

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: **Shri. R. Preman Dinaraj, Chairman**
Shri. S. Venugopal, Member

OA Nos. 14/2019, 15/2019, 16/2019, 17/2019, 18/2019, 19/2019,
20/2019, 21/2019, 22/2019, 23/2019 & 24/2019

In the matter of Petitions for truing up of accounts filed by M/s KINESCO Power and Utilities Private Limited (KPUPL) for the years from 2004-05 to 2014-15

Petitioner : KINESCO Power and Utilities Private Limited,
Room No.302-306, 2nd Floor, CFC Buildings
Kinfra Park Office,
Infopark P.O, Kakkanad
Kochi

Respondent : Kerala State Electricity Board Limited,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram

Daily Order dated 13.12.2019

Public hearing on the petitions for truing up of accounts filed by M/s KINESCO Power and Utilities Private Limited (KPUPL) for the years from 2004-05 to 2014-15 was conducted at Conference Hall, KINFRA Park Office, Kakkanad on 25-11-2019. M/s KINESCO Power and Utilities Private Limited (KPUPL) was represented by Sri.Joseph Kodiyanthara, Senior Advocate, Adv.P.G.Jayashankar, Adv.P.K.Reshma, Smt. D.S.Girija Devi, Chief Executive Officer, Sri. S.N.Ashok Kumar Manager (Finance) and other officers of the petitioner. Adv.Joseph Kodiyanthara and Adv.P.G.Jayashankar presented the details of the petitions and gave clarifications to the queries of the Commission. It was stated that KPUPL had revised the figures for some years for revenue from sale of power by adjusting the electricity duty, non-tariff income, depreciation, interest and finance charges, return on equity etc. It was also submitted that they may be allowed a higher distribution loss target as the target fixed by the Commission was stringent. Adv.Joseph Kodiyanthara stated that the main request in the petition is that, since the terms of the loan availed from KINFRA has not been finalized by the Government as on date, KPUPL may be allowed consequential relief as and when such confirmations are finalized. He also stated that detailed written submission will be placed before the Commission to explain the requests of the petitioner.

Sri Suresh.A, Executive Engineer - Tariff & Regulatory Affairs Cell (TRAC) and Sri. Manoj.G, Assistant Executive Engineer (TRAC) represented the respondent KSEB Ltd. Sri. Manoj.G presented the counter statement/comments of the respondent KSEB Ltd. and submitted the written remarks. The major points presented by the respondent KSEB Ltd are summarised as below.

- a. Before going to the merits of the petition, KSEB Ltd respectfully submitted that, the petitions are not maintainable either under law or facts as it is not permissible in legal parlance to reopen settled issues involving same parties that too on expiry of a considerable period attracting the law of limitation. KSEB Ltd referred to the statutory provisions contained in the Electricity Act, 2003 and the Code of Civil Procedure, 1908 to support their contention.
- b. KSEB Ltd pointed out that the present petitions are barred by the Law of Limitation. As per Section 3 of the Limitation Act, 1963 read with item no.137 to the Schedule therein the time limit prescribed for filing the present petitions is three years which has already been expired. It was also pointed out that any change in the existing procedural frame work for entertaining such petitions will invite unnecessary legal hurdles which will be against the interest of the consumers at large. Accordingly, it was submitted that the present petitions are liable to be dismissed as not maintainable and orders may be issued accordingly.
- c. KSEB Ltd also pointed out that KPUGL has sought revision for Revenue from sale of power, other income, employee cost, R&M expenses, A&G expenses, depreciation and interest and finance charges and RoE in various years. It is not justifiable to reopen concluded issues. Review, if any done may be limited to RoE, depreciation & interest and finance charges based on convincing evidence. Even though the effective transfer of asset as per agreements executed in 2016 & 2017 is 10.2.2010, the licensee states that the effect of same was brought into the books in the year 2017-18 to comply with the requirements of Companies Act 2013. The asset transfer effected as per book of account need only be taken for evaluation of equity, interest and finance charges and depreciation. Net prior period liability and deferred tax liability may be looked into based on proper records submitted by the licensee.

The Commission observed that the present petitions for truing up of accounts submitted by KPUGL for rectification of accounts is in view of the Asset Transfer Agreement. The Commission directed the licensee to submit proper comparative statements to substantiate the changes made in the petition in comparison with the initial truing up petitions filed, for which the Commission had already issued orders. The licensee can approach the Commission, if required, to provide further clarifications on the matters with documents to validate the claim. The Commission directs the petitioner to

submit details along with any other documents, additional remarks, if any, within two weeks.

Hearing concluded. Reserved for final orders.

Sd/-
S. Venugopal
Member

Sd/-
Preman Dinaraj
Chairman

Approved for issue

Sd/-
G.Jyothichudan
Secretary