BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION

In the Matter of: **Review Petition on KSERC order dated 1st June 2011 on Petition OP No. 5 of 2011 on ARR & ERC of KSEB for the year 2011-12.**

Petitioner : **Kerala State Electricity Board,**
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram

THE PETITIONER HUMBLY STATES THAT:

1. Hon'ble Commission vide the order dated 1st June 2011 on Petition OP No. 5 of 2011 on 'ARR &ERC of KSEB for the year 2011-12' has approved the revenue gap for the year 2011-12 as Rs 887.81 crore against the Board's projection of Rs 2208.31 crore. A comparison of the various item of ARR &ERC projected by KSEB and approved by the Hon'ble Commission is extracted below.

Table-1
Comparison of the ARR &ERC proposed by KSEB and approved by KSERC

Particulars	2011-12 (Rs. Cr)		
	KSEB ARR	KSERC	Difference
Generation Of Power	396.57	264.58	131.99
Purchase of power	4031.80	3660.67	371.13
Interest & Finance Charges	385.05	265.26	119.79
Depreciation	548.39	548.37	0.02
Employee Cost	1910.62	1541.30	369.32
Repair & Maintenance	243.75	185.00	58.75
Administration & General Expenses	197.06	85.74	111.32
Other Expenses	12.00	12.00	0
Gross Expenditure (A)	**7725.24**	**6562.92**	1162.32
Less : Interest Capitalised	33.87	33.87	
Less : Expenses Capitalised	116.32	116.32	
Net Expenditure (B)	**7575.05**	**6412.73**	1162.32
Statutory Surplus/ RoE	240.72	100.00	140.72
ARR (D) = (B) + (C)	**7815.77**	**6512.73**	1303.04
Less Non-Tariff Income	390.36	390.36	
Less : Revenue from Tariff			
(a) With in the State	5217.10	5217.10	
(b) Fuel surcharge			
(c) Addl revenue from KWA		17.46	-17.46
Total Income	**5607.46**	**5624.92**	-17.46
Revenue Gap	**2208.31**	**887.81**	1320.5

2. Hon'ble Commission has disallowed/ limited many essential expenses components including cost of Generation of Power, Cost of Power Purchase, Interest and Finance charges, Employee Cost, Repair and Maintenance Expenses, Administration and Generation Expenses, Return on Equity etc. For the first time in the ARR process since the year 2003-04, Hon'ble Commission has approved the Employee Costs, R&M costs, A&G expenses etc based on the indices of Whole Sale Price Indices and Consumer Price Indices without following the proper consultation and appraisal with the utility. Further Hon'ble Commission has failed to consider the business growth of the utility and associated increase in cost other than inflation on these expense components. Moreover, Hon'ble Commission has approved excess hydel generation without considering the necessity to carry forward a part of the inflow received during the monsoon months for the use of summer months upto the month of May every year. Also, there is a clerical mistake in the Chapter-8 on 'Summary of ARR&ERC for 2011-12' when compared to Chaper-6, part-6.5 on Employee costs.

3. KSEB feels that, there is conceptual error/ erroneous assumption and wrong methodology adopted while approving the following components of the ARR&ERC of KSEB for the year 2011-12.

(a) Hydel Generation target and resulting reduction on Cost of Generation and Cost of Power Purchase
(b) Employee Cost
(c) Repair and Maintenance Expenses
(d) Administration and General Expenses
(e) Interest and Finance Charges
(f) Return on Equity
(g) Addl revenue from Kerala Water Authority
(h) T&D loss reduction targets

Hence, KSEB may be submitting this review petition for the kind consideration and favourable orders of the Hon'ble Commission. The details are given below.

I. Excess Hydel Generation for the year 2011-12

4. Expecting normal monsoon for the year 2011-12, KSEB has estimated the hydel generation target as 7056MU for the year 2011-12. The methodology adopted by KSEB for estimating the hydel generation targets are explained in detail under paragraph 7.2.2 of the ARR&ERC petition. However, in the order, Commission has revised the target as 8258MU, which was higher by 1202MU over the same proposed by KSEB. The abstract of the calculation and the basis of the higher targets fixed for the year 2011-12 was discussed under paragraph 6.2.6.1 of the order on ARR, which is extracted below.

Table-2

Hydel Generation approved for the year 2011-12

Sl No.	Particulars	MU
1	Storage as on 1-4-2011	1981
2	Actual inflow April, 2011	208
3	Estimated inflow in May, 2011	119
4	Subtotal	2308
5	20 Year Average Inflow from June to March	6353
6	Total inflow	8661
7	Less Reserve	550
8	**Balance available**	**8111**
9	**Add generation from SHPs**	**147**
10	**Total hydro generation available**	**8258**

5. KSEB has no dispute on the basic figures adopted by the Hon'ble Commission as given under Table-1 as sl no. 1 to 6 above. However, as per the sl. No.7 of the table above, the reserve proposed as on 01-04-2012 was 550 MU only. It means that, for the months of April and May –2012, the total water available in the KSEB hydel plants will be 550 + inflow for April and May-2012. Since KSEB has to maintain a reserve of 550 MU as on 1st of June-2012 for meeting the contingency due to the delay in monsoon, the actual generation possible will be limited to the actual inflow during these months. The likely consequence on subject is further explained below.

6. Hon'ble Commission is aware that, the monsoon in the State is usually commenced on 1st of June every year and it may last up to November only. KSEB has to keep about 550 to 700 MU as on 1st of June every year to avoid any contingency due to delay in monsoon.

7. Further, the hydel generation during summer months to is being done utilizing the stored water available with the KSEB reservoirs. April and May months forms part of the summer months. The total contribution of inflow during summer months from January to May was about 9% of the total inflow received in an year. Further, the average inflow expected during summer months was about 4.5 MU per day only. Considering the limited inflow available during April and May-2012, KSEB has to carry forward a part of the water available during monsoon months for the use of these months. Any failure on part of the KSEB to carryforward sufficient water in the KSEB reservoirs may affect the hydel generation during these months.

8. The twenty year average inflow expected for the water year from June-11 to May-12 adopted in the ARR is as given below.

Table-3
Averge inflow adopted in the ARR

Month	Avg inflow Expected (MU)	Remarks
Jun-11	760	Total inflow- June-2011 to March-2012 = 6353 MU
Jul-11	1530	
Aug-11	1294	
Sep-11	846	
Oct-11	812	
Nov-11	560	
Dec-11	244	
Jan-12	131	
Feb-12	88	
Mar-12	86	
Apr-12	98	Total for April-12 and May-12 = 272 MU
May-12	174	

9. As detailed above, the average inflow expected for the month of April and May-2012 is about 272 MU only (average 4.45 MU per day for the 61 days of April and May-2011). Unless sufficient reserve has been kept as on 01-04-2012, KSEB may be forced to limit the hydel generation target to the level of 4.45MU per day during the coming months of April & May-2012.

10. A comparison of the actual hydel generation with total consumption during the months of April and May for the last two years is given below.

