BEFORE THE HONOURABLE KERALA STATE ELECTRICITY REGULATORY COMMISSION

In the Matter of: **Review Petition against KSERC order dated 30th April 2013 on Petition OP No. 2 of 2013 on ARR & ERC of KSEB for the year 2013-14.**

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

THE PETITIONER HUMBLY STATES THAT:

1. Hon'ble Commission vide the order dated 30th April 2013 on Petition OP No. 2 of 2013 on 'ARR &ERC of KSEB for the year 2013-14' has approved the revenue gap for the year 2013-14 as Rs 1049.91 crore against the Board's projection of Rs 2758.67 crore. A comparison of the various items 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	2012-13 (Rs. Cr)		
	KSEB ARR	KSERC Order	Difference
Generation Of Power	410.04	207.77	202.27
Purchase of power	6673.36	6380.74	292.62
Interest & Finance Charges	588.42	465.37	123.05
Depreciation	435.84	371.45	64.39
Employee Cost	2551.50	1803.81	747.69
Repair & Maintenance	304.56	216.11	88.45
Administration & General Expenses	244.12	94.97	149.15
Other Expenses	19.50	19.50	0.00
Gross Expenditure (A)	**11227.34**	**9559.73**	**1667.62**
Less : Interest Capitalized	62.71	62.71	0.00
Less : Expenses Capitalized	168.24	168.24	0.00
Net Expenditure (B)	**10996.39**	**9328.78**	**1667.62**
Statutory Surplus/ Roe	240.72	217.42	23.30
ARR (D) = (B) + (C)	**11237.11**	**9546.20**	**1690.92**
Less Non-Tariff Income	333.20	355.25	-22.05
Less : Revenue from Tariff			
(a) With in the State	8000.69	7996.49	4.20
(b) Excess consumption/penalty	144.55	144.55	0.00
Total Income	**8478.44**	**8496.29**	**-17.85**
Revenue Gap	**-2758.67**	**-1049.91**	**-1708.76**

2. As submitted above, Hon'ble Commission has made a total disallowance of Rs 1690.92 crore from the amount projected by KSEB on various expenses as detailed below.

(i)	Cost of generation	- Rs 202.27 crore
(ii)	Cost of power purchase	- Rs 292.62 crore
(iii)	Interest and finance charges	- Rs 123.05 crore
(iv)	Depreciation	- Rs 64.39 crore
(v)	Employee cost	- Rs 747.69 crore
(vi)	R&M expenses	- Rs 88.45 crore
(vii)	A&G expenses	- Rs 149.15 crore
(viii)	Return on equity	- Rs 23.30 crore
	Total disallowance	- Rs 1690.92 crore

3. KSEB submits that, Hon'ble Commission has adopted wrong methodology which is against the prudent utility practices, applied arbitrary norms without any basis which are totally against the orders and clarifications issued by the Hon'ble Commission on similar issues during the previous years. By denying the reasonable expenses projected by KSEB for carrying out its licensed business, KSEB may find it difficult to meet its various obligations including the cost of generation and power purchase, employee cost, R&M expenses etc during the year 2013-14 and it may affect its various obligations to provide quality power. Hence, KSEB files this review petition for kind consideration and favorable orders. The details are given below.

I. Energy procurement from traders and liquid fuel stations during the months of April-2013 and May-2013.

4. Hon'ble Commission vide the order on ARR&ERC for the year 2013-14 has issued following directions to KSEB.

(i) The weighted average cost of power purchased from traders and power exchanges and availed through unscheduled inter change in each month during the financial year 2013-14, shall not exceed Rs.5.00 per unit. The Board shall submit on or before 10th of every month, a monthly report to the Commission, containing all relevant particulars of such purchases, such as source, quantum, rate and weighted average cost of power purchased during the previous month.

(ii) The total quantum of energy drawn from the liquid fuel stations such as RGCCPP,KDPP,BDPP etc. in FY 2013-14 shall not exceed the quantum provided in the Table 5.28 of this order.

(iii) Non-compliance of the above directives may lead to disallowance of the extra expenses during truing up exercise.

5. However, due to the failure of monsoon and the consequent reduction on hydel availability during the year 2012-13, KSEB was forced to procure power through traders and exchanges at rates higher than the pooled average rate of Rs 5.00 per unit approved by the Hon'ble Commission. The power purchase through short-term markets for the months of April-2013 and May-2013 is detailed below.

Table-2. Details of power procured from short-term market for the months of April & May-2013

Sl No	Particulars	Apr-13		May-13	
		Quantity (MU)	Avg. rate (Rs/ kWh)	Quantity (MU)	Avg. rate (Rs/ kWh)
I	**Actuals**				
(1)	Energy exchanges	40.36	7.36	81.70	6.15
(2)	Traders	244.68	6.11	467.03	5.39
(3)	UI	65.91	3.55	49.36	3.36
(4)	***Total***	***350.95***	***5.77***	***598.09***	***5.33***
(II)	**Approved quantum**	393.95	5.00	454.52	5.00
(III)	Difference = (I)-(II)	-43.00		143.57	

6. Similarly, the actual power procurement from liquid fuel stations is also on a higher side than the same approved by the Hon'ble Commission. The details of the power procured from liquid fuel stations is detailed below.

Table-3. Details of power procured from liquid fuel stations for the month of April & May-2013

Source	Apr-13			May-13		
	Approval (MU)	Actuals (MU)	Excess quantity (MU)	Approval (MU)	Actuals (MU)	Excess quantity (MU)
RGCCPP Kayamkulam	209.52	216.39	6.87	216.50	108.24	-108.26
BSES	0.00	46.34	46.34	0.00	0.00	0.00
BDPP	7.11	10.80	3.69	7.34	9.67	2.33
KDPP	14.10	57.38	43.28	14.57	42.37	27.80
Total	230.73	330.92	100.19	238.41	160.27	-78.14

7. Hon'ble Commission may kindly consider the actual power purchases from short-term market and liquid fuel stations as detailed above while approving the truing up of accounts.

II. Energy Schedule approved from KDPP

8. The Kuttiadi HEP (225 MW) and the KDPP (128 MW) are the major power plants established in the northern region for meeting the electricity demand of the northern part of the State.

9. The electricity demand of the northern part of the State is about 950 to 1000 MW during summer months. Further, about 400 MW can be transmitted safely through the Madakkarthara – Areekode line, though

most often the power flow through this line is more than 550MW. Hence, KSEB has been heavily depends on the KDPP also for meeting the power requirement of the northern part of the State. Further, till the completion of the proposed Areekode- Mysore inter-state transmission system, there is limitation on transmitting power from outside the State to northern part.

10. Considering the above limitations, KSEB has been scheduling about 1 to 1.50 MU/day from KDPP during summer months. However, scheduling power from KDPP during monsoon months is restricted to 0.50 MU/day during peak hours. Accordingly, KSEB has proposed to schedule 0.50 MU/day during monsoon months and 1.00 MU/day during summer months from KDPP.

11. But, while approving the ARR&ERC, Hon'ble Commission had approved 0.24 MU/day during monsoon months and 0.47MU/day during summer months as against 0.50 MU/day and 1.00 MU/day proposed by KSEB.

12. As submitted above, considering the energy demand in the northern region as well as the transmission constraints for transmitting power from other part of the State to northern part of the State and also the difficulty for importing power from outside the State to northern part till the completion of the 'Mysore-Areekode line' KSEB kindly request before the Hon'ble Commission to approve to schedule about 1 MU/day from KDPP during summer months.

III. Variable cost approved for BDPP and KDPP

13. The benchmark parameters adopted for approving the variable cost of BDPP and KDPP is detailed below.

Table-4 Benchmark parameters approved by the Commission for arriving the variable cost of BDPP and KDPP.

