

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Adv. A.J Wilson, Member (Law)

RP No 05/2022

In the matter of : Review petition filed by M/s Kannan Devan Hills Plantations Company Private Limited (M/s KDHPCL) on the Order dated 25.06.2022 in OP 11/2022 on revision of Bulk Supply Tariff applicable to KDHPCL

Petitioner : M/s Kannan Devan Hills Plantations Company Private Limited.

Respondent : Kerala State Electricity Board Ltd

Petitioner represented by : Shri. Suman Ghosh, GM-Fin, KDHPCL
Shri. Sachin Prabhu, DM-Fin, KDHPCL

Respondent represented by : Shri M.P.Rajan, Dy CE, TRAC, KSEB Ltd

Date of hearing : 26.08.2022, 11.00 AM
Venue : Court Hall of the Commission

Order dated 20.09.2022

1. The petitioner M/s Kannan Devan Hills Plantations Company Private Limited (herein after referred as M/s KDHPCL or the Petitioner) filed a Review petition before the Commission with the following prayers.

“a. Give the Petitioner an opportunity to be heard in the matter.

b. Based on the outcome of the hearing, appropriately revise the Bulk Supply Tariff made applicable to the Petitioner vide the Order dated 25.06.2022 in OP 11/2022 of the Hon. Commission so as to make the total annual additional power purchase cost to the Licensee on account of revision of BST not more than the total additional revenue to the Licensee following the revision of RST.

c. Pass appropriate order for adjustment of any excess payment to KSEBL from the Licensee following any relief allowed by the Commission to the Petitioner in response to this petition.”

2. The summary of the petition filed by M/s KDHPCL is given below.

- (1) M/s Kannan Devan Hills Plantations Company Private Limited (KDHPCL) is holding the license for distributing electricity in the Munnar and surrounding area. M/s KDHPCL has been purchasing the entire electricity requirement including own consumption from the incumbent licensee KSEB Ltd at the Bulk Supply Tariff (BST) approved by the Commission from time to time. M/s KDHPCL is distributing electricity to its consumers at the Retail Supply Tariff (RST) approved for KSEB Ltd.
- (2) The Commission, vide Order dated 25.06.2022 in OP 11/2022, in the matter of approval of ARR, ERC and Tariff of KSEB Ltd for the MYT period from 2022-23 to 2026-27 has approved the retail tariff of all consumers of the State and also approved the Bulk Supply Tariff (BST) applicable to the small licensees including KDHPCL, those who purchase power from KSEB Ltd.
- (3) The petitioner further submitted that, while undertaking tariff revision exercise, the Commission has to first revise the Retail Supply Tariff (RST) applicable to the consumers of the State. Thereafter, the Commission may seek inputs from the small Licensees, including the Petitioner KDHPCL, regarding the incremental annual revenue that would accrue to them on account of increase in RST. Based on this incremental revenue to the small licensees, the Commission may revise the BST in such way to pass on the incremental revenue to KSEB Ltd.
- (4) M/s KDHPCL further submitted that the Commission has revised the BST without seeking any inputs from the Licensee on the incremental income that would accrue to them by revising the RST.

M/s KDHPCL has also submitted that the incremental cost to the Petitioner on account of BST increase for the current control period 2022-23 to 2026-27 would be substantially more than the additional income arising from RST increase. This is due to the unique consumer mix and consumption pattern of the petitioner. The details are given in the Table below.

Particulars	Control Period (Rs. Cr)				
	2022-23	2023-24	2024-25	2025-26	2026-27
Surplus/ (Deficit) as per previous tariff(A)	(32.09)	(36.78)	(52.66)	(69.49)	(88.22)
Incremental Revenue from upward revision of RST(B)	151.97	173.04	174.68	176.43	178.19
Incremental power purchase cost(C)	(283.96)	(298.86)	(301.85)	(304.87)	(307.92)
Net increase/(decrease) in other income and expense heads(D)	(3.33)	(10.36)	(17.21)	(24.46)	(32.13)
Additional revenue surplus /Deficit(E=B+C+D)	(135.32)	(136.18)	(144.38)	(152.90)	(161.86)
Surplus/(Deficit) as per revised tariff(A+E)	(167.41)	(172.96)	(197.04)	(222.39)	(250.10)

- (5) M/s KDHPCL further submitted that, if the BST is revised linking to the revised RST, then the BST energy charge assuming that the fixed charge notified by the Commission would be as given below.