Table-4
Hydel Generation during April and May

Month	2010			2011		
	Hydel Generation (MU)	Total Demand (MU)	Hydel contribution (%)	Hydel Generation (MU)	Total Demand (MU)	Hydel contribution (%)
April	21.09	49.15	42.90	23.81	52.40	45.43
May	22.77	49.80	45.72	25.03	54.79	45.68

It can be seen that, about 45% of the energy demand during the months of April and May , i.e about 22 to 25 MU per day is being met from KSEB's own hydel plants.

11. Considering the increase in energy demand, energy price in the short-term market during summer months and corridor constraints etc, a minimum hydel generation to the tune of 22 MU per day is to be met from hydel sources during the coming months of April-12 and May-12. Thus, KSEB has to generate about 1342 MU @ 22 MU/day for the 61 days of April and May-2012.

12. Inorder to generate about 1342MU for the months of April and May-2012 from hydel plants, KSEB has to carry forward a minimum storage of 1620MU [1342+ 550 (reserve storage) – 272 MU (inflow expected for the month of April and May-2012)] through the stored water as on 1st of April-2012. The reserve storage as on 1st of April during the last few years is shown below.

Table-5

Reservoir Storage as on 1st of April

Year	Storage as on 1st April
	(MU)
2007	1648
2008	1883
2009	1639
2010	1672
2011	1981

13. However, in the ARR order, Hon'ble Commission has proposed to carry forward 550MU as reserve storage as on 1st April-2012 and ordered to utilize the balance water available as inflow during the year 2011-12 from April-11 to March-12 itself. But as discussed above, KSEB has to keep a minimum storage of 1620MU as on 1st of April-2012 to meet the energy requirement of April and May-2012. Accordingly, the hydel generation target for the year 2011-12 get reduced by 1070MU (1620-550) , the hydel generation target will get reduced to 7188MU against 8258 MU approved by the Hon'ble Commission. The revised target of Hydel Generation based on the figures adopted by the Hon'ble Commission in the ARR order is given below.

Tabl-6

Hydel Generation possible for the year 2011-12

Sl No.	Particulars	MU
1	Storage as on 1-4-2011	1981
2	Actual inflow April, 2011	208
3	Estimated inflow in May, 2011	119
4	Subtotal	2308
5	20 Year Average Inflow from June to March	6353
6	Total inflow (Apr-2011 to Marc-2012)	8661
7	Inflow expected for April & May-2012	272
8	Total inflow (water available) up to 31st May-2012 (6)+ (7)	8933
9	Less reseve to be kept as on 1-06-2012	550
10	Less Hydel Generation target for April-12 and May-2012 (@22 MU/day x 61 days)	1342
11	Balance available for the year 2011-12 (April-11 to Mar-12) (8)-(9)-(10)	7041
12	**Add generation from SHPs**	**147**
10	**Total hydro generation available for the year 2011-12**	**7188**

14. As detailed above, as against the possible target of 7188MU from hydel sources for the year 2011-12, Hon'ble Commission has approved the hydel target as 8258MU, an excess quantity of 1070MU for the year 2011-12. Accordingly, Hon'ble Commission has not approved the cost of Power Purchase for the quantum of 1070 MU for the year 2011-12.

15. However, KSEB has to procure additional quantum of 1070 MU from short-term market or liquid fuel stations for the year 2011-12 to meet the short-fall in hydel generation on account of conserving about 1620MU as reserve storage as on 1st April-2011 insteead of 550MU approved by the Hon'ble Commission. At the approved rate of Rs 4.50 per unit for procuring power through short-term market at KSEB periphery (including losses and open access charges), the additional liability on account of procuring 1070MU works out to Rs 481.50 crore over the approved cost of Generation and Power Purchase.

16. Over the years since 2003-04, Hon'ble Commission has approved to carry forward a part of the inflow received during the monsoon months for the use of summer months up to May every year. This is the practice followed by the Board since its inception. The proposal of the Hon'ble Commission to limit the reserve as on 1st April-2012 as 550MU without considering the essentiality of the hydel generation to the tune of 22 MU/day for the month of April and May-2011 seems to be a unnoticed omission and it has be corrected.

17. Considering the huge additional liability on the issue, the corrective decision of the same may not be delayed till the truing up process. Hence, KSEB may kindly request the Commission to kindly approve the revised hydel generation target as above and to approve the additional cost of power purchase of Rs 481.50 MU for procuring the hydel shortfall through short-term market.

II. Employee Cost, Repair and Maintenance Expenses and Administration and General Expenses.

(a) Legality in adopting KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 for approving Employee Cost, R&M expenses and A&G expenses for the year 2011-12.

18. Hon'ble Commission has notified the KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 vide the notification No. 1/1/KSERC-2006/XII dated 23-03-2006. This regulation is applicable to the Distribution Licensees in the State of Kerala. Further, the clause 2(f) of the said regulations defines the "Operation and Maintenance Expenses (Or O&M Expenses)" which is reproduced below.

"Operation and Maintenance Expenses (Or O&M Expenses)"means the expenditure incurred in operation and maintenance of the **distribution system** and includes expenditure on employee cost, administrative and general expenses, repairs and maintenance, spares, consumables, insurance and other overheads;

19. Hon'ble Commission is aware that, KSEB is still continuing as a single entity doing Generation, Transmission and Distribution functions as per the provisions of the Electricity Act-2003. The assets and liabilities of KSEB is yet to be segregated in to the three functional areas. Hence, all the expense components under the O&M expenses including Employee Cost, Administration and General Expenses, Repair & Maintenance etc are claimed by KSEB as a single entity. Accordingly, the above regulation, which is applicable for a 'Distribution Licensee' cannot be made applicable to KSEB as such.

20. It may be noted that, due to the reasons as explained under paragraph-18 & 19 above, Hon'ble Commission has not adopted any of the provisions of the said regulation while approving the previous orders on ARR & ERC of KSEB since the year 2006-07, from the date of commencement of the said regulations.

21. Further, Hon'ble Commission has also reported these facts before the Hon'ble Appellate Tribunal through the affidavit against the "Appeal Petition 8 of 2008 filed by M/s Binani Zinc Ltd", which is reproduced below.

Quote:

"Para-10 of the counter affidavit of the State Commission before APTEL against Appeal petition No. 8 of 2008

10. That in respect to para 9, it is respectfully submitted that:

a. That in respect to para B3. ***(O&M Expenses and ROE)***, it is respectfully submitted that the Government of India and Government of Kerala have mutually agreed as per proviso to Section 172(a) that KSEB shall continue to be STU and a licensee under the Act till 9-6-2008. Hence KSEB is continued to be a single entity and accounts separation has not taken place yet. The KSERC (terms and conditions for retail sale of electricity) Regulations is applicable for distribution licensee. The ARR & ERC is filed for the single entity and hence the applicability of regulations is limited. Unless the accounts are separated the norms given in the Regulations are difficult to apply. Regarding the surplus determined as per the Order for ARR & ERC for 2006-07, the same will be considered during truing up exercise."

Unquote.