	BDPP	KDPP
Auxiliary consumption	2.50%	2.50%
Gross Heat Rate (kCal/ kWh)	1859	2124
Avg. Calorific Value of Fuel(kCal/ kg)	10070	10258
Fuel consumption factor	0.1846	0.2070
Price of fuel (Rs/MT)	53000	51000
Cost per unit (Rs)	9.79	10.56
Cost of lubricant oil etc (Rs)	0.15	0.05
Total cost per unit (Rs/ kWh)	9.94	10.61

14. KSEB noticed that, the specific fuel consumption and variable cost arrived by the State Commission was far below the actual variable cost incurred for the year 2012-13 and also much less than the specific fuel consumption of similar KPCL plant (0.225 kg/unit). The actual variable cost incurred at BDPP and KDPP for the year 2012-13

Table-5. Actual variable cost of BDPP for the year 2012-13

Month	Gen	Aux. con	Net Gen	LSHS			Diesel			Lub oil			Total Amount	Unit Cost
				Quantity	Rate	Amount	Quantity	Rate	Amount	Quantity	Rate	Amount		
	(MU)	(MU)	(MU)	(MT)	(Rs/MT)	(Rs. Cr)	(Litre)	(Rs/ litre)	(Rs. Cr)	(Litre)	(Rs/ litre)	(Rs. Cr)	(Rs. Cr)	(Rs/ kWh)
Apr-12	5.67	0.30	5.37	608.83	54434	3.31	666566	36.77	2.45	15146	140.84	0.21	5.98	11.12
May-12	1.09	0.15	0.94	47.54	54499	0.26	216310	36.77	0.80	6466	145.47	0.09	1.15	12.21
Jun-12	1.20	0.13	1.07	158.07	54500	0.86	112745	36.77	0.41	5213	145.47	0.08	1.35	12.68
Jul-12	1.25	0.11	1.13	137.86	54225	0.75	160660	36.77	0.59	6705	145.48	0.10	1.44	12.66
Aug-12	3.93	0.20	3.73	395.89	50459	2.00	500044	36.77	1.84	5631	145.95	0.08	3.92	10.49
Sep-12	7.47	0.34	7.13	1085.15	54006	5.86	481994	41.47	2.00	18751	145.95	0.27	8.13	11.41
Oct-12	7.70	0.34	7.36	995.92	52217	5.20	696161	41.73	2.90	12705	145.95	0.19	8.29	11.26
Nov-12	9.64	0.40	9.24	620.50	50329	3.12	1550978	41.95	6.51	14177	145.28	0.21	9.84	10.65
Dec-12	16.03	0.62	15.41	592.06	49447	2.93	3152757	41.98	13.23	23959	145.08	0.35	16.51	10.71
Jan-13	10.43	0.42	10.00	635.43	49490	3.14	1764539	43.84	7.74	17470	145.08	0.25	11.13	11.13
Feb-13	4.31	0.21	4.11	619.00	49928	3.09	282818	49.36	1.40	6770	133.14	0.09	4.58	11.14
Mar-13	15.07	0.58	14.49	1459.91	50580	7.38	1906451	52.85	10.08	25076	133.05	0.33	17.79	12.28
	83.79	3.80	79.99	7356.16		37.91	11492023		49.94	158069		2.25	90.11	11.26

Table-6. Actual variable cost of KDPP for the year 2012-13

Month	Gen	Aux. con	Net Gen	LSHS			Diesel			Lub oil			Total Amount	Unit Cost
				Quantity	Rate	Amount	Quantity	Rate	Amount	Quantity	Rate	Amount		
	(MU)	(MU)	(MU)	(MT)	(Rs/MT)	(Rs. Cr)	(Litre)	(Rs/ litre)	(Rs. Cr)	(Litre)	(Rs/ litre)	(Rs. Cr)	(Rs. Cr)	(Rs/ kWh)
Apr-12	45.13	0.95	44.18	9410	54108.49	50.92	37060	37.06	0.14	20390	126.94	0.26	51.31	11.62
May-12	28.07	0.68	27.40	5830	53840.16	31.39	5595	37.06	0.02	14845	126.70	0.19	31.60	11.53
Jun-12	21.20	0.52	20.69	4392	51549.85	22.64	14071	37.06	0.05	34866	128.84	0.45	23.14	11.19
Jul-12	25.43	0.59	24.84	5266	47715.13	25.12	7686	36.33	0.03	13409	130.92	0.18	25.33	10.20
Aug-12	37.01	0.79	36.22	7677	49419.06	37.94	3475	36.33	0.01	19437	131.41	0.26	38.21	10.55
Sep-12	32.77	0.74	32.03	6881	52981.12	36.46	10386	38.04	0.04	18694	132.26	0.25	36.74	11.47
Oct-12	43.21	0.95	42.26	8930	50989.24	45.53	5717	38.04	0.02	16929	134.33	0.23	45.78	10.83
Nov-12	35.39	0.80	34.59	7254	49122.74	35.63	1816	38.04	0.007	19989	136.23	0.27	35.91	10.38
Dec-12	45.93	0.97	44.96	9360	48597.28	45.49	5403	39.76	0.02	23197	135.55	0.31	45.82	10.19
Jan-13	42.89	0.93	41.96	8804	49007.45	43.15	4266	39.76	0.017	18031	135.68	0.24	43.41	10.35
Feb-13	38.93	0.84	38.09	8054	49671.16	40.01	2714	39.76	0.01	20050	135.48	0.27	40.29	10.58
Mar-13	53.14	1.12	52.02	11022	50355.79	55.50	679	39.76	0.00	36448	135.49	0.49	56.00	10.77
Total	449.10	9.86	439.24	92881		469.78	98868		0.37	256285		3.40	473.55	10.78

15. As detailed above, the actual variable cost of BDPP plant for the year 2012-13 was Rs 11.26 per unit as against the approved variable cost of Rs 9.94 per unit. Similarly variable cost of KDPP was Rs 10.78 per unit as against Rs 10.61 per unit approved.

16. The difference between the variable cost approved and the actuals was much higher in the case of BDPP. The BDPP machines are designed to operate on LSHS. However, due to short supply of LSHS by the fuel supplier M/s IOC, BDPP has been operating on HSD most often. It is seen from the table-5 above that, as against 7356 MT of LSHS used, the total quantum of HSD used was 11492023 litres. Further, the total cost incurred for procuring LSHS was Rs 37.91 crore and as against Rs 47.94 crore spent for procuring HSD, i.e, amount spent for HSD was about 56% of the total fuel cost.

17. However, at KDPP, the quantum of HSD used was only 98868 litres as against 92881 MT of LSHS. Further, the amount spent for procuring HSD was Rs 0.37 crore only as against Rs 469.78 crore for procuring LSHS, i.e., the amount spent for HSD was merely 0.078% of the total fuel cost at KDPP.

18. As submitted earlier, HSD is being used at BDPP though the machines are designed to operate on LSHS. When HSD is being used for power generation, the return fuel (HSD) is pumped back to the LSHS settling tank resulting in mixing of HSD and LSHS. Since there is no provision for measuring the return fuel, the recorded consumption of LSHS was much less than the fuel consumption recorded. This has resulted in reduction in specific fuel consumption and low heat rate of LSHS.

19. It is further submitted that, Station heat rate is a computed value, based on the calorific value of fuel and specific fuel consumption. The error in computing the specific fuel consumption may result in erroneous result of Heat rate.

20. Further, for arriving the fuel consumption and variable cost, Hon'ble Commission is not taking into account the usage of HSD. As submitted under Table-5 above, more than 56% of the total fuel cost at BDPP on account of HSD usage. Hence, there is no rational in arriving the variable cost at BDPP and KDPP without considering the actual usage of HSD.

21. Since the variable cost arrived by the Hon'ble Commission for BDPP is less by 12.34% of the actuals, it may affect the financials of KSEB.

22. KSEB has been providing the actual fuel usage, calorific value of the fuel, the cost of fuel etc of LSHS, HSD and lube oil to the Hon'ble Commission periodically. Considering the above, KSEB may humbly submit that the variable cost at BDPP and KDPP may fixed based on the actual usage of LSHS, HSD and Lube oil.

IV. Employee cost

23. In the ARR & ERC, KSEB has estimated the total employee cost including pension liabilities for the year 2013-14 as Rs 2551.50 crore. The split up details of the employee cost projected by KSEB are detailed below.

Basic pay	- Rs 756.29 crore
DA	- Rs 543.11 crore
Provision for DA revision	- Rs 59.88 crore
Other allowances	- Rs 58.84 crore
Earned leave encashment	- Rs 94.00 crore
Provision for pay revision	- Rs 82.55 crore
Pension liabilities	- Rs 956.83 crore
Total	- Rs 2551.50 crore

24. However, while approving the ARR, Hon'ble Commission has disallowed a total amount of Rs 747.69 crore from the employee cost projected by KSEB and approved the employee cost at Rs 1803.81 crore. The amount disallowed by the Hon'ble Commission is about 30 % of the total amount projected by KSEB. A comparison of the various components of the ARR as projected by KSEB and the same approved by the Hon'ble Commission is detailed below.

Table-7

A comparison of the various components of the employee cost projected by KSEB and the same approved by the Hon'ble Commission for the year 2013-14

Particulars	Projected by KSEB (at the revised pay scale)	Approved by KSERC (at 2008-09 as the base year with escalation)	Difference	Percentage of reduction
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)	
Basic pay	756.29			
DA including DA revision	602.99	885.18	474.10	34.88
Other allowances (over time, medical allowances etc)	58.84	56.82	2.02	3.43
EL encashment	94.00	89.66	4.34	4.62
Pension liabilities	956.83	772.15	184.68	19.30
Provision for pay revision wef 7/2013	82.55	0.00	82.55	100.00
Total employee cost	2551.50	1803.81	747.69	29.30

It can be seen from the above that, Hon'ble Commission has disallowed the Basic pay and DA by 34.88%, pension liabilities by 19.30% over the same projected in the ARR. Hon'ble Commission has not approved the provision created for the pay and pension revision, which is due from July/August 2013.