Particulars	Control Period				
	2022-23	2023-24	2024-25	2025-26	2026-27
Incremental Revenue from upward revision of RST(A)	151.97	173.04	174.68	176.43	178.19
Less: Additional Demand Charges @ Rs.40/kVA(B)	43.95	46.67	47.14	47.61	48.08
Balance available for meeting energy charges C=(A)-(B)	108.02	126.37	127.54	128.82	130.11
Power purchase units (D)	48.00	50.44	50.94	51.45	51.97
Maximum incremental energy charge- Rs./ kWh E= (C)/(D*10)	0.23	0.25	0.25	0.25	0.25
Energy charge as per ARR petition (F) Rs./ kWh	4.80	4.80	4.80	4.80	4.80
Maximum revised BST Rs./ kWh (E+F)	5.03	5.05	5.05	5.05	5.05
BST as per the Order	5.30	5.30	5.30	5.30	5.30

M/s KDHPCL further submitted that, the increase in BST rate is double the rate of increase in BST that would be supported by the incremental revenue that will flow to Petitioner by the following revision in RST. The increase in RST would have supported a maximum increase in the BST rate by Rs 0.25 per unit against the increase in rate by Rs 0.50 per unit as per the Order. As per the Truing up of the accounts of the Licensee which was relating to the year ended 31 March 2021, the surplus for that year was only Rs 15.85 lakhs.

3. M/s KDHPCL vide additional submission dated 23.08.2022 submitted the following details before the Commission in support of their claims.
- (i) The Commission vide Order dated 25.06.2022 had stated the following:

"7.98 The Commission has been adopting uniform retail supply tariff (RST) and differential bulk supply tariff (BST) for the other licensees in the State, such as Thrissur Municipal Corporation; KDHPCL Munnar; Cochin Port Trust. Technopark infopark CSEZA: KPUGL and RPIL, who procure power from KSEB Ltd for distributing within their areas of distribution. Further, the Commission fixes the BST rates payable by the said Licensees to KSEB Ltd, in such a way that, the excess of revenue collected from their consumers after meeting their approved distribution cost and RoE is allowed to be passed on to KSEB Ltd by way of differential BST."

Further the Commission in the Order has detailed that the additional revenue expected to accrue to the licensees by way of revision of the RST for the year 2022-2023 in table 7.104 is as follows

SL No:	Licensee	Additional Revenue expected through tariff revision annually (Rs.Cr)
	M/s KDHPCL	2.40

- (ii) M/s KDHPCL further submitted that the actual increase in the revenue accruing to the petitioner on account of revision of RST is far lower than that estimated by the Commission. The petitioner submitted that the accumulated surplus as per the Truing up Order dated 03.07.2022 in OP No:77/2021 is ₹975.36 Lakhs. The Commission also directed the petitioner through the Order dated 01.02.2022 in OP No:35/2021 to set up a 33/11 KV substation by utilizing the accumulated surplus. The estimated cost for setting up of substation is approximately ₹810 Lakhs, i.e the substantial portion of the accumulated surplus is planned for setting up of the proposed substation.

4. M/s KSEB Ltd vide submission dated 24.08.2022 submitted the following;

- (1) M/s KSEB Ltd submitted that as per the tariff revision petition, the proposed BST for the KDHPCL for the period 2022-23 was Rs. 5.30 per unit as energy charge and Rs. 450 per KVA as demand charge. However, as per the Tariff Order dated 25.06.2022, the BST approved by the Commission for M/s KDHPCL during the period 2022-23 was Rs. 5.30 per unit as energy charge and Rs. 380 per KVA as demand charge. As above, the demand charge approved by the Commission for the licensee for the year 2022-23 is less by Rs 70/kVA/month from the rate proposed by KSEB Ltd. However, the Commission has approved the energy charge as proposed by KSEB Ltd.
- (2) During the public hearings, the petitioner M/s KDHPCL submitted before the Commission that whenever KSEB Ltd seeks tariff revision for its consumers, revision of tariff of the Licensees are also done based on the revised tariff revenue for each year of the Control Period. M/s KDHPCL requested to follow the same practice during current revision also. The argument of M/s KDHPCL that the Commission approved the BST without seeking remarks from M/s KDHPCL is baseless.
- (3) M/s KSEB Ltd further submitted that due to the upward revision of RST, the expected incremental revenue as projected by the licensee is ₹1.52 Crore. The revenue surplus/ deficit approved by the Commission during the truing up is given below;

