

**BEFORE THE KERALA STATE ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF: Judgment of the Hon'ble APTEL dated 17-01-2012 on the appeal petition No. 158 of 2010 filed by KSEB against the KSERC order dated 14-05-2010 on truing up for the year 2006-07- admitting the medical allowance and RoE since the year 2006-07

And

IN THE MATTER OF: Kerala State Electricity Board
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram - 695 004

The petitioner named above respectfully submits as under:

1. As per the provisions of the Electricity Act, 2003 and Tariff policy notified by the Central Government all the power utilities are to function on commercial principles and entitled to earn reasonable return on its investments. At present the State Government has been not been extending any subsidy to the KSEB and has to find adequate internal resources to meet its capital investments. Accordingly, KSEB has been claiming return at the rates approved by CERC on the Government Capital of Rs 1553.00 crore as per the Government Order G.O (Ms) No. 27/98/PD dated 14-09-1998. Hon'ble Commission had allowed the RoE while approving all the orders on ARR&ERC for the years 2006-07 up to the year 2009-10.
2. Hon'ble Commission vide the order dated 14-05-2010 on Petition No. OP 15/2010 Truing Up of accounts of KSEB for the year 2006-07 and order dated 17-05-2010 on Petition No. TP 70/2010 on ARR&ERC of KSEB for the year 2010-11, had withheld the RoE in the light of the Government Order dated G.O (Ms) No. 25/02/PD dated 09-10-2002 on modifying the earlier order dated 14-09-1998 and converted the loan and interest as grants.
3. In the mean time, 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."

4. Based on the Government order dated 13-12-2010, KSEB had filed a review petition on 27-01-2011 before the Hon'ble Commission and its decision is pending.
5. KSEB had filed an appeal petition before Hon'ble Appellate Tribunal for Electricity (APTEL) against the Hon'ble Commission's order dated 14th May-2010 on 'Truing Up of accounts of KSEB for the year 2006-07'.
6. Hon'ble APTEL vide the judgment dated 17-1-2012 has decided on the matter and remanded the following matter to the Hon'ble Commission to pass appropriate orders:
 - (i) Reconsider the 'RoE' in view of the Government order G.O (Ms) No. 35/10/PD dated 13-12-2010.
 - (ii) Reconsider the disallowance on the medical allowance amounts to Rs 0.30 crore.
7. It is further submitted that, while approving the subsequent orders on Truing Up petitions for the year 2007-08 and 2008-09, Hon'ble Commission has not allowed the RoE as claimed by KSEB and admitted same at Rs 50.00 crores on adhoc basis citing the earlier stand taken while approving the truing up of accounts for the year 2006-07.
8. The RoE claimed as per the truing up petition, the same approved by the Hon'ble Commission and the balance to be allowed in view of the judgment of the Hon'ble APTEL dated 17-01-2012 on appeal No 158 of 2010 is summarized below.

Year	RoE admissible (on the Government equity of Rs 1553.00 crores at the CERC rates)	RoE Admitted by the Hon'ble Commission	Balance RoE to be allowed in view of the judgment of Hon'ble APTEL dated 17-01-2012 on appeal petition No. 158 of 2010	Remarks
	(Rs.Cr)	(Rs.Cr)	(Rs.Cr)	
2006-07	217.42	50.00	167.42	Orders on Truing up of accounts
2007-08	217.42	50.00	167.42	
2008-09	217.42	50.00	167.42	
Total	652.26	150.00	502.26	

9. Further, while approving the ARR&ERC of KSEB for the years 2010-11 and 2011-12, Hon'ble Commission has approved the RoE at Rs 100.00 crore as against the claim of Rs 240.72 crore per year on the Government equity of Rs 1553.00 crore at the rate of 15.50%, the rate approved by the CERC for the tariff period 2009-10 to 2013-14. While dis-allowing the RoE, Hon'ble Commission has cited the same stand that taken for disallowing the RoE while approving the truing up of accounts for the year 2006-07.
10. It is further submitted that, KSEB as the Generator, State Transmission Utility and Distribution licensee has been functioning as per the provisions of the Electricity Act-2003 and also based on the regulations and other directions issued by the Hon'ble Commission based on the provisions of the Electricity Act-2003. Like other power utilities of the Country, KSEB has also to functions on commercial principles to fulfill various obligations to provide quality power to the ultimate consumers at reasonable cost. The National Tariff Policy also envisages that, all the power utilities in the country should be allowed reasonable return on the investments such that it allows generation of reasonable surplus for the growth of the sector. Hence, KSEB may humbly submit before the Hon'ble Commission to allow the RoE on the equity capital of Rs 1553.00 crore at the rate of return on equity approved by the Hon'ble CERC from time to time.

Prayer

Considering the judgment of the Hon'ble APTEL dated 17-01-2012 and the submissions and other facts as detailed above, KSEB may humbly request before the Hon'ble Commission that:

- (1) Kindly allow the RoE on the Government equity of Rs 1553.00 crore at the CERC approved rates since the year 2006-07 and issue necessary orders accordingly.
- (2) Kindly admit the medical allowance for the year 2006-07.

Chief Engineer (Commercial & Tariff)