25. In order to limit the employee cost to the approved level, KSEB has to (1) curtail the DA now being released to its employees, (2) reduce the pension payments, (3) reduction in the revision of pay already effected by KSEB etc. However, it is not possible for a public utility like KSEB to adopt such drastic steps which would ultimately end up in employee unrest and legal hurdles. Further, the salaries and wages are governed by bi-lateral wage settlement agreement entered into between the KSEB and trade unions as per the provisions of Industrial Dispute Act 1956. KSEB cannot unilaterally withdraw from the wage settlement mutually agreed with trade unions. Hon'ble Commission vide the paragraph 10.12 of the order on ARR&ERC has clearly admitted that, 'Board as a public sector undertaking cannot retrench its staff or reduce their employees'. In this matter, KSEB may submit the following for the kind consideration of the Hon'ble Commission.

(a) Methodology adopted by the Hon'ble Commission for approving the employee cost is not rational.

26. The methodology adopted by the Hon'ble Commission for estimating the employee expenses is extracted below for ready reference.

(a) In the order on ARR, Commission has decided to benchmark the employee cost based on CPI-WPI indices. The employee cost as per the audited accounts for year 2008-09 is taken as the base. It includes basic pay of Rs 378.70 crore and all other expenses including DA, pension, terminal benefits, EL encashment etc as Rs 876.48 crore.

(b) Commission has allowed an increase of 3% on basic salary for the subsequent years up to 2013-14. Thus, Commission has arrived at basic salary for the year 2013-14 at Rs 439.02 crore against Rs 756.29 crore proposed by KSEB. Hon'ble Commission is yet to admit the revision of pay and allowance effected during the period from July/Aug 2008.

(c) For DA, pension and other allowances, Commission has indexed the DA for the year 2008-09 to the Whole Sale Price Index and Consumer Price Index (given 70% weightage for CPI and 30% for WPI). Commission has arrived at the composite average of CPI & WPI for the year 2009-10 at 9.80%, 10.17% for 2010-11, 8.57% for 2011-12 and 8.89% for the year 2012-13 and 2013-14 respectively. Accordingly, Commission has approved the DA, other allowances including Earned Leave surrender, pension and other terminal benefits as Rs 1285.22 crore as against Rs 1795.21 crore projected by KSEB.

(d) Commission has further stated that, "The Board shall limit the employee expenses to the approved level. The expenditure over the approved level shall not be passed on to the consumers through tariff. In the truing up process for the year, the allowable employee costs will be re fixed based on the actual CPI-WPI for the year 2013-14.

27. In order to implement the order issued by the Hon'ble Commission as such, KSEB has to address the following issues:

(i) Whether the Board can limit the salary and benefits at the level approved by the Hon'ble Commission, especially considering the following:
    (a) The salary and benefits of employees of KSEB is governed by wage settlement agreement entered into between KSEB and Trade unions as per the provisions of Industrial Dispute Act 1956.
    (b) As per the section-133 of the Electricity Act-2003, the salary and benefits of the Board employees cannot be made inferior through the reform process.

(ii) Whether KSEB can limit the DA at the level approved by the Commission by denying the DA over and above the approved level?

(a) As per the wage settlement agreement, DA has to be released to the Board employees as and when the same is released by State Government to its employees.

(b) DA has been providing to compensate the erosion of purchasing capacity due to inflation. Whether Board employees can be denied the same.

(iii) Whether KSEB can reduce its employees, especially the technical staff engaged in distribution business, who accounts for more than 70% of the total employee strength (the details are given under para 37 below.)

(iv) Whether KSEB deny the pension and terminal benefits to its retired employees, or can limit the pension disbursement at the amount approved by the State Commission.

(v) Whether KSEB can survive financially by providing the salary and benefits to employees and pensioners as per the wage settlement agreement and prudent utility practice followed till date, without the approval of the Commission to pass it through the tariff. If the present practice continues, it may end up in acute financial problems.

(vi) Whether provisions in the Tariff Policy notified by the Central Government which mandates that, ' the Regulatory Commissions need to strike the right balance between the requirements of the commercial viability of the distribution licensees and consumer interests' be ignored while approving the revenue requirement of distribution utility?

(vii) Whether the section 133 of the Electricity Act that, " the salary and other benefit during the reform process shall not be inferior during the reform process when compared to those which would have been applicable to them if there had been no such transfer under the transfer scheme:

28. In this matter, kind attention is invited to the paragraph-22 of the 'Model Regulations for Multi Year Distribution Tariff' notified by 'Forum of Regulators, New Delhi' which is extracted below for ready reference.

Quote:

22. Operation & Maintenance Expenses

(a) The Commission shall stipulate a separate trajectory of norms for each of the components of O&M expenses viz., Employee cost, R&M expense and A&G expense. Provided that such norms may be specified for a specific Distribution Licensee or a class of Distribution Licensees.

(b) Norms shall be defined in terms of combination of **number of personnel per 1000 consumers** and **number of personnel per substation** along with annual expenses per personnel for Employee expenses; combination of A&G expense per personnel and A&G expense per 1000 consumers for A&G expenses and **R&M expense as percentage of gross fixed assets for estimation of R&M expenses**:

(c) One-time expenses such as expense due to change in accounting policy, **arrears paid due to pay commissions etc.**, shall be excluded from the norms in the trajectory.

(d) The **expenses beyond the control of the Distribution Licensee** such as **dearness allowance**, **terminal benefits** in Employee cost etc., shall be excluded from the norms in the trajectory.

(e) The One-time expenses and the expenses beyond the control of the Distribution Licensee shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check.

(f) The norms in the trajectory shall be specified over the control period with due consideration to productivity improvements.

(g) The norms shall be determined at constant prices of base year and escalation on account of inflation shall be over and above the baseline.

(h) The Distribution Licensee specific trajectory of norms shall be identified by the Commission on the basis of absolute and relative analysis.

(i) In absolute analysis, Distribution Licensee's audited accounts of operations for last three years, expenses claimed for control period, historically approved cost, and prudence check shall be used by the Commission to estimate values of norms.

(j) In relative analysis, performance parameters of other Distribution Licensees within the same state or in other states, shall be considered by the Commission to estimate norms.

Provided that other Distribution Licensees so chosen shall have similar profile as that of the Distribution Licensee under consideration in terms of consumer mix, type of license area (city, state, etc.) type of distribution networks, viz., underground/overhead, HT-LT ratio, etc.

(k) Suitable average of outcomes of absolute and relative analysis shall be taken by the Commission to fix the norms over the control period for the Distribution Licensee.

22.1 **Employee Cost**

Employee cost shall be computed as per the approved norm escalated by consumer price index (CPI), adjusted by provisions for expenses beyond the control of the Distribution Licensee and one time expected expenses, such as recovery/adjustment of terminal benefits, implications of pay commission, arrears and Interim Relief, governed by the following formula:

EMPn = (EMPb * CPI inflation) + Provision

Where:

EMPn: Employee expense for the year n

EMPb: Employee expense as per the norm

CPI inflation: is the average increase in the Consumer Price Index (CPI) for immediately preceding three years

Provision: Provision for expenses beyond control of the Distribution Licensee and expected one-time expenses as specified above.

Unquote:

29. However, Hon'ble Commission has not considered the provisions in the model regulations notified by the 'FOIR' and the prudent utility practices followed by other regulators.

30. The methodology adopted by the Hon'ble Commission cannot be applied to a distribution utility like KSEB as such, however if the employee cost is expressed at normative basis, i.e., per unit cost basis of the total energy sold, the method can be applied with some modifications. As per the audited accounts, the normative employee cost per unit for the year 2008-09 was Rs 0.97 per unit. As per the methodology adopted by the Hon'ble Commission, inflation has to be applied on the normative employee cost of Rs 0.97 per unit adopted for the year 2008-09. However, the employee cost approved for the subsequent years reveals that, Hon'ble Commission has not even allowed the inflation on the normative employee cost. The per unit employee cost approved by the Hon'ble Commission during the period from 2008-09 to 2013-14 is detailed below.