Year	KDHPCL submission on Revenue Surplus/(Deficit) (Rs. Lakh)	KSERC Approval on Revenue Surplus/(Deficit) (Rs. Lakh)

2017-18	98.51	74.41
2018-19	178.98	14.81
2019-20	7.34	27.10
2020-21	71.39	15.85

The Commission vide truing up Order dated 03.07.2022 for the truing up of Accounts of Kannan Devan Hills Plantations Company Private Limited (KDHPCL) for the year 2020-21 ordered that *'The cumulative revenue surplus till 2020-21 will be Rs. 975.36 Lakh (Rs.959.51 lakh + Rs.15.85 lakh). The licensee shall keep the surplus arrived at after the truing up process in a separate fund and utilize it as per orders of the Commission.'*

The Tariff Regulations, 2021 mandates that, the surplus revenue held by the licensee shall be considered while determining BST for the licensee.

- (4) M/s KSEB Ltd further submitted that while submitting the truing up accounts, KDHPCL is repeatedly claiming expenses which are inadmissible as per Regulations. Consequently, the Commission has disapproved these claims. Hence KDHPCL's deficit projection during the control period 2022-23 to 2026-27, needs prudence check.
- (5) M/s KSEB Ltd further contended that while accounting the regulatory surplus of the licensee, it can be seen that, tariff approved by the Commission is not on the higher side. Moreover, with the revised tariff rates of RST and BST of the petitioner, the licensee is achieving surplus revenue during the year 2022-23. The revised revenue surplus/deficit calculation is shown below;

Particulars	2022-23(Rs. In Lakhs)
Surplus as per the KSERC truing up order 2020-21	975.36
Interest on the revenue surplus @ 5.7% (As approved by KSERC during true up 2020-21)	55.6
Incremental Power purchase cost (As project by the Petitioner)	283.96
Surplus/ Deficit	747

Even without considering the additional revenue through the revision of RST, the petitioner should have revenue surplus of Rs 747.00 lakh at the end of the year 2022-23.

- (6) M/s KSEB Ltd further submitted that, the amount approved to be realised by KSEB Ltd is much less than the approved revenue gap of KSEB Ltd.
- (7) In view of the above facts, KSEB Ltd requested to reject the review petition filed by M/s KDHPCL.

5. The Commission admitted the review petition as RP No: 05/2022. The hearing of the petition was held on 26.08.2022 at the Conference Hall of the Commission. Shri. Suman Ghosh, GM-Fin, M/s KDHPCL, Shri. Sachin Prabhu, DM-Fin, M/s KDHPCL presented the matter on behalf of M/s KDHPCL. Shri. M.P.Rajan, Deputy Chief Engineer presented the petition on behalf of KSEB Ltd. The summary of the deliberations during the hearing is given below;

- (1) **KDHPCL** submitted that the Commission vide Tariff Order dated 25.06.2022 had fixed the BST for M/s KDHPCL. It was also pointed out that whenever KSEB Ltd seeks tariff revision for its consumers, the Commission seeks inputs from the Licensees and revised tariff revenue for each year of the Control Period by applying revised approved tariff. The Commission decides on the BST revision for Licensees only after considering the revised revenue particulars submitted by the Licensees.

M/s KDHPCL further submitted that the Commission acknowledged the request of M/s KDHPCL at the proceedings of the tariff proposals of M/s KSEB Ltd. However, the petitioner was not given any directions to submit any particulars of the incremental revenue before the Commission. The Commission had issued the Order dated 25.06.2022 without gathering any details of incremental revenue from M/s KDHPCL and in the order has detailed that the additional revenue expected to accrue to the licensee by way of revision of the RST for the year 2022-23 as ₹2.40 Crores.

M/s KDHPCL further contended that substantial gaps were noticed in the revenue approved by the Commission vide Order dated 25.06.2022 as the actual number is much lower. It was underlined that the Commission has always taken a stand that the additional revenue is only passed on to the BST after accounting for RoI and additional expenses. The increase in RST would have supported a maximum increase in the BST rate by Rs 0.25 per unit against the increase in rate by Rs 0.50 per unit as per the Order.

M/s KDHPCL further submitted that the additional burden due to the tariff revision will further increase the revenue deficit of the petitioner. The increase in BST will make the revenue deficit much higher. M/s KDHPCL further requested before the Commission to consider the submissions of M/s KDHPCL and requested to revise the BST applicable to M/s KDHPCL w.e.f 26.06.2022.