22. Since Hon'ble had not notified or adopted any specific methodology for approving the ARR&ERC petitions till last year 2010-11 and also the affidavit given before the Hon'ble APTEL, KSEB has also estimated the Employee Cost, R&M expenses, A&G expenses etc *based on the past actuals, business growth of the utility, inflationary factors and*

essential requirements etc report from various functional units and field offices for the current financial year 2011-12 also.

23. It is further submitted that, Hon'ble Commission is already in the process of finalizing the norms for approving various expenses of ARR&ERC, Tariff petitions and Truing Up petitions of KSEB as a single entity. KSEB request that, till the finalisation of the said regulation, Hon'ble Commission may approve the O&M expenses including Employee Cost, R&M expenses and A&G expenses as estimated by KSEB after prudence check.

24. However, Hon'ble Commission has adopted the clause-15 of the KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 vide the notification No. 1/1/KSERC-2006/XII dated 23-03-2006 for approving the O&M expenses including employee cost, R&M expenses and A&G expenses for the year 2011-12. As detailed under para-18 above, the regulation is applicable only for the distribution licensees and cannot be adopted for estimating the O&M expenses of Generation Assets and State Transmission Utility.

25. In this matter, it is further submitted that, Hon'ble Commission has not informed KSEB about the adoption of provisions of the said regulation for approving the O&M expenses for the first time for 2011-12. The circumstances necessitate for such a change in the methodology has also not been explained to KSEB and thus KSEB was denied the opportunity to express the concerns and apprehensions and limitations in adopting the said regulation for approving the O&M costs. It may be noted that, Hon'ble Commission has used the provisions of the said regulation selectively for approving the O&M expenses only, but the other items covered in the regulations such as financing cost, interest on working capital, Depreciation/ Advance against depreciation etc has been approved only as per the methodology followed by the Hon'ble commission till date. Further, the approach of the Hon'ble Commission to adopt the provisions of the said regulation selectively for approving the O&M expenses is detrimental to KSEB. In case the Hon'ble Commission wants to adopt the provisions of the said regulation for approving the O&M expenses for the year 2011-12, it may be done only after giving an opportunity to KSEB for expressing the concerns and overcoming the inherent limitations in the regulations with suitable modifications for adopting the same for Generation and Transmission assets.

26. Considering the reasons as explained above, KSEB may kindly request before the Hon'ble Commission to review its decision on adopting clause-15 of the KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 vide the notification No. 1/1/KSERC-2006/XII dated 23-03-2006 for approving O&M expenses of KSEB for the year 2011-12 and may approve the O&M expenses including Employee

Cost, R&M expenses and A&G expenses as estimated by KSEB after prudence check.

(b) Business Growth of the Utility has not considered while approving the O&M expenses of a Distribution Utility.

27. While approving the Operation & Maintenance Expenses including Employee cost, Repair & Maintenance Expenses and Administration & General Expenses for the year 2011-12, Hon'ble Commission has adopted the expenses as per the audited accounts for the year 2008-09 as the base and inflated the same based on the weighted average indices of the Consumer Price Index (CPI) and Wholesale Price Index (WPI) at the weightage of 70:30. Accordingly, the increase in O&M cost allowed for the year 2011-12 is limited to cover the inflation level only.

28. It may be noted that, for a Generating Station or a Transmission asset like that of the power stations of NTPC, NLC and Transmissions lines of PGCIL (each line is being treated separately), the yearly escalation linked to inflationary indices may be sufficient to meet the yearly increase. Further, once in every five years, sufficient provision is being given for pay revision and associated increase.

29. However, for a utility like KSEB wherein consumer base is growing, the energy sales to the consumers has also been increasing, new assets are being added to the system in all the three functional areas – Generation, Transmission and Distribution. So, while approving the O&M expenses, the additional O&M expenses due to the business growth also shall be properly accounted. The business growth of KSEB since the year 2008-09 is detailed below.

Table-7
Business Growth of the KSEB since 2008-09

	No of consumers		Energy sale		Gross Fixed Asset (at the beginning of the year)	
Year	(nos)	(% increase over 2008-09)	(MU)	(% increase over 2008-09)	(Rs.Cr)	(% increase over 2008-09)
2008-09	93.63		12877.65		8684.54	
2009-10	97.43	4.06	14047.75	9.09	9249.11	6.50
2010-11	101.24	8.13	14670.52	13.92	10192.17	17.36
2011-12	104.74	11.87	15600.15	21.14	11044.57	27.18

30. As detailed in the Table-7 above, during the period from 2008-09 to 2011-12, the consumer strength has increased by 11.87%, energy sale has increased by 21.14% and Gross Fixed Asset has increased by 27.18%. It is obvious that, KSEB has to incur additional employee cost etc for providing the new service connections, creating new assets in

all the three functional areas and also has to incur additional R&M costs and A&G expenses for maintaining the newly added assets in the system. However, Hon'ble Commission has not considered the business growth of the utility and associated increase while approving Employee Cost, R&M expenses and A&G expenses. The approach and methodology adopted by the Hon'ble Commission to approve the O&M expenses without considering the business growth of the utility is error prone.

31. In this matter, it is further submitted that, most of the regulators are duly considering the business growth of the utility also while approving the O&M expenses on normative basis and some others are allowing the actuals after prudence check. In this matter, the approach of the UP ERC, and Karnataka ERC for approving the O&M expenses as per the recent orders on ARR &ERC is extracted below for ready reference.

"(1) UP ERC
Extract from UPERC order dated 31st March-2010 in the matter of Determination of ARR & Tariff for the FY-2009-10 on petition No. 624, 625, 626, 627, 628 of 2009.

Quote:

6.19 O&M EXPENSES:
6.19.1 Operation and Maintenance (O&M) expenses comprise of Employee related costs, Administrative and General (A&G) Expenses, and Repair and Maintenance (R&M) expenditure.

6.19.2 The regulation 4.3 of the Distribution Tariff Regulations stipulates:

"1. The O&M expenses comprise of employee cost, repairs & maintenance (R&M) cost and administrative & general (A&G) cost. The O&M expenses for the base year shall be calculated on the basis of historical/audited costs and past trend during the preceding five years. However, any abnormal variation during the preceding five years shall be excluded. For determination of the O&M expenses of the year under consideration, the O & M expenses of the base year shall be escalated at inflation rates notified by the Central Government for different years. The inflation rate for above purpose shall be the weighted average of Wholesale Price Index and Consumer Price Index in the ratio of 60:40. Base year, for these regulations means, the first year of tariff determination under these regulations
2. Where such data for the preceding five years is not available the Commission may fix O&M expenses for the base year as certain percentage of the capital cost.
*3. **Incremental O&M expenses for the ensuing financial year shall be 2.5% of capital addition during the current year. O&M charges for the ensuing financial year shall be sum of incremental O&M expenses so worked out and O&M charges of current year***

escalated on the basis of predetermined indices as indicated in regulation 4.3 (1)..”

…..

6.19.6 **O&M EXPENSES ON ADDITIONS TO ASSETS DURING THE YEAR:**
6.19.7 In addition to the employee, A&G and R&M expenses approved by the Commission in preceding paragraphs, the regulations provide for incremental O&M expenses on additions to assets during the year.