Table-8. Per unit employee cost approved for the period from 2008-09 to 2013-14

Year	Total energy sales	Employee Cost approved		
		Employee cost	Per unit employee cost approved	(%) increase over previous year
	(MU)	(Rs. Cr)	(Rs/ kWh)	
2008-09	12877.65	1255.19	0.97	
2009-10	14047.75	1352.45	0.96	-1.23
2010-11	14678.14	1462.00	1.00	3.46
2011-12	16181.63	1582.11	0.98	-1.84
2012-13	17181.20	1663.66	0.97	-0.96
2013-14	18239.00	1803.81	0.99	2.14

31. The inflation (Consumer Price Index) during the period from 2008-09 to 2012-13, the per unit employee cost admissible, the employee cost approved and the difference is detailed below.

Table-9. Per unit employee cost admissible based on inflation and approved

Year	Inflation	Employee cost approved for 2008-09	Employee cost admissible (for the subsequent years based on inflation	Employee cost approved	Reduction over admissible employee cost
	(%)	(Rs/kWh)	(Rs/kWh)	(Rs/kWh)	(Rs/kWh)
2008-09	9.09	0.97			
2009-10	12.32		1.09	0.96	0.13
2010-11	10.53		1.20	1.00	0.21
2011-12	9.04		1.31	0.98	0.34
2012-13	8.39		1.42	0.97	0.45
2013-14	9.87(avg)		1.57	0.99	0.57

32. It can be seen from the above that, the employee cost approved for the year 2013-14 was less by 0.57 per unit compared to the employee cost admissible based on inflation.

33. KSEB may submit before the Hon'ble Commission that, the actual employee cost including pension during the period from 2008-09 to 2011-12 and the projected employee cost claimed thereafter was much less than the employee cost admissible based on inflation. The details are given below.

Table-10
Employee cost actually incurred by KSEB and the same admissible based on inflation

Year	Total energy sales	Employee Cost (actual/ projection)			Employee cost admissible on the basis of inflation		Reduction over admissible
		Employee cost	Per unit employee cost actual	(%) increase over previous year	Inflation	Employee cost admissible based on inflation	
	(MU)	(Rs. Cr)	(Rs/ kWh)	(%)	(%)	(Rs/kWh)	(Rs/kWh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)= (7)-(4)
2008-09	12877.65	1255.19	0.97		9.09		
2009-10	14047.75	1451.53	1.03	6.01	12.32	1.09	0.06
2010-11	14678.14	1712.80	1.17	12.93	10.53	1.21	0.04
2011-12	16181.63	1903.32	1.18	0.80	9.04	1.32	0.14
2012-13	17181.20	2153.72	1.25	6.57	8.39	1.43	0.18
2013-14	18239.00	2551.50	1.40	11.60	9.87	1.57	0.17

34. It can be seen from the above that, the employee cost actually incurred by KSEB was less compared to the normative employee cost permissible based on the methodology adopted by the Hon'ble Commission.

(b) Whether the Business growth is not a factor for determining the employee cost and other O&M costs?

35. As submitted earlier, while approving the employee cost and other O&M expenses, Hon'ble Commission had adopted the absolute cost for the year 2008-09 as the base. The methodology adopted has not taken into

account the business growth of a distribution utility. In this matter the following points may be noted.

(i) While determining the ARR of a generator with definite installed capacity and that of transmission system with definite line length, the methodology adopted by the Commission may have some logic. The O&M cost approved by the Central Commission for the RGCCPP Kayamkulam plant of NTPC with an installed capacity (359.58 MW) and that for Kayamkulam –Pallom & Kayamkulam edamon line of PGCIL is submitted below.

Table-11 O&M cost allowed for RGCCPP Kayamkuam

Year	O&M Expenses		% increase over the previous year	Remarks
	(Rs.Cr.)	(Rs. Cr)/ MW		
2004-05	28.05	0.078		
2005-06	29.16	0.081	3.96	
2006-07	30.34	0.084	4.05	
2007-08	31.53	0.088	3.92	
2008-09	32.79	0.091	4.00	
2009-10	53.22	0.148	62.31	Change of tariff period
2010-11	56.27	0.156	5.73	
2011-12	59.47	0.165	5.69	
2012-13	62.89	0.175	5.75	
2013-14	66.49	0.185	5.72	

Table-12.O&M cost allowed for Kayamkulam Pallom and Kayamkulam- Edamon line

Year	O&M cost for 220 kV D/C line	
	(Rs. Lakhs/ ckt.km)	(%) of increase
2004-05	0.23	
2005-06	0.24	3.96
2006-07	0.25	4.24
2007-08	0.26	3.66
2008-09	0.27	4.31
2009-10	0.63	135.71
2010-11	0.66	5.74
2011-12	0.70	5.73
2012-13	0.74	5.71
2013-14	0.78	5.67

(ii) Hon'ble Commission may kindly note that, Hon'ble CERC has been allowing yearly increase for accounting inflation for generators with definite installed capacity including the RGCCPP Kayamkulam and also the 220 kV transmission system owned by PGCIL. Further, during the change of tariff period (tariff period – five years) an increase up to 62.51% is allowed for RGCCPP Kayamkulam and 135.71% for PGCIL over the O&M cost allowed during previous tariff period. It is further submitted that, as and when new generation capacity is added and additional transmission lines are constructed, the O&M cost is also allowed for the incremental generation capacity and transmission lines at the same rate specified by the CERC.

(iii) As submitted under paragraph-29 above, the model regulations notified by the FOIR also specify that, the norms for employee cost shall be defined in terms of number of personnel per 1000 consumers etc. However, while issuing the order on ARR&ERC for the year 2013-14, Hon'ble Commission had capped the total O&M cost including employee cost for the year 2013-14 at the same level as that in the year 2008-09. If KSEB has been continuing the same level of electricity business today as in the year 2008-09, i.e., if no increase had happened in consumer strength, energy sales, LT lines, installation of distribution transformers etc, the methodology adopted by the Commission may have some logic.

(iv) But while approving the O&M cost including employee cost, Hon'ble Commission has been not considering the vital aspects of business growth. As per the methodology adopted, Hon'ble Commission wants that KSEB has to keep the employee cost, O&M cost, A&G cost etc at the same level that in 2008-09 for the current FY 2013-14 also irrespective of the growth.

i.e., with the O&M cost allowed for supplying 12414.32 MU during the year 2008-09, KSEB has to supply 18239 MU approved for the year 2013-14. At any standard, a growing distribution utility cannot limit the present day total employee cost at the same level that incurred during five year back.

(v) The details of the year wise increase in energy sale and the number of consumers during the period from 2008-09 to 2013-14 is detailed below.

Table-13. Details of increase in consumer strength and annual energy sales

Year	Consumer strength (Lakhs)	Annual energy sale (MU)
2008-09	94	12414
2009-10	97	13971
2010-11	101	14548
2011-12	105	15981
2012-13	108	16838
2013-14	112	18239
(%) increase over 2008-09	18.69	46.92

(vi) However, despite the increase in energy sales and increase in consumer strength, Hon'ble Commission had not allowed any increase in employee cost considering the business growth.

36. In reality, KSEB as a distribution licensee is constrained to increase its employee strength to commensurate with the increase in consumer strength. The details of the employee strength as on 31-03-2009 (end of the base year 2008-09) and the same as on 31-03-2013 is detailed below.

Table-14. Comparison of number of employees

Category	Employee strength As on 31-03-2009	As on 31-03-2013	Increase
Technical Staff			
Chief Engineers (Ele)	12	13	1
Chief Engineers (Civil)	3	3	0
Deputy Chief Engineer (Ele)	63	64	1
Deputy Chief Engineer (Civil)	12	12	0
EE (Ele)	215	225	10
EE (Civil)	51	49	-2
AEE (Ele)	556	676	120
AEE(C)	164	164	0
AE(Ele)	1555	2046	491
AE (C)	203	216	13
Sub Engineers (E)	2133	2646	513
Sub Engineer (C)	395	471	76
Overseer (Ele)	2900	5129	2229
Overseer (C)	29	33	4
Lineman	7389	8865	1476
Electricity Worker	3692	3810	118
Meter Readers	1458	843	-615
Total Technical Staff	20830	25265	4445
Non Technical staff			
FA	1	1	0
CIA	1	1	0
Sr FO	1	1	0
SrAO	2	2	0
SOR	1	1	0
FO	2	18	16
AO & RAO	38	37	-1
AAO	76	75	-1
AFO	15	15	0
SS	978	1078	100
DA	42	33	-9
Sr CA & CA	109	106	-3
Fair copy supt	5	3	-2
SA	2582	2692	110
JA/ Cashier	914	918	4
Fair copy asst	241	235	-6
OA	509	474	-35
Drivers	364	339	-25
System supervisor		59	59
PTC worker & sweepers	453	390	-63
Skilled technician	10	10	0
Total non-technical staff	6354	6488	134
Grand Total	27184	31753	4579

37. Out of the above, the following six categories of employees associated with the distribution of electricity contributes more than 70% of the employee strength. The details are given below.