M/s KDHPCL, further submitted that as per the Order of the Commission, M/s KDHPCL have an accumulated surplus of ₹975.36 Lakhs. The Commission vide Order dated 01.02.2022 in OP No:35/2021 has directed M/s KDHPCL to setup a 33/11 kV substation at the cost of M/s KDHPCL by utilizing the accumulated surplus. As per the calculation of M/s KDHPCL the incremental revenue is an average of 1.70 Crores on the next 4 years; the increase in Demand Charges of ₹340/KVA to

380/KVA as per the Order, the increase in BST supported by increase in RST is ₹ 5.05/ unit as against of ₹ 5.30/ unit.

- (2) KSEB Ltd submitted that, they had filed tariff revision petition (OP 11/2022) before the Commission, seeking tariff revision for the period 2022-23 to 2026-27. As per the petition the proposed BST for the KDHPCL for the period 2022-23 was Rs. 5.30 per unit as energy charge and Rs. 450 per KVA as demand charge. The BST approved by the commission for the licensee KDHPCL during the period 2022-23 was Rs. 5.30 per unit as energy charge and Rs. 380 per KVA as demand charge. M/s KDHPCL is repeatedly claiming expenses which are inadmissible as per Regulations. Consequently, the Commission has disapproved these claims during previous truing up orders (*Eg: Section 3(1) duty, higher depreciation, Bad debts etc.*). Hence M/s KDHPCL's deficit projection during the control period 2022-23 to 2026-27, needs prudence check.

M/s KSEB Ltd further submitted that the Commission had ordered that, 'The cumulative revenue surplus till 2020-21 will be **Rs. 975.36 Lakh (Rs.959.51 lakh + Rs.15.85 lakh)**. The licensee shall keep the surplus arrived at after the truing up process in a separate fund and utilize it as per orders of the Commission". The Tariff Regulations, 2021 mandates that, the surplus revenue hold by the licensee shall be considered while determining BST for the licensee. The BST approved by the Commission is not on the higher side. Moreover, with the revised tariff rates of RST and BST of the petitioner, the licensee will be achieving the surplus revenue during the year 2022-23.

M/s KSEB Ltd contended that the petition is not maintainable. Furthermore, surplus revenue will be available with the petitioner at the end of the FY 2022-23 and there is no merit in the argument raised by the petitioner. Even though, the realisation through current tariff as approved by the Commission is much less than the approved ARR of KSEB Ltd. Hence, KSEB Ltd requested that the plea of the M/s KDHPCL for revision in tariff may be rejected.

Analysis and Decision

6. The Commission has examined in detail the review petition filed by M/s KDHPCL, counter affidavit of the respondent M/s KSEB Ltd, deliberations of the subject matter during the hearing held on 26.08.2022, the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, other Regulations and Orders issued by the Commission and hereby decides as follows: -
7. The present petition was filed to review the Order of the Commission dated 25.06.2022 in OP 11/2022 on the limited ground to review the Bulk Supply Tariff determined by the Commission for M/s KDHPCL.

8. Before going into the merits of the issues raised in the petition, the Commission has examined the review jurisdiction as per the provisions of the Electricity Act, 2003, for reviewing the orders and decisions of the Commission. The details are below;

(1) Electricity Act-2003.

As per the Section 94 of the EA-2003, the review jurisdiction of the Commission is very limited in reviewing its orders and directions. The relevant Sections is extracted below:

“Section 94. (Powers of Appropriate Commission): --- (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) discovery and production of any document or other material object producible as evidence;*
- (c) receiving evidence on affidavits;*
- (d) requisitioning of any public record;*
- (e) issuing commission for the examination of witnesses;*
- (f) **reviewing its decisions, directions and orders;***
- (g) any other matter which may be prescribed. “*

- (2) Order 47 Rule 1 of the Code of Civil Procedure 1908, dealing with review of the orders and decisions of a Civil court, which is as quoted below:

“Application for review of judgment. -(1) Any person considering himself aggrieved, —

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
- (b) by a decree or order from which no appeal is allowed, or*
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.*

A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

Explanation: The fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment.”

- (3) The Regulations 67 of the KSERC (Conduct of Business) Regulations, 2010 and its amendments specified as follows.