6.19.8 Based on the above, the incremental O&M expenses for FY 2009-10 work out to Rs. **50.44** cr as shown in the **TABLE 6-27** below. The same are allocated across the individual elements of the O&M expenses on the basis of the contribution of each element in the gross O&M expenses excluding the incremental O&M charges.

Unquote.

A copy of the relevant pages of the order is enclosed as **Annexure-1.**

(2) Karnataka- ERC - extract from Karnataka ERC ARR order for the BESCOM dated 7-12-2010 for the period 2011-13 is also extracted below.

Quote:
“ The Commission, while determining normative O&M expenses for the control period, has considered:

a) The actual O&M expenditure for the base year FY10 as per audited accounts furnished by BESCOM;
b) The inflation factors based on relevant CERC orders issued from time to time; and
c) *Consumer growth rate based on actual increase in number of consumers as furnished by BESCOM”*

Unquote.

A copy of the relevant pages of the KERC order is enclosed as **Annexure-2.**

32. Further, Chattisgarh SERC, Punjab SERC, UP ERC etc has also addressed the same through the regulations. The relevant pages of the CSERC (Terms and Conditions for Determination of Tariff) regulations, 2006 is extracted below.

Quote:
17. Operation & Maintenance expenses
(1) The operation and maintenance (O&M) expenses comprise of the employee cost, repairs and maintenance (R&M) costs, administrative and general (A&G) costs and other miscellaneous expenses including

insurance. The Commission may specify normative O&M expenses for the base year as certain percentage of the capital cost of the distribution system and also may specify separate norms for difficult terrain. The base year, for the purpose of O&M expenses, shall be the tariff year immediately after the notification of these Regulations.

(2) O&M expenses of assets taken on lease and those created out of consumer's contributions shall be considered, if the licensee has the responsibility for its operation and maintenance and bears O&M expenses.

(3) To arrive at the O&M expenses for the tariff year, the normative O&M expenses allowed for the base year shall be escalated on the basis of predetermined indices such as consumer price index, wholesale price index and ***other cost drivers such as network growth, energy sales, growth in consumer, wage revision of the employees of the licensee etc***., subject to prudence check by the Commission.

(4) Increase in O&M charges on account of war, insurgency, and change in laws, or such like eventualities may be considered by the Commission for a specified period.

(5) The licensee shall be allowed to retain the savings against the permitted O&M expenses. Likewise, the licensee shall bear the losses if he exceeds the permitted O&M expenses, for that year.

Unquote.

33. Hence, KSEB kindly request before the Hon'ble Commission to consider the business growth of the utility also while approving the Employee Cost, Repair & Maintenance Expenses and A&G expenses for the year 2011-12.

(c) Whether the increase in the employee cost can be limited to the inflationary indices alone.

34. Kind attention of the Hon'ble Commission is invited to the A53 of the Economic Survey of India 2010-11, wherein a comparison of the percapita emoluments of the Central Public Sector Enterprises Employees in relation to increase in average all-India Consumer Price Index (1960=100) is given. A copy is attached as **Annexure-3**.

35. It can be seen that, during the period from 1971-72 to 2009-10, the average emoluments of the employees has increased from Rs 5920/ head/annuam to Rs 609816/head/annuam, i.e., an increase of 10220.95% over 1971-12. During the same period, the consumer price Index has increased from 192 point to 3715 point only , i.e., an increase of 1834.8% only.

36. As detailed above, when compared to the increase in consumer price index, the employee cost has increased by 5.57 times over the increase of CPI. The above data compiled by the Economic Survey of India clearly indicates that, the increase in salary and emoluments of the employees was more than 5.57 times that of the Consumer Price Index.

(d) Employee Cost for the year 2011-12

37. In the ARR, KSEB has projected the employee cost for the year 2011-12 as Rs 1910.56 crore, but while approving the ARR, Hon'ble Commission has limited the same to Rs 1582.11 crore. A comparison of the various elements of employee cost projected by the Board and the same approved by the Hon'ble Commission is detailed below.

Table-8

Comparison of the Employee cost projected by KSEB and the same approved by KSERC

Particulars	KSEB ARR (Rs.Cr)	KSERC Approval (Rs.Cr)	Disallowance (Rs.Cr)
Basic pay	430.12	413.82	-16.30
DA	481.73	272.14	-209.59
Other allownaces (HRA, EL encashment etc)	106.52	125.48	18.96
Provision for Payrevision	141.52	109.77	-31.75
Terminal benefits	750.67	660.89	-89.78
Total	1910.56	1582.10	-328.46

38. **Basic pay:** Hon'ble Commission has allowed a 3% increase on the basic pay over the actuals for the year 2008-09. While doing so, Hon'ble Commission has failed to appreciate following facts.

(1) KSEB has to provide annual increment to all its employees based on the approved pay revision orders. As per the existing pay scale (pre-revised as well as revised scale), the annual increment alone was about 3 to 5%. A copy of the Wage settlement between KSEB and its employees is given as **Annexure-4.**

(2) As discussed under paragraph-27 to 32 above, intune with the business growth of the utility and also to meet the stringent performance standard enforced by the Hon'ble Commission, KSEB has to recruit new employees (a part of the business growth is being met through employee productivity).

(3) Considering all these factors, KSEB has provided about 6% increase in basic pay for the year 2011-12 over the previous year 2010-11 instead of the 3% approved by the Commission.

(4) The 3% annual increase on basic pay on the same for the year 2008-09 is not sufficient and KSEB request before the Hon'ble Commisison to kind approve the same as proposed in the ARR.

39. **Dearness allowances:** KSEB has made a provision of Rs 481.73 crore as DA for the year 2011-12, however as per the order on ARR, the DA allowed was Rs 272.14 crore only, a disallowance of Rs 209.59 crore

over the same projected by KSEB. In this matter the following points may be brought to the kind attention of the Hon'ble Commission.

(i) DA is a firm liability of KSEB and is an un-controllable expenses. DA is allowed to KSEB employees as and when the same is allowed to Kerla State Government to its employees. Also, as per the wage settlement agreement entered into between KSEB with the registered trade unions , KSEB has to provide DA to its employees at the same rate DA is allowed to State Government employees.

(ii) The DA allowed to KSEB employees since the last pay-revision orders applicable w.e.f July-2003 is given below. (DA up to July-2003 was then merged with Basic pay).

Table-8
DA allowed to KSEB employees as on date

Date of effect	Rate of DA	Total DA applicable on the Basic Pay
January-04	2% of the Pay	2%
July-04	3% of the pay	5%
January-05	3% of the pay	8%
July-05	4% of the pay	12%
January-06	3% of the pay	15%
July-06	5% of the pay	20%
January-07	6% of the pay	26%
July-07	6% of the pay	32%
January-08	6% of the pay	38%
July-08	7% of the pay	45%
January-09	10% of the pay	55%
July-09	9% of the pay	64%
January-10	14% of the pay	78%
July-10	16% of the pay	94%
January-11	12% of the pay	106%

(iii) It may be noted that the State Government and KSEB has been adopting the DA rates as approved by the Government of India for the employees of the Central Government and Central Autonomous Bodies continuing to draw their pay in the pre-revised scale. Copies of the recent orders on rate of DA approved by State Government is enclosed as **Annexure-5**.