Table-15

Details of employee categories contributes more than 70% of the total employee strength

Sl No	Category –A	As on 31-03-2009 (Nos)	As on 31-03-2013 (Nos)	(%) of increase
1	Lineman	7389	8865	19.98
2	Electricity Worker	3692	3810	3.20
3	Overseer (Ele)	2900	5129	76.86
4	Sub Engineer (Ele)	2133	2646	24.05
5	Asst Engineer (Ele)	1555	2046	31.58
6	Meter Reader	1458	843	-42.18
	Sub total (1 to 5)	19127	23339	
	Total employee strength	27175	31783	
	(%) of category over the total employee strength	70.38	73.43	

38. Hon'ble Commission may appreciate the fact that, the above six categories of employees are essential for providing quality power to the end consumers. It may not be possible to reduce or replace the above categories of employees through computerization etc. On one hand, Hon'ble Commission has been insisting for providing service connections as per section-43 of the Electricity Act-2003 and also to maintain the standards of performance of licensee as per section-57 of the Electricity Act-2003, however on the other hand Hon'ble Commission has been not allowing reasonable O&M cost including employee costs required to maintaining the electricity distribution system. Without appreciating these hard realities, Hon'ble Commission has been insisting KSEB to maintain the employee strength during the year 2008-09 for the year 2013-14 too.

39. The dis-allowance on the various components of employee cost and its impacts is submitted herewith for kind consideration of the Hon'ble Commission.

(a) Basic pay

40. In the ARR for the year 2013-14, KSEB had proposed Rs 756.29 crore as basic salary at the revised pay scale. However, taking the basic pay amounting Rs 378.70 crore for the year 2008-09 as the base, Hon'ble Commission had allowed an increase of 3% on base year basic pay for subsequent years and thus approved the basic pay for the year 2013-14 as Rs 518.59 crore. Thus, the total dis-allowance on basic pay was about Rs 237.70 crore, i.e., about 31.43% of the amount projected by KSEB.

41. As part of the wage settlement agreement between KSEB and trade unions, KSEB has to allow annual increments on basic pay in accordance with the settlement. The increase in basic pay allowed by the Commission is not sufficient even for the employees who exists as on 31-03-2009. As submitted earlier, KSEB was constrained to engage additional employees to provide service connections and maintaining

quality supply, in addition to the capital investments in generation, transmission and distribution. The basic salary required for the additional man power was not considered by the Commission. The annual increase in basic pay is about 5%.

42. Hence, KSEB humbly submit that, Hon'ble Commission may kindly allow the basic pay for the year 2013-14 at the compound increase of 5.00% on the actual basic pay incurred for the year 2011-12.

(b) Dearness Allowances

43. Dearness Allowance has been provided to State and Central Government employees as a percentage of 'basic pay' to compensate the erosion of purchasing capacity due to inflation. Considering the inflation, the DA is being approved by the Ministry of Finance, Department of expenditure, Government of India (GoI) once in every six months. The State Government has been releasing the DA to the State Government employees as and when the DA is announced by the Central Government.

44. Considering the fact that, KSEB has to release the DA to its employees as and when the DA is allowed to the employees of the State Government, Hon'ble Commission vide the letter No. 1235/ARR&ERC 10-11/KSERC /2010 dated 28th July-2010 addressed to KSEB, was pleased to communicate 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 pensioners without reference to the Commission. Any additional expenditure in this regard over and above the approved expenditure can be considered at the time of truing up as has been done in the previous years"

45. Further, Hon'ble Commission vide the press release dated 28th July-2010 has clarified to all the stakeholders and other concerned 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."

46. KSEB has been releasing the DA to its employees as and when the same is released by the Government to its employees. However, Hon'ble Commission had considered the DA allowed during the year 2008-09 as the base, and arrived the DA to be allowed during the subsequent years at the indices of WPI and CPI at the weightage of 30:70.

47. The methodology adopted by the State Commission on allowing the DA is not correct considering the following.

(i) The DA is expressed as a percentage of the basic salary and not as a percentage of the DA provided during base year as adopted by the Commission.

(ii) DA rate is being announced by the Central Government considering the inflation under All India Consumer Price Index.

(iii) As per the wage settlement agreement entered into between KSEB and trade unions, KSEB has to provide the DA to the employees as and when the same is allowed by the State Government to its employees.

(iv) FOIR and other regulators considered the DA as an uncontrollable expenses to the utilities.

48. The DA allowed by KSEB as the percentage of basic pay at the pre-revised pay scales since the year 2008-09 is detailed below.

Table-16
DA allowed by KSEB during the period from 2008-09 to 2013-14

Date of effect	Rate of DA (percentage of the pre revised basic pay)	Total DA applicable on the Basic Pay (percentage of the pre revised basic pay)	Remarks
July 2008	7% of the pay	45%	Actauals
Jan 2009	10% of the pay	55%	
July 2009	9% of the pay	64%	
Jan 2010	14% of the pay	78%	
July 2010	16% of the pay	94%	
Jan 2011	12% of the pay	106%	
July 2011	12% of the pay	118%	
Jan 2012	12% of the pay	130%	
July 2012	12% of the pay	142%	
Jan 2013	15% of the pay	157%	
July 2013	12% of the pay	169%	
Jan 2014	12% of the pay	181%	

49. However, the actual DA allowed by the State Commission is just 72.42% as against the 181% allowed by the Board. The details are given below.

Table-17
DA approved as a percentage of the basic salary

Year	Basic salary approved (Rs.Cr)	DA approved (Rs. Cr)	DA approved as a (%) of the basic salary	Actual DA provided/ projected	Shortfall in DA (%)
2008-09	378.70	204.17	53.91	55.00	1.09
2009-10	390.06	222.11	56.94	78.00	21.06
2010-11	401.76	243.88	60.70	106.00	45.30
2011-12	413.82	268.67	64.92	130.00	65.08
2012-13	426.23	291.98	68.50	154.00	85.50
2013-14	439.02	317.94	72.42	181	108.58

50. As detailed above, the amount of DA approved by the Hon'ble Commission is totally insufficient to meet the DA liability of KSEB at the rates approved by the State Government. As submitted earlier, Hon'ble Commission has already given approval for releasing the same as and when the same is released by the State Government to its employees.

51. Considering the reasons stated above, KSEB may kindly request before the Hon'ble Commission to approve the DA as per the original ARR & ERC petition for the year 2013-14.

(c) Pension liabilities

52. KSEB had estimated the pension liabilities for the year 2013-14 as Rs 956.83 crore. However, while approving the ARR, Hon'ble Commission has taken the actual pension and other terminal benefits for the year 2008-09 as the base and inflated the same as per the weighted average indices of CPI & WPI as explained earlier. Accordingly Hon'ble Commission has approved the pension liabilities for the year 2013-14 as Rs 772.15crore, i.e., a reduction of Rs 184.68 crore from the amount proposed by KSEB. It is submitted that, the dis-allowance made by the Hon'ble Commission is about 19.30% of the amount proposed by KSEB.

53. In this matter KSEB may further submit that,

(i) The pension & terminal benefits are the total liability towards existing pensioners as well as employees who retire in each year. However, while approving the pension liabilities, Hon'ble Commission has not considered the employees who have retired after the year 2008-09. Further, as and when DA is released to serving employees, Dearness Relief is to be allowed to the pensioners on their basic pension.

(ii) Pension is a firm liability of KSEB and Board cannot deny pension and other allowances to its employees. Hence, pension cannot be limited to the indices as ordered by the Hon'ble Commission.

(iii) As explained earlier, the pension and terminal benefits depends on the additional employees retiring in each year in addition to the pensioners and half yearly DR releases. Till date, pension remains an unfunded liability. However, KSEB is committed to create pension fund as part of the re-vesting of the assets and liabilities of KSEB in a corporate entity.

54. Kind attention of the Hon'ble Commission is invited to the regulation-22 (d) of the model tariff regulation notified by the 'Forum of Regulators' wherein it is clearly specified that, the 'terminal benefits' in employee cost etc are beyond the control of the distribution utilities and the same shall be excluded from the norms in the trajectory. The same was extracted under **paragraph-28 above**.

55. Hence, KSEB kindly request before the Hon'ble Commission to approve the pension liabilities as submitted in the original ARR & ERC petition and also allow the actuals at the time of truing up of the audited accounts.