“67. Powers of review, - (1) Any person or party affected by a decision, direction or order of the Commission may, within forty-five days from the date of making such decision, direction or order apply for the review of the same. (2) An application for such review shall be filed in the same manner as a petition under Chapter III of these regulations. (3) The Commission may after scrutiny of the application, review such decisions, directions or orders and pass such appropriate orders as the Commission deems fit within forty-five days from the date of filing of such application:

Provided that the Commission may, at its discretion, afford the person or party who filed the application for review, an opportunity of being heard and in such cases the Commission may pass appropriate orders as the Commission deems fit within thirty days from the date of final hearing: Provided further that where the application for review cannot be disposed of within the periods as stipulated, the Commission shall record the reasons for the additional time taken for disposal of the same”

9. As extracted above, as per the above provisions of the Electricity Act, 2003, and Code of Civil Procedure, 1908, the Commission has very limited powers to review its Orders and decisions. The Commission can review its order only if there is an error apparent on face of record or the parties can provide a new and important fact of evidence. However, the review petitioner M/s KDHPCL could not produce any new facts or factual errors before the Commission for reviewing its decisions. The details are discussed in the following paragraphs.
10. The only issue raised by the petitioner M/s KDHPCL is that, while determining the BST of the petitioner, the Commission has not appraised in detail the additional revenue that would be available to the petitioner though the revised RST applicable w.e.f 26.06.2022. The petitioner further argued that, the Commission has not consulted with the petitioner before revising the BST applicable to them. The petitioner submitted that, the accumulated surplus of Rs 975.36 lakh available with the petitioner as on 31.03.2021 is earmarked for setting up a 33/11kV substation at its cost. The Commission examined the issues raised by the petitioner and noted the following.
- (1) The petitioner M/s KDHPCL is a small distribution licensee holding license to distribute electricity in the Munnar and surrounding areas. KSEB Ltd is the incumbent distribution licensee in the State of Kerala.

M/s KDHPCL has been purchasing the electricity from KSEB Ltd at the bulk supply rate (BST) to distribute electricity within their licensed area.

- (2) KSEB Ltd on 31.01.2022 has filed the petition for the approval of the ARR, ERC and Revenue gap for the MYT period from 2022-23 to 2026-27. Subsequently on 10.02.2022, KSEB Ltd has filed the Tariff Revision proposals for the said MYT period. In the Tariff Revision proposals, KSEB Ltd has proposed to revise the 'Retail Supply Tariff (RST)' to the consumers of the State and also the 'Bulk Supply Tariff (BST)' applicable to small licensees who purchase power from KSEB Ltd. The petition was filed in compliance of the provisions of the KSERC (Terms and Conditions of Determination of Tariff) Regulations, 2021 (herein after referred to as Tariff Regulations, 2021).
- (3) The Regulation 85(1) to 85(3) of the Tariff Regulations, 2021 provides as follows.

"85. Determination of Tariff. –

- (1) *The bulk supply tariff and retail supply tariff of the distribution licensees, and the wheeling charges for use of the distribution system shall be determined by the Commission, on the basis of a petition for determination of tariff made by the distribution licensee in accordance with the provisions under Chapter III of these Regulations.*
- (2) *The retail supply tariff shall be uniform for the same tariff category of consumers of all the distribution business/licensees in the State of Kerala and shall be the same as the retail supply tariff category wise as determined by the Commission from time to time for the distribution business of KSEB Limited.*
- (3) *The bulk supply tariff for supply of electricity by KSEB Limited to other distribution licensees in the State of Kerala shall be determined by the Commission, in accordance with the principles laid down from time to time, in the orders of the Commission with regard to such distribution licensees.*

....."

As extracted above, as per the Tariff Regulations, 2021, uniform Retail Supply Tariff (RST) is prevailing in the State for the same tariff category of consumers irrespective of whether they belong to KSEB Ltd or other small licensees. The Bulk Supply Tariff applicable to the small licensees who purchase power from KSEB Ltd shall be determined by the Commission based on the principles laid down from time to time and also with respect to Orders of the Commission with regard to such distribution licensees.

- (4) The Commission, after prepublication, stake holder consultation and public hearings, vide the Order dated 25.06.2022, had approved the tariff of all categories of consumers including the RST of the consumers and also the BST of the small licensees who purchase power from KSEB Ltd. In the Tariff Order dated 25.06.2022, the Commission had determined the tariff of all categories of electricity consumers of the State including the bulk consumers and small licensees, who purchase power from KSEB Ltd.