(iv) In this matter, kind attention of the Hon'ble Commission is invited to the letter No. 1235/ARR&ERC 10-11/KSERC /2010 dated 28th July-2010 addressed to KSEB, wherein Hon'ble Commission has communicated as under :

" the expenditure on account of DA/DR increases announced by the Government from time to time can be paid to the employees and pensionmers without reference to the Commission. Any additional expendicture inthis regard over and above the approved expenditure can be considered at the time of truing up as has been done in the previous years"

A copy of the letter dated 28th July-2010 is enclosed as **Annexure-6**.

(v) Further, Hon'ble Commission vide the press release dated 28th July-2010 has clarified as under:

"Existing salary, DA and pension are considered as uncontrollable items in the tariff determination process. In the past also all such increases in salary and DA have been allowed even if it was higher than the approved level while finalizing each years accounts. In one of the previous Orders, the Commission had stated that "*the increase in DA due to inflation has to be allowed to KSEB employees as and when it becomes due and shall not be permitted to accrue.*" There is also a provision in the Electricity Act that there shall not be any deterioration in the terms and conditions of employees in the reform process."

Now the stand taken by the Hon'ble Commission in this order is totally contrary to the stand taken till date.

(vi) Accordingly, as detailed under Table-8 above, KSEB has allowed DA to its employees upto Januray-2011 at 106% of the Basic pay, i.e., at the same rate DA allowed to State Government employees. Thus the DA as on 01-04-2011 was 106% of the Basic Pay at the pre-revised scale. Further, KSEB has to allow additional DA during the year 2011-12 to its employees to be declared on July-2011 and January-2012. Based on the trend of DA rates during the year 2009-10 and 2010-11 (which was 23% and 28%), the additional provision for 24% of DA release (12% w.e.f July-2011 and 12% from Jan-12) was made during the year 2011-12.

(vii) However, in the ARR order, Hon'ble Commission has approved the DA for the year 2011-12 as Rs 272.14 crore. Compared to the approved Basic Pay of Rs 413.82 crore, the approved DA works out to 65.76% only against the actual DA @ 106% released as on 01-01-2011. Hon'ble Commission may kindly note this anomaly and kindly allow the actual DA as on 01-04-2011 @ 106% of the basic pay. Further, since KSEB has to release additional DA w.e.f July-2011 and January-2012, an additional provision as provided by KSEB in the ARR petition also may be kindly be allowed.

40. **Provision for Pay revision:** As informed to the Hon'ble Commission, the pay revision to the employees was due from 1st August-2008 and Officers from July-2008. For the year 2008-09, KSEB has made provision of Rs 82.35 crore as pay revision arrears which was due for 8 months for employees and 9 months for officers, i.e, the provision of pay revision arrears made for the year 2008-09 was only for the part of an year. However, while approving the orders on ARR, Hon'ble Commission has adopted the provision made for the year 2008-09 as the base and escalated the same at the inflationary indices computed for the subsequent years and thus approved the provision for pay revision as Rs 109.77 crore against Rs 141.52 crore proposed by KSEB. Accordingly, the provision of pay revision approved for the year 2011-12 reflect only the additional liability required for a part of the year. Hence, if the Hon'ble Commission is for adopting the employee cost for the year 2008-09 as the base, then the provision of pay revision made for the part of the year should have been suitably modified to reflect the requirement of a part of the year. This anomaly may be kindly be noted and corrected.

41. Regarding pay revision, the following facts also brought to the kind attention of the Hon'ble Commission.

    (i) KSEB vide the letter dated 28-03-2011 has communicated the long-term settlement reached with the representative of the registered trade unions and Board Management on pay revision which was due from August-2008 onwards. Board has also communicated the proposal submitted by the pay revision committee for the revision pf the pay and allowances to the officers of KSEB. It was also communicated that, the yearly increase on pay revision would be about 14% on the salary and other emoluments at the pre-revised scale. The likely additional liability due to pay revision for the year 2011-12 on the serving employees would be Rs 181.44 crore as against Rs 109.77 crore approved.

    (ii) In the previous order on ARR&ERC for the year 2010-11, Hon'ble Commission has directed that the salary revision if any offered shall completely be funded through efficiency gains without any extra burden to the consumers. However, it is totally impossible to met the total increase of about 14% on account of pay revision through efficiency gain alone. In this matter, kind attention of the Hon'ble Commission is invited to the judgment of the Hon'ble APTEL dated 7th February 2008 on appeal petition No. 250 of 2006. The relevant paragraph of the judgment is extracted below.

    Quote: Judgment dated 7th February-2008 on appeal petition No. 250 of 2006

43. We appreciate concern of the Commission regarding employees productivity and its endeavor to increase the same. Increasing the employees productivity will enhance efficient working of the organization, cut costs and improve reliability and quality of supply. We hope that the appellants take up the task of improving the productivity levels in their respective organizations and ensure continued improvements in the productivity levels as expected by the Commission. Having said that, **we do not agree with the decision of the Commission not to allow the employees cost as pay revisions take into account factors such as: cost of living, salary levels in similar sectors etc. and are not necessarily linked to employee productivity alone.** The Commission has sufficient powers under Section 142 of the Act to enforce its directions regarding improvement of employee productivity. Wage revisions invariably require very long and protracted negotiations and, therefore, we do not find any justification in disallowing arrears of pay revisions to the appellants. ***In today's industrial environment the appellants cannot postpone the payment of arrears and, therefore, will be exposed to crippling cash flow constraints if the wage related payments are not allowed.***

44. In view of the aforesaid discussion we hold that all payment of arrears arising as a result of the pay revision should be allowed with carrying cost in the next truing up exercise.

Uquote:

42. KSEB has been taking various steps for improving the productivity and to contain the raising trend in employee cost as part of the negotiation on wage revision as well as the part of reform process. A summary of the efforts is given below.

(i) KSEB has converted all section offices as model sections and also re-arranged the employees working in each model sections. As a result, the lineman and Overseer requirement of the section offices has considerably reduced as detailed below.

Category	Norm-based employee requirement	Requirement as per Model Sections	Reduction
Lineman	11045	8218	2827
Overseer	6667	4004	2663
Total	17712	12222	5490

(ii) Withdrawal of Incentive Allowances: As part of the Long Term Settlement entered into with the Employee Trade Unions during February 2011, the Board has decided to discontinue the payment of all types of incentive allowances since the number based work norms has been replaced by time related nature of duty, except in the case of Meter Readers for whom the incentive allowance will be continue for the time being until introduction of PDA and other new technologies.

(iii) Limiting the Spread over Allowance only to the Breakdown Wing: As part of the Long Term Settlement entered into with the Employee Trade Unions during February 2011, the Board has decided to limit the payment of Spreadover allowance to only those employees who are actually engaged in the EHT line maintenance work and who are members of the Breakdown Wing. Earlier this allowance had been given to all employees of the Section office, irrespective of their nature of duty.