(c) Provision for pay revision

56. KSEB may submit before the Hon'ble Commission that, all the power utilities in the India has been revising the pay and allowances of their employees periodically. As per the prevailing practices followed till date, the State Government and KSEB has been revising the pay allowances to the employees once in every five years. The next pay and pension revision is due from July/ August 2013. As per the accounting practices, suitable provisions has to be created for anticipated liability arising during the year 2013-14, which may be implemented at a later date. Accordingly, KSEB has created a provision of Rs 82.55 crore during the year 2013-14 as provision for pay revision. If adequate provision is not created, then KSEB may find it difficult to meet the entire liability of pay revision during the implementing year with retrospective effect from the year from which it become due. Hence, Hon'ble Commission may kindly allow the provision created for pay revision during the year 2013-14.

57. Considering the reasons as above, KSEB humbly requests that, the employee cost including the provision for pay revision made for the year 2013-14 may be kindly approved.

V. Repair and Maintenance Expenses for the Year 2013-14

58. In the ARR, KSEB has projected the R&M cost required for the year 2013-14 as Rs 304.56 crore based on the R&M plan reported from field offices, past actuals, inflation and age of assets. However, in the order on ARR&ERC, Hon'ble Commission has limited the R&M cost as Rs 216.11 crore, i.e, reduced the R&M cost by Rs 88.45 crore (a reduction of 29.04 % over KSEB's projection) for the year 2013-14.

59. 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. Commission has also stated that, there is no direct evidence to benchmark the R&M expenses given by the Board, i.e., linked to increase in assets.

60. In this matter KSEB may invite the attention of the Hon'ble Commission on the paragraph-22 (b) & (g) model regulations issued by the FOIR, which is extracted under paragraph-28 above, where in it is clearly established that, for estimation R&M expenses, the same shall be expressed as a percentage of Gross Fixed Assets. The paragraph 22(b) & 22(g) of the model regulation is extracted below for ready reference.

"22. Operation & Maintenance Expenses

(b) Norms shall be defined in terms of combination of number of personnel per 1000 consumers and number of personnel per substation along with annual expenses per personnel for Employee expenses; combination of A&G expense per personnel and A&G expense per 1000 consumers for A&G expenses and **R&M expense as percentage of gross fixed assets** for estimation of R&M expenses:
(g) The norms shall be determined at constant prices of base year and escalation on account of inflation shall be over and above the baseline."

61. Further, vide the paragraph 22.2 of the model tariff regulation notified by the 'Forum of Regulators' specify the formula for estimating the R&M expenses.

Quote: Clause-22.2 of Model tariff regulations notified by FOIR
22.2 **Repairs and Maintenance Expense**
Repairs and Maintenance expense shall be calculated as percentage (as per the norm defined) of Opening Gross Fixed Assets for the year governed by following formula:
$R\&M_n = K_b * GFA_n$
Where:
$R\&M_n$: Repairs & Maintenance expense for n^{th} year
GFA_n: Opening Gross Fixed Assets for n_{th}year
K_b: Percentage point as per the norm

Un Quote:

62. It is seen from the above that, the model regulation notified by the Forum of Indian Regulators' also stipulate to estimate the R&M expenses of the ensuing year as a percentage of the Gross Fixed Asset at the beginning of the year. It is further submitted that, the 'FOIR' is a statutory body constituted by the Central Government as per section 166(2) of the Electricity Act-2003 and 'FOIR' has been notifying various model regulations for harmonization of the regulations of the power sector. Hence, KSEB request that, Hon'ble Commission may give due consideration of the provisions in the 'model regulations' till Hon'ble Commission finalise the 'tariff norms and regulations' for which Hon'ble Commission has already engaged a consultant and the expense for the same was already borne by KSEB.

63. Considering the difficulty in estimating the R&M expenses accurately, Hon'ble APTEL vide the judgment dated 13-01-2011 on appeal petition 177 of 2009 has ordered that, "for future it would be desirable for the State Commission to determine the norms for R&M Expenses with appropriate escalation factors which is a better approach as scrutiny of actual R&M expenses for prudence check is cumbersome and approach based on norms will give correct commercial signal to the Electricity Board. Accordingly, we direct the State Commission to decide the norms within a period of 6 months". However, Hon'ble Commission is yet to notify the regulations, though a consultant was engaged for the same.

64. Anyhow, the R&M expenses is very essential and critical expenses components. The R&M expenses of a distribution licensee for the year

2013-14 cannot be limited to an amount incurred during the year 2008-09. The R&M expense also increases with age of the assets. Further, the R&M costs shall be linked to the Gross Fixed Asset that exists at the beginning of the financial year concerned. It is further submitted that, the labour costs and material costs are higher in the State compared to other states. This also resulted in higher R&M expenses.

65. The growth of Gross Fixed Assets since the year 2008-09 is submitted below.

Table-18.

Gross fixed assets on KSEB system.

Year	GFA at the beginning of the Year	Increase over 2008-09	Increase as percentage of GFA at the beginning of the year
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)
2008-09	8684.45		
2009-10	9249.11	564.66	6.50
2010-11	10185.00	1500.55	17.28
2011-12	11203.00	2518.55	29.00
2012-13	12073.79	3389.34	39.03
2013-14	13051.79	4367.34	50.29

As detailed above, though the GFA has increased by 50.29% over the base year 2008-09, Hon'ble Commission had not allowed increase on R&M expenses.

66. A comparison of the R&M cost per unit indexed by the Hon'ble Commission on energy sold to the consumers is detailed below.

Table-19.

Per unit R&M cost approved

Year	R&M cost approved	Energy sale	R&M cost approved
	(Rs. Cr)	(MU)	(Rs/unit)
2008-09	138.79	12414.32	0.11
2009-10	152.39	13971.09	0.11
2010-11	167.91	14547.90	0.12
2011-12	181.38	15921.53	0.11
2012-13	195.95	16386.30	0.12
2013-14	216.11	18430.00	0.12

67. As detailed above, the per unit R&M cost approved during the period from 2008-09 to 2013-14 is at the uniform rate of Rs 0.11 to 0.12 per unit, and no provision has been allowed for accounting inflation.

68. The R&M cost admissible on the basis of the inflation is detailed below.

Table-20. R&M cost admissible on the basis of inflation

Year	Admissible			Actuals / projection		Approval	
	Inflation	Cumulative inflation	R&M cost admissible on the basis of inflation	R&M actually incurred	Reduction in R&M cost over admissible	R&M cost approved	Disallowance over admissible
	(%)	(%)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2008-09			0.11	0.11		0.11	0
2009-10	12.32		0.12	0.12		0.11	0.01
2010-11	10.53	22.85	0.14	0.16	-0.02	0.12	0.02
2011-12	8.42	31.27	0.15	0.13	0.02	0.11	0.04
2012-13	10.43	41.7	0.16	0.17	-0.01	0.12	0.04
2013-14	10.43	52.13	0.17	0.17		0.12	0.05

69. Considering all these aspects as detailed in the petition, KSEB may kindly request before the Hon'ble Commission to approve the R&M expenses as projected in the ARR&ERC petition which was estimated duly considering the GFA as on 1st of April-2013, inflationary factors, age of assets and the importance of R&M for maintaining the assets to provide quality supply etc.

VI. Administration and General Expenses

70. In the ARR, KSEB has projected the A&G expenses for the year 2013-14 at Rs 244.12 crore, which includes Rs 106.27 crore towards electricity duty. The A&G expenses claimed excluding section 3(1) duty amounts to Rs 137.85 crore. However, as against the same, Hon'ble Commission has allowed only Rs 94.97 crore as A&G expenses, i.e., Hon'ble Commission had made a dis-allowance of 31.15 % on the A&G expenses claimed (excluding section 3(1) duty).

71. While approving the A&G expenses for the year 2013-14, Hon'ble Commission had allowed inflation only on the actual A&G expenses incurred during the year 2008-09. i.e., No increase is allowed for the business growth of the utility.

72. KSEB may submit that, the A&G expenses shall 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, Hon'ble Commission has directed KSEB to maintain the same A&G expenses during the year 2008-09, irrespective of the business growth of the utility.

73. In this matter, kind attention is invited to the paragraph-22(b) of the Model regulations for Multi Year Tariff notified by FOIR, wherein it is clearly stipulated that, 'Norms shall be defined in terms of combination of number of personnel per 1000 consumers and number of personnel per substation along with annual expenses per personnel for Employee expenses; combination of A&G

expense per personnel and A&G expense per 1000 consumers for A&G expenses and R&M expense as percentage of gross fixed assets for estimation of R&M expenses:'

74. Further, paragraph 22.3 of the model regulation notified by the forum of regulators specifies the formulae to be adopted for estimating the A&G expnenses , which are extracted below for ready reference.