- (5) In case of the petitioner M/s KDHPCL, the existing tariff, the tariff proposed by KSEB Ltd for the year 2022-23 and the tariff approved by the Commission for the year 2022-23 is given below.

BST approved for KDHPCL for the year 2022-23

Particulars	Existing tariff	KSEB Proposal	Approved by the Commission
Demand charge (Rs/kVA/month)	340	450	380
Energy charge (Rs/ kWh)	4.80	5.30	5.30

The Commission has revised the Bulk Supply Tariff (BST) of the petitioner duly considering the additional revenue that could be earned by revising the retail supply tariff (RST) w.e.f 26.06.2022 and also the additional surplus of Rs 9.75 crore available with the petitioner. These aspects were discussed in detail in the Tariff Order dated 25.06.2022, which is extracted below for ready reference.

“Comments of the petitioner.

2.3 M/s Kannan Devan Hills Planation Company Private Ltd (KDHPCL) submitted that whenever KSEB Ltd seeks tariff revision for its consumers, revision of tariff of the Licensees also done based on the revised tariff revenue for each year of the Control Period. KDHPCL requested to follow the same practice during current revision also.

Opinion of the Commission

2.8 The Commission noted the suggestions of all licensees. The Commission has been following uniform RST in the State. Hence as and when tariff is revised to the consumers of the incumbent licensee KSEB Ltd, the same RST is made applicable to consumers of other licensees also. This would result in additional revenue to the licenses. Further, as per the latest truing up orders, all the licensees except Infopark and Smartcity had accumulated surplus. The Commission shall look into all these aspects while revising the BST.

The Commission has also noted the request of MES to review their tariff. The Commission may consider the same in the tariff revision exercise.”

11. As per the provisions of the Tariff Regulations, 2021, the Commission also has to approve the ARR, ERC and Revenue gap of the small licensees who purchase power from KSEB Ltd also for the MYT period from 2022-23 to 2026-27. The petitioner M/s KDHPCL on 24.02.2022 has filed the petition for approval of the ARR, ERC and Revenue gap of the petitioner for the MYT period from 2022-23 to 2026-27. The Commission is yet to take a final decision on the approval of the ARR petition filed by the petitioner. The Commission shall look into the issues raised by the petitioner while appraising the ARR petition of M/s KDHPCL for the MYT period from 2022-23 to 2026-27.

The Commission also noted that the argument of the petitioner that the revenue surplus approved by the Commission as on 31.03.2021 was earmarked for the

construction of the 33/11kV substation at Munnar as part of augmenting the distribution system of the petitioner. However, the petitioner is yet to file petition for the investment approval of the construction of the 33/11kV substation at Munnar along with the funding plan for such investments. Hence the Commission has not yet approved such capital investments by utilizing the surplus fund available with the licensee KDHPCL. The Commission may take appropriate decision of the funding of the investment proposal, if any, filed by the petitioner after stakeholder consultation and public hearings. Hence, the surplus approved by the Commission as on 31.03.2021 amounts to Rs 975.36 lakh is available with the petitioner. The Commission shall look into the utilisation of the surplus available at the time of appraising the ARR, ERC and Revenue gap of the petitioner M/s KDHPCL as per the provisions of the Tariff Regulations, 2021.

Considering all the above aspects in detail, the Commission is of the considered view that, there is no merit on the issues and concerns raised by the petitioner against the BST approved vide the Order dated 25.06.2022 in OP No. 11/2022. Further, the petitioner could not produce any new facts or error, for reviewing its Order dated 25.06.2022. Hence the petition filed by M/s KDHPCL for reviewing the Order dated 25.06.2022 in OP No.11/2022 could not survive and hence rejected.

Order of the Commission

12. The Commission, after examining the Review Petition filed by M/s KDHPCL, the counter affidavit of KSEB Ltd, the deliberations during the hearing held on 26.08.2022, the provisions of the Electricity Act, 2003 and Tariff Regulations, 2021, hereby orders that,
- (1) The review petition filed by M/s KDHPCL for reviewing Order dated 25.06.2022 in OP 11/2022 stands rejected due to the reasons given in the preceding paragraphs.
 - (2) The Commission may look into the issues raised by the M/s KDHPCL while approving the ARR and ERC of the petitioner.

The petition disposed of. Ordered accordingly.

Sd/-
Adv. A J Wilson

Member (Law)

Approved for issue

Sd/-

C R Satheeshchandran

Secretary