009-10 was Rs.1735.56 lakh, which will be Rs.2128.71 lakh after the truing up for 2010-11.

Orders of the Commission

51. After considering the application for approval of truing up of accounts of M/s KPUPL, the clarifications thereon, comments of the KSEB and the explanations thereon submitted by the M/s KPUPL, the Commission hereby determines a

revenue surplus of Rs.393.15 lakh for the year 2010-11 after the truing up of accounts. The accumulated surplus at the end of the financial year 2010-11 is Rs. 2128.71 lakh including the revenue surplus of Rs.393.15 lakh approved in this order.

52. The application is disposed of, ordered accordingly

Sd/-
K. Vikraman Nair
Member

Sd/-
S. Venugopal
Member

Sd/-
T.M. Manoharan
Chairman

Approved for issue

Santhosh Kumar.K.B
Secretary