Quote:
22.3 **Administrative and General Expense**
A&G expense shall be computed as per the norm escalated by wholesale price index (WPI) and adjusted by provisions for confirmed initiatives (IT etc. initiatives as proposed by the Distribution Licensee and validated by the Commission) or other expected one-time expenses, and shall be governed by following formula:
A&Gn = (A&Gb * WPI inflation) + Provision
Where:
A&Gn: A&G expense for the year n
A&Gb: A&G expense as per the norm
WPI inflation: is the average increase in the Wholesale Price Index (WPI) for immediately preceding three years
Provision: Cost for initiatives or other one-time expenses as proposed by the Distribution Licensee and validated by the Commission.
Un quote.

As submitted above, the model regulation also envisages providing the normative A&G expenses specified for each year factored by inflation.

75. Hon'ble Commission is yet to notify norms for A&G expenses, though Hon'ble Commission has already engaged a consultant to prepare the tariff norms under section-61 of the Electricity Act-2003.

76. Regarding the A&G expenses, Hon'ble APTEL vide the judgment dated 4th September-2012 on Appeal petition No. 190 of 2009 and 46 of 2010 has ordered as follows.

"Para 13.4 We find that there are presently no Regulations providing for norms for various expenses including A&G expenses. The State Commission has allowed an increase of 10% over the approved expenses for the FY 2008-09 for various heads of A&G expenses while allowing some assumed figure for legal expenses. We agree with the point raised by the Appellant regarding norms to be specified through statutory Regulations by the State Commission. We have already given a direction to the State Commission regarding specifying the Regulations providing for norms for various expenses.
Para 20 (vi) The State Commission shall consider the A&G expenses as per the audited accounts of the Appellant in the true up and allow the same with carrying cost, after prudence check. We have also given directions to the State Commission regarding framing of Regulation for normative expenditure to be allowed for various costs including A&G expenses in paragraph 13.4"

73. The business growth of the utility including number of consumers, consumption, revenue from sale of power etc since the year 2008-09 is detailed below.

Table-21. Growth of KSEB system during the period from 2008-09 to 2012-13

Year	Consumer strength		Annual energy sale		Connected load		Revenue from sale of Power	
	(Lakhs)	(%) of increase over 2008-09	(MU)	(%) of increase over 2008-09	MW	(%) of increase over 2008-09	(Rs. Cr)	(%) of increase over 2008-09
2008-09	94		12414.32		15267		4893.02	
2009-10	97	4	13971.09	12.54	15867	3.93	4747.17	-2.98
2010-11	101	8	14547.90	17.19	16682	10.27	5641.26	15.29
2011-12	105	12	15921.53	28.25	17518	14.74	5984.60	22.31
2012-13	108	15	16386.00	31.99	18318	19.98	6097.24	24.61

It can be seen that, the consumer strength, annual energy sale, connected load, revenue from sale of power etc has considerably increased since the year 2008-09. However, Hon'ble Commission insists that, KSEB have to do its business with the same level of A&G expenses approved in the year 2008-09.

74. Usually, normative A&G expenses of a utility are generally specified in terms of per unit cost of energy sold to the consumers as against the absolute values. There is no basis for specifying the absolute values of A&G expenses without considering the business growth of the utility. Hence KSEB may request that, inflationary factors may be allowed to the normative A&G expenses (per unit A&G expenses) for the base year 2008-09.

75. A comparison of per unit cost of expenses approved and the same admissible after duly considering the inflation is detailed below.

Table-22. A&G expenses approved and admissible

Year	Approval			Admissible				Actuals	
	A&G cost approved	Energy sale	A&Gcost approved	Inflation	Cumulative inflation	A&G cost admissible on the basis of inflation	Disallowance in A&G cost over admissible	Actuals	Reduction over admissible
	(Rs. Cr)	(MU)	(Rs/unit)	(%)	(%)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)
2008-09	60.99	12414.32	0.049			0.049	0.00	0.049	0.000
2009-10	66.97	13971.09	0.048	12.32		0.055	0.07	0.062	-0.007
2010-11	73.78	14547.90	0.051	10.53	22.85	0.060	0.09	0.062	0.006
2011-12	79.71	15921.53	0.051	8.42	31.27	0.065	0.14	0.069	0.021
2012-13	86.11	16386.30	0.053	10.43	41.70	0.072	0.19	0.073	0.053
2013-14	94.97	18239.00	0.052	10.43	52.13	0.080	0.28		

It can be seen from the above that, the A&G cost projected by KSEB was much less than the amount admissible on the basis of inflation.

76. 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, license fee, fee for filing ARR&ERC, fuel surcharge petitions etc.

VII. Return on Equity

77. In the ARR&ERC petition for the year 2013-14, Board has claimed Rs 240.72 crore as RoE @15.5% for the Government Capital of Rs 1553.00 crore with the Board. While approving the ARR, Hon'ble Commission has allowed Rs 217.42 crore as RoE @14.00% on the Government capital of Rs 1553.00 crore. However, Hon'ble Commission has not specified the reason for allowing a lower rate for return than that claimed by the Board. In this matter, KSEB may submit the following for the kind consideration of the Hon'ble Commission.

78. Kind attention of the Hon'ble Commission is invited to the CERC (Terms and Conditions of Tariff) regulations, 2009 dated 19th January 2009. As per the regulation 15 of the said regulations, the base rate of return on Equity is specified as 15.50%. Further, 1st proviso to paragraph 5.3 (a) of the National Tariff Policy clearly clarifies that, <u>'the rate of return notified by the transmission may be adopted by the State Electricity Regulatory Commissions (SERCs) for distribution with appropriate modification taking into view of the higher risks involved'.</u> Thus as per the provisions in the 'Tariff policy' a higher return than that specified by the CERC can be allowed to the DISCOMs. However, since KSEB has been continuing as a single utility and doing generation, transmission and distribution activities, KSEB has claimed the base rate of return of 15.50% prescribed by CERC.

79. In this matter, it is further submitted that, as per the section-61 (a) of the Electricity Act-2003, the methodologies specified by the CERC for determination of tariff applicable to generating companies and transmission licensees and further as per the section 61(i) of the Electricity Act-2003, the National Electricity Policy and Tariff Policy are guiding factors for tariff determination by the Hon'ble Commission.

80. 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 deny the reasonable return to KSEB, which is ensured to all the Private, Public and Government owned power utilities across the country. 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%.

VIII. Interest and Finance Charges

81. Vide the ARR&ERC petition, KSEB had claimed Rs 100.00 crore as interest on working capital for the year 2013-14. However, while approving the ARR&ERC, Hon'ble Commission had not allowed the interest on working capital.

82. Regarding the working capital requirement, KSEB may submit the following facts before the Hon'ble Commission for kind consideration.

(i) As per the approved revenue gap upto the year 2012-13, the unbridged revenue gap was Rs 1732.92 crore.

(ii) Over and above the approved revenue gap for the year 2012-13, due to the failure of monsoon and reduction in energy availability from CGS, KSEB had incurred an additional liability of Rs 2517.00 crore for procuring power from liquid fuel stations and short-term market. After accounting the penalty claimed for excess consumption etc, the additional liability incurred was about Rs 2200.00 crore.

(iii) The monthly power purchase bills during the period from October-2012 onwards was more than Rs 720.00 crore as against the monthly revenue including the penalty for excess consumption of less than Rs 700.00 crore.

(iv) KSEB has been availing short-term loans and overdraft from financial institutions to meet the revenue expenditure.

(v) The details of the short-term loans and over-draft as on 31-03-2013 is detailed below.

Table-23
Details of short-term loan as on 31-03-2013

Bank	Amount (Rs.Cr)	Interest %
State Bank of India	300.00	10.25
SBT	300.00	10.25
Vijaya Bank	200.00	10.45
South Indian Bank	300.00	11.00
South Indian Bank	50.00	11.10
KSPIFC	26.00	11.50
PFC	500.00	12.75
REC	150.00	13.00
Total	1826.00	

Table-24
Details of Overdraft position as on 31-03-2013

Bank	Overdraft(Rs.Cr)	Interest %
Allahabad Bank	10.52	9.50
Allahabad Bank	13.12	9.53
Bank of India	30.00	9.77
North Malabar Gramin Bank	7.43	10.00
Bank of India	7.87	10.00
South Malabar Gramin Bank	225.00	10.00
Federal Bank	499.37	10.20
South Malabar Gramin Bank	21.60	10.25
Canara Bank	376.53	10.25
SBT	153.01	10.25
Union Bank of India	196.95	10.25
Vijaya Bank	82.60	10.30
Total	1624.00	

The interest on Overdraft alone for the year 2012-13 is about Rs 150.00 crore.

(vi) In addition to the above, as on 31-03-2013, the pending power purchase dues for the year 2012-13 was 1365.41 crores, further the dues to employees including PF loan, medical re-imbursement, work bill to contactors etc was Rs 234.95 crore.