(iv) KSEB has been computerizing its major areas of activities including LT, HT & EHT billing, Accounting at ARU level, Supply Chain Management, HRM activities etc. All these efforts on computerization may ultimately lead to reduction on employee requirement and costs.

(v) Payment Gateway mechanism to remit money. Consumers can make payment through Debit Card, Credit card and online banking.

All these efforts, KSEB expect to increase the productivity of the employees in a phased manner, atleast 1% of the total additional increase after factoring the 'inflation and business growth' shall be met through employee productivity.

43. Hence, Hon'ble Commission may kindly approve the provision for pay revision as proposed by KSEB in the ARR petition and also approve the arrears as communicated vide the letter dated 30-03-201.

44. **Pension and Terminal benefits**. KSEB had estimated the pension liabilities for the year 2011-12 as Rs 750.67 crore. However, while approving the ARR, Hon'ble Commission has taken the actual pension and other emoluments for the year 2008-09 as the base and inflated the base as per the weighted average indices of CPI & WPI as explained earlier. There is a conceptual error in the methodology adopted by the Hon'ble Commission as explained below.

(i) The pension & terminal benefits is the total liability towards existing pensioners as well as employees to be retired in each year. However, while approving the pension liabilities, Hon'ble Commission has not considered the employees retired after the year 2008-09.

(ii) Pension is a firm liability of KSEB and Board cannot deny pension and other allowances to its employees. Till date pension is an unfunded liability.

45. Further, the pension cannot be limited to any indices as ordered by the Hon'ble Commission. As explined earlier, it also depends on the

additional employees retired in each year in addition to the existing employees.

46. Hence, KSEB may kindly request before the Hon'ble Commission to approve the pension liabilities as proposed and also allow the actuals at the time of truing UP.

47. **Employee Cost- Clerical error under section 6.11:** As detailed under paragrphs 37 to 46 above, Hon'ble Commission has made conceptual error in approving the total employee cost as Rs 1582.11 crore against the Bard's projection of Rs 1910.62 crore and so KSEB had prayed before the Hon'ble Commission to correct the conceptual error through the order on this review petition.

However, under the section 6.11 of the ARR order and Chaper-8 of the order wherein the summary of the ARR and reveneue gap for the year 2011-12 has approved, the employee cost adopted was Rs 1541.30 crore, i.e, less by 40.81 core from the approved amount. This clerical error also may be corrected.

(e) Repair and Maintenance Expenses for the Year 2011-12

48. In the ARR, KSEB has projected the R&M cost required for the year 2011-12 as Rs 243.75 crore based on the R&M plan reported from field offices, past actuals, inflationary trend and age of assets. However, in the order on ARR&ERC, Hon'ble Commission has limited the R&M cost as Rs 185.00 crore, i.e, reduced the R&M cost by Rs 58.75 crore (a reduction of 24.10 % over KSEB's projection) for the year 2011-12.

49. As discussed earlier, Hon'ble Commission has adopted the R&M cost for the year 2008-09 as the base and allowed the inflation based on weighted average of the CPI &WPI as detailed under paragraph-27 of this petition. However, KSEB strongly feels that, the disallowance of R&M cost by 24.10% on the KSEB projection without considering the age of the assets, new assets added into the KSEB system since 2008-09 and increasing importance of R&M due to stringent performance standards and to maintain the assets to deliver the quality and uninterrupted supply to its consumers may severely affect the performance of KSEB . In this matter the following points also may be brought to the kind attention of the Hon'ble Commission.

(i) R&M expenses is highly susceptible to inflation and age of assets. Most of the KSEB assets are old and already depreciated and expired its useful life, however KSEB has been extending its life through proper maintenance. In this matter, kind attention of the Hon'ble Commission is invited to the 1st proviso to clause-10 of the CERC (Terms and Conditions of Tariff) regulations, 2009, wherein a 'special allowance' has been provided for extending the life beyond the useful life. Relevant pages of the regulation is marked as **Annexure-7**. However, KSEB has not claimed any such additional claim based on the age of the assets.

(ii) Kind attention of the Hon'ble Commission is invited to Table-7 under paragraph-29 of this petition, wherein the year wise details of the assets added to the KSEB system since the year 2008-09 was given. The GFA at the beginning of the year 2008-09 was Rs 8684.54 crore, which was increased to Rs 11044.57 crore at the beginning of the year 2011-12, i.e., an increase of Rs 2360.03 Cr (27.18% increase over 2008-09) during the three years since 2008-09. Obviously, there shall be proportional increase in the R&M costs for maintaining the new assets added to the system to the tune of Rs 2360.03 crore since the year 2008-09.

(iii) As discussed under para-31 and 32 of this petition, the regulators in the country are allowing the additional R&M costs for the newly added assets as a percentage of GFA for the first year of asset addition and escalation based on the inflationary indices are allowing for the subsequent years. Further, few regulators are approving the R&M costs as proposed by the DISCOMs after prudence check.

(iv) Hon'ble Commission is already in the process of finalizing norms for ARR&ERC process including R&M expenses. Till the finalisation of the norms, KSEB request before the Commission to approve the R&M expenses as projected by KSEB for the year 2011-12.

(v) Considering all these aspects as detailed in the petition, KSEB kindly request before the Hon'ble Commission to approve the R&M expenses as projected in the ARR&ERC petition which was projected duly considering the GFA as on 1st of April-2011, inflationary factors, age of assets and the importance of R&M for maintaining the assets to provide quality supply etc. Any change in the

(f) Administration and General Expenses

50. In the ARR, KSEB has projected the A&G expenses for the year 2011-12 as Rs 197.06 crore, which includes Rs 89.78 crore as electricity duty and A&G expenses other than duty was Rs 107.28 crore. However, while approving the ARR, Hon'ble Commission has disallowed the section 3(1) duty as such. Further, for the A&G expenses other than duty, the actual amount for the year 2008-09 is taken as the base and escalated at the indices of CPI& WPI as detailed under paragraph –27 of this petition.

51. Even though the A&G expenses is a controllable item, it shall also increase in proportion to the business growth of the utility including

new service connections provided, increase in energy sale volume, new capital works in progress etc in addition to the inflationary factors. However, while approving the A&G expenses, Hon'ble Commission has not considered the business growth of the utility.

52. As detailed under Table-7 of pargraph –29 of this petition, KSEB has provided / target to provide 11.11 lakhs (11.87% increse) new service connections over 2008-09, the energy sale volume has increased by 2722.50 MU (an increase of 21.14%) over 2008-09, GFA has increased by Rs 2360.03 crore (increased by 27.18%) over 2008-09. However, Hon'ble Commission has not allowed any increase for the business growth of the utility. This is totally against the prudent utility practices and detrimental to the interest of KSEB. Further, the fee for filing ARR petitions, licence fee etc also accounted as A&G expenses. Hence, there is no logic in approving the A&G expenses considering the A&G expense incurred for the year 2008-09 as the base.

53. Hence KSEB request that, A&G cost may be revised duly considering the business growth of the utility, inflation and other non-controllable expense components of the A&G expenses including audit fees, licence fee, fee for filing ARR&ERC, fuel surcharge petitions etc.

54. Hon'ble Commission may be aware that, section 3(1) duty amounts to Rs 89.78 crore to the State Government is a firm liability on KSEB as a distribution licensee. KSEB has no other business other than electricity distribution to account such huge amount. Hon'ble Commission may please note that, the total RoE allowed to KSEB for Generation, Transmission and Ditribution business was just Rs 100.00 crore only. In proportion to the GFA of the three functional areas, the RoE contribution to distribution business was about Rs 34.65 crore. It means that, even the RoE to the distribution business is not sufficient to meet the section (1) duty payable to the Government. As per the provisions of the Electricity Act-2003, Hon'ble Commission is empowered to ensure financial sustainability of KSEB as a Distribution Utility. With the statutory powers to the Hon'ble Commission, the matter of disallowance of section 3(1) duty may be reconsidered and it may be considered as a genuine expense of KSEB as a utility engaged in electricity distribution.

III. Return on Equity

55. In the ARR&ERC petition for the year 2011-12, Board has claimed the RoE @15.5% for the Government Capital of Rs 1553.00 crore with the Board. However, pending decision of the KSEB petition dated 13-12-2010, Hon'ble Commission has provisionally allowed a return of Rs 100.00 crore for the year 2011-12. In this matter, KSEB would like to bring the following facts before the kind attention of the Hon'ble commission.

(i) Government of Kerala vide the order G.O.(Ms) No. 35/10/PD dated 13.12.2010 has amended its order dated 09.10.2002 with retrospective effect and ordered that:

"Government have examined the matter in detail and are pleased to amend para (5) of the G.O (Ms) No. 25/02/PD dated 9-10-2002 with retrospective effect as follows:-

(5) Government have examined the matter in detail together with the package solution suggested by the Committee constituted for netting off dues and are pleased to issue the following orders.

i. *Netting off the dues will be done after reconciling the final audited figures furnished by KSEB with Government account.*
ii. *The equity of Rs. 1553 crores ordered in G.O.(Ms) No. 27/98/PD dated 14.09.1998 will continue to be treated as Government's capital in KSEB."*

Accordingly, KSEB has claimed the return @15.50% for the capital of Rs 1553.00 crore with the Board.

(ii) Government vide the order G.O (Ms) No. 27/98/PD dated 14-09-1998 has ordered to convert the loan amount of Rs 1025.00 crore by KSEB from State Government as on 31-03-1998 together with interest amounting to Rs 528.00 crore upto 3`-03-1997 will be converted in to equity.

Since the Government order is for conversion of amounts of loans into capital, the procedures prescribed under section-12A of the Electricity (Supply) Act, 1948 for Capital structure is not required as per the section-66A of the Electricity (Supply Act) 1948, which is extracted below.

Quote:

1[**66-A. CONVERSION OF AMOUNT OF LOANS INTO CAPITAL. -(Supply Act-1948)**(1) Notwithstanding anything contained in Sec. 12-A, where any loan has been obtained from the State Government by a Board, in respect of which Board a notification has been made under subsection (1) of that section, or any loan is deemed to be advanced to such Board by the State Government under sub-section (2) of Sec. 60, the State Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that the amount of such loan or any part thereof shall be converted into capital provided to the Board on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of such loan do not include a term providing for an option for such conversion.(2) In determining the terms and conditions, of such conversion, the State Government shall have due regard to the following circumstances, that is to say, the financial position of the Board, the terms of the loan, the rate of interest payable on the loan, the capital of the Board, its loan liabilities and its reserves.

(3) Notwithstanding anything contained in this Act, where the State Government has, by an order made under sub-section (1), directed that any loan or any part thereof shall be converted into capital, and such

order has the effect of increasing the capital of the Board, the capital of the Board shall stand increased by the amount by which the conversion increases the capital of the Board in excess of the capital specified under sub-section (1) of Sec. 12-A:

Provided that the amount of the loan so converted together with the capital provided under sub-section (3) of Sec. 12-A shall, not exceed the amount representing the aggregate of the outstanding loans of the Board after such conversion.

Unquote

The relevant pages of the section-66A & section-12 A of the Electricity (Supply) Act, 1948 is attached as **Annexure-8.**

(iii) KSEB has been functioning as per the provisions of the Electricity Act-2003. Further, as per the National Tariff Policy notified by the Central Government vide the Notification No. 23/2/2005- R&R (Vol-III) dated 6th Januray 2006 in compliance with the section-3 of the Electricity Actr-2003 envisages that, all the power utilities in the Country shouls be allow reasonable return on the investments such that it allowas generation of reasonable surplus for the growth of the sector. The relevant provisions in the National Tariff policy is extracted below.

Quote: Section 5.3 (a) to (b) of the National Tariff Policy:

"

(a) Balance needs to be maintained between the interests of consumers and the need for investments while laying down rate of return. Return should attract investments at par with, if not in preference to, other sectors so that the electricity sector is able to create adequate capacity. The rate of return should be such that it allows generation of reasonable surplus for growth of the sector.

The Central Commission would notify, from time to time, the rate of return on equity for generation and transmission projects keeping in view the assessment of overall risk and the prevalent cost of capital which shall be followed by the SERCs also. The rate of return notified by CERC for transmission may be adopted by the State Electricity Regulatory Commissions (SERCs) for distribution with appropriate modification taking into view the higher risks involved. For uniform approach in this matter, it would be desirable to arrive at a consensus through the Forum of Regulators.

While allowing the total capital cost of the project, the Appropriate Commission would ensure that these are reasonable and to achieve this objective, requisite benchmarks on capital costs should be evolved by the Regulatory Commissions.

Explanation: For the purposes of return on equity, any cash resources available to the company from its share premium account or from its internal resources that are used to fund the equity commitments of the project under consideration should be treated as equity subject to limitations contained in (b) below.

The Central Commission may adopt the alternative approach of regulating through return on capital.

The Central Commission may adopt either Return on Equity approach or Return on Capital approach whichever is considered better in the interest of the consumers.

The State Commission may consider 'distribution margin' as basis for allowing returns in distribution business at an appropriate time. The Forum of Regulators should evolve a comprehensive approach on "distribution margin" within one year. The considerations while preparing such an approach would, inter-alia, include issues such as reduction in Aggregate Technical and Commercial losses, improving the standards of performance and reduction in cost of supply.

b) Equity Norms

For financing of future capital cost of projects, a Debt : Equity ratio of 70:30 should be adopted. Promoters would be free to have higher quantum of equity investments. The equity in excess of this norm should be treated as loans advanced at the weighted average rate of interest and for a weighted average tenor of the long term debt component of the project after ascertaining the reasonableness of the interest rates and taking into account the effect of debt restructuring done, if any. In case of equity below the normative level, the actual equity would be used for determination of Return on Equity in tariff computations.

Unquote:

56. Hon'ble Commission may be aware that, CERC as well as most of the regulators in the country are allowing RoE for the investment made out of its own resources as well for the owners capital.

57. Hon'ble Commission may kindly note that, allowing reasonable return to the State Electricity Board is not a new concept. As per the section-59 of the Electricity (Supply) Act-1948, all the State Electricity Board also ensures a return not less than 3% of the fixed assets after meeting all expenses including taxes levies etc. The relevant section of the Electricity (Supply) Act, 1948 is extracted below.

Quote:

"**59. GENERAL PRINCIPLES FOR BOARD'S FINANCE. -**

•(1) The Board shall, after taking credit for any subvention from the State Government under Sec. 63, carry on its operations under this Act and adjust its tariffs so as to ensure that the total revenues in any year of account shall, after meeting all expenses properly chargeable to revenues, including operating, maintenance and management expenses, taxes (if any) on income and profits, depreciation and interest payable on all debentures, bonds and loans, leave such surplus as is not less than three per cent., or such higher percentage, as the State Government may, by notification in the Official Gazette, specify in this behalf, of the value of the fixed assets of the Board in service at the beginning of such year."

Unquote

58. Though KSEB is a Government Utility and continuing as a single entity, it is truly functioning under the provisions of the Electricity Act-2003, and also as per the rules and regulations enforced by the Hon'ble Commission as per the statutory powers envisaged under the

Electricity Act-2003. Hence, it is detrimental to KSEB to deny the reasonable return which is ensured to all the Private, Public and Government owned power utilities across the country.

59. Hence, considering the provisions of the Electricity Act-2003 and National Electricity Policy, Hon'ble Commission may kindly allow the reasonable return of Rs 240.72 core claimed on the Equity of Rs 1553.00 crore @15.50% .

IV. Interest and Finance Charges

60. In the order on ARR, Hon'ble Commission has considered the outstanding capital liabilities as on 31-03-2011 as Rs 788.38 crore. While doing so, Hon'ble Commission had made a conceptual error in allowing Rs 300.00 crore as net additional borrowings for the year 2010-11. Hon'ble Commission may be kindly recall that, the Short Term Loan (STL) balance at the beginning of the year 2010-11 was Rs 461.67 crore. However, as discussed above, Hon'ble Commission has approved the closing balance as Rs 300.00 crore. This implies that there has been a net reduction in STL during the year 2010-11 to the tune of Rs. 161.67 crore which is not correct. Hon'ble Commission is aware that the STL as on 31.01.2011 had been Rs.600 crore and Rs 56.56 crore has been raised from REC &PFC, i.e., Rs 656.56 crore against the OB of Rs 461.67 crore, shows an increase of Rs 194.89 crore. However, the same as on 31-03-2011 was Rs 578.52 crore, the reduction over the same as on 31-01-2011 was due to the receipt of subsidy from Government and arrears of KWA. Thus actual outstanding capital liabilities as on 31-03-2011 were about Rs 1067.00 crore. In addition to the above, KSEB has utilized the section-4 duty collected to the tune of Rs 290.00 crore as a loan for meeting capital liabilities. Though payment of electricity duty and its adjustment against the amounts due from Government is a matter to be settled between KSEB and Government, duty cannot be treated as a source freely available without any cost. Hence, KSEB request that, interest at weighted average interest of the outstanding loans and bonds may be kindly allowed on electricity duty retained with KSEB. Hence, duly considering the financial position as on 31-03-2011, the outstanding loans and bonds as on 31-03-2011 may be fixed as Rs 1357.00 crore (1067+290) instead of Rs788.38 crore approved by the Hon'ble Commission and interest allowed accordingly.

61. For the year 2011-12, Hon'ble Commission has considered the additional loan requirement as Rs 500.00 core as against Rs 1036.00 crore proposed by the Board. Hon'ble Commission has made the reduction on the presumption of utilizing the funds available as depreciation etc. In this matter the following may be brought to the kind attention of the Hon'ble Commisison.

(i) Considering the accumulated revenue gap during the last few years, KSEB has to depend on all available funds for meeting the amount treated as regulatory asset . However, KSEB has not climed any carrying cost for regulatory assets.

(ii) Even without considering the non-cash flow expenditures including depreciation, the daily revenue shortfall was about Rs 2.50 crore per day.

The likely borrowing for the year 2011-12 is likely to be much higher than the amount proposed by KSEB. Hence, Hon'ble Commisison may kindly review the interest and finance charges and approve the same as projected by KSEB in the ARR&ERC petition.

62. Interest on working capital: KSEB has not claimed the interest on working capital on normative basis. But the same was projected duly considering the drawl of Over Draft from financial Institutions. With the critical financial position, the actual interest on WC is likely to be more than Rs 50.00 crore for the year 2011-12. Hence Hon'ble Commission may kindly allow Rs 30.00 crore as interest on working capital as projected by KSEB.

V. T&D loss reduction targets.

63. Although Hon'ble Commission has adopted the loss reduction target of 0.69% as proposed by KSEB, the T&D loss by the end of the year 2011-12 approved as 15.31% against the target of 15.83% proposed by KSEB. Hon'ble Commission has approved the target by reducing the targeted loss reduction from the T&D loss approved for the year 2010-11. While doing so, Hon'ble Commission has failed to consider the actual T&D loss reduction achieved during the year 2009-10 and the revised target of T&D loss for the year 2010-11.

64. Since Hon'ble Commission has been adopting the base loss level for the year 2011-12 as the target approved in the previous order on ARR, the targeted T&D loss at the end of the year 2011-12 was different though Hon'ble Commission has adopted the loss reduction target as proposed by KSEB. In order to avoid this discrepancy, Hon'ble Commission may kindly adopt the base for the year 2011-12 based on the ARR&ERC petition of KSEB.

VI. Expenses and Interest Capitalized

65. KSEB has proposed the interest and expense capitalization for the year 2011-12 based on the interest and finance charges, employee cost etc projected as per the ARR petition. However, Hon'ble Commission has made a considerable reduction to the tune of Rs 500.00 croe on these expenses, but approved the expense and interest capitalized as proposed by KSEB without making any reduction on the dis-allowance made. Hence, KSEB request before the Hon'ble Commission to kindly re-consider the expense and interest capatilised for the year 2011-12 duly considering the ARR Order as well as order on this review petition.

VII. Compliance of Directives

66. KSEB has been taking steps to strictly complying the various directives issued by the Hon'ble Commission though the order on ARR& ERC petition for the year 2011-12. However, KSEB strongly feels that the hydel generation targets needs revsion as detailed under paragraph 4 to 17 of this petition. Accordingly there shall be corresponding changes on the power purchase also. Hence, KSEB may be allow time till the order of this review petition to submit the monthwise energy sales, generation and power purchase plan based on the approved figures for the year2011-12.

Prayer

Considering the reasons and other details submitted in the foregoing paragraphs as detailed above, KSEB kindly request before the Hon'ble Commission to review the order dated 1st June 2011 on Petition OP No. 5 of 2011 on ARR&ERC of KSEB for the year 2011-12 on the matters as detailed in the petition above.

Chief Engineer (Commercial & Tariff)