(vii) KSEB has already submitted before the Hon'ble Commission that, as per the accounts, Rs 1993.97 crore was collected as security deposit from consumers during the period from 1957 to till date. However, the said amount so collected was utilized by KSEB for meeting the loan repayments, capital investment etc., during the year in which the same was collected from consumers. Hon'ble Commission has been approving the debt for capital investments etc since the year 2003-04 after accounting the same. Hence, the security deposit is not freely available with KSEB for meeting the working capital requirements etc, as stated by the Hon'ble Commission.

83. KSEB has been meeting the shortfall in revenue requirement and revenue from tariff by availing overdraft from financial situations. However, most of the financial institutions are now reluctant to provide overdraft or short term loans to KSEB. Hence, KSEB has been negotiating with REC and PFC for availing short-term loans for meeting the power purchase dues and other short-term liabilities as on date.

84. KSEB may further submit that, the Overdraft availed as on date cannot be repaid all of a sudden. It is further submitted that,

(i) KSEB has proposed to mobilize additional revenue amounting to Rs 1573.54 crore through tariff revision, however vide the order dated 30-04-2013, Hon'ble Commission had allowed to recover only Rs 642.47 crore through the same. i.e., Hon'ble Commission has not even allowed to recover the approved revenue gap amounting to Rs 1049.91 crore fully through tariff revision.

(ii) Hon'ble Commission may also admit the fact that, though Hon'ble Commission has not allowed the employee cost and pension liabilities to the extent of Rs 747.69 crore, in reality KSEB has to pay the same in full. Further, KSEB cannot limit the R&M and A&G expenses to the extent the amount approved by the Commission, since it may affect the performance of the utility.

(iii) As submitted earlier, due to the failure of monsoon, reduction in power availability from CGS etc, the net additional liability of Rs 2200.00 crore for power purchase alone, over and above the revenue gap approved by the Hon'ble Commission for the year 2012-13. However, the same is yet to be passed on to the consumers through tariff.

(iv) Further, as admitted by the Hon'ble Commission, the total unrecovered revenue gap as on 31-03-2013 as per the orders of the Commission itself was Rs 1737.92 crore.

85. KSEB may further submit that, the overdraft position during the year 2013-14 is likely to be much higher than the same projected in the ARR petition, the same was finalized during the month of December-2012.

86. Considering the facts and submission above, KSEB may humbly request that, Hon'ble Commission may kindly be approve the interest on working capital amounting to Rs 100.00 crore as proposed by KSEB vide the ARR&ERC petition for the year 2013-14.

IX. Depreciation

87. Hon'ble Commission vide the order dated 13th April-2012 'in the matter of the suo-motu proceedings on the recovery of depreciation on assets created out of Contributions from the Kerala State Electricity Board' had ordered as follows:

(a) Depreciation need not be allowed on assets created out of contributions and grants by any licensee in the state as a general rule. In the case of KSEB, this will be made applicable from 2010-11 and proposal for clawing back the depreciation already claimed up to 2009-10 is dispensed with.

(b) In future, all licensees shall provide separate statements under capital works programme for assets to be created out of contributions and grants in their ARR & ERC / truing up petitions. The depreciation estimations in these petitions shall also distinctly indicate the value of assets for which depreciation is claimed and that which is created out of contributions and grants.

88. It is difficult for KSEB to identify the assets created out of 'consumer contribution and grants' prior to the 2010-11, due to the following:

(i) Since the Electricity (Supply) Annual Accounts Rules 1985, allows to claim the depreciation on the assets created out of consumer contribution, KSEB has not been maintaining the details of the assets created out of consumer contribution separately prior to the year 2010-11.

(ii) Further, the useful life of each assets class and depreciation rate for the same are different. Hence it may be difficult to estimate the depreciation on the assets class created prior to the year 2009-10.

(iii) Further, during the past, KSEB had collected huge sum from the consumers as 'OYEC charges' for providing priority for service connections etc and no specific assets was created using such sum. The amount so collected was utilized by KSEB as its internal resources etc and accordingly the borrowings for capital investments are restricted to that extent. During the deliberations of the Commissions 'suo-motu proceedings on the recovery of depreciation on assets created out of consumers, KSEB has appraised all these matters before the Hon'ble Commission for kind consideration.

89. Considering the KSEB's submission on amount collected towards OYEC charges, Hon'ble Commission vide the order dated 13th April-2012 has stated that,

> "Another claim of the Board is that, of the total amount of Rs.2,504.14 crore, Rs.1,535.99 crore was collected under OYEC scheme for providing priority for service connections and are not linked to any specific assets directly. Hence, the Board argued for a distinction on amount collected under OYEC scheme prior to the year 2003. However, in order to establish the claim the Board has to properly present the case with sufficient evidence so that the claim can be considered in detail. It is up to the Board to present the case before the Commission with all supporting details separately."

90. As directed by the Hon'ble Commission, KSEB has provided the summary of the amounts booked under 'contributions and grants' upto 31-03-2010, which is reproduced below for ready reference.

Table 25. Summary of the amount booked under 'Contribution and Grants' as on 31-03-2010

Account Code	Item	Amount (Rs.Cr)
55.101 to 55.102	Consumers Contribution Towards Cost Of Capital Assets	164.89
55.103 to 55.107	Service Connection charges	256.19
55.108 to 55.124	OYEC (Priority) Charges	1764.79
55.201 to 55.311	Government Grants (APDRP, RGGVY etc)	456.50
55.401 to 55.501	Contribution from Local bodies, PWD, Government etc	311.54
	Total	2953.91

91. Further, KSEB has also provided the split up details of the amount collected as 'OYEC charges' from different categories of consumers, which is extracted below.

Table-26
Details of the amount booked under 'OYEC' charges

Year	Domestic	Commercial	Industrial LT	Industrial HT	HT non Domestic	EHT Industrial	LT/HT Distribution	EHT/for any purpose	Rapid Service connection charge Domestic	Rapid Service Connection Charge -CT Non-Domestic	Total
A/c	55.113	55.114	55.115	55.116	55.117	55.118	55.119	55.12	55.123	55.124	
As on 1988-89	6.32	0.77	0.12	0.16	0.00	0.01	0.49	0.00	0.00	0.00	7.87
1989-90	11.92	1.65	0.72	0.02	0.55	0.03	0.73	0.00	0.00	0.00	15.62
1990-91	11.98	1.07	-0.23	0.17	0.09	0.08	0.51	0.00	0.00	0.00	13.67
1991-92	13.93	1.42	0.17	0.11	0.08	0.06	1.60	0.00	0.00	0.00	17.37
1992-93	15.09	1.51	0.26	0.21	0.03	0.09	0.81	0.00	0.00	0.00	18.00
1993-94	35.20	4.49	0.62	0.82	0.13	0.35	2.00	0.00	0.00	0.00	43.61
1994-95	38.24	3.00	0.14	2.07	0.01	0.24	1.47	0.00	0.00	0.00	45.17
1995-96	39.81	3.20	0.10	1.20	0.30	0.02	0.90	0.00	0.00	0.00	45.53
1996-97	41.98	3.31	0.23	0.88	0.25	0.05	0.96	0.00	0.00	0.00	47.66
1997-98	55.76	6.58	0.15	0.56	-0.40	0.00	1.18	0.01	0.38	0.16	64.38
1998-99	70.56	11.58	0.83	0.43	0.09	0.00	2.70	0.00	0.19	0.01	86.39
1999-00	65.65	11.24	0.29	0.21	0.28	0.00	1.89	0.00	0.00	0.02	79.58
2000-01	61.38	8.79	0.54	0.52	0.37	0.00	2.52	0.00	0.13	0.11	74.36
2001-02	64.76	9.99	0.37	0.38	0.22	0.44	2.06	0.20	0.03	0.00	78.45
2002-03	85.13	9.86	0.62	0.62	0.06	0.21	2.07	-0.20	0.03	0.02	98.42
2003-04	95.39	12.06	1.62	0.19	0.04	0.53	3.78	0.00	0.04	0.02	113.67
2004-05	99.04	10.68	0.41	0.27	0.08	0.01	3.98	0.12	0.02	0.01	114.62
2005-06	97.21	9.82	0.76	0.41	0.40	0.00	10.38	0.00	0.00	0.00	118.98
2006-07	92.67	16.30	2.04	0.71	0.11	0.57	6.71	0.00	0.00	0.01	119.12
2007-08	98.07	23.92	-0.27	0.09	0.39	0.10	7.14	0.00	0.01	0.06	129.51
2008-09	116.83	41.38	2.44	1.34	0.44	0.17	18.33	5.11	0.04	0.01	186.09
2009-10	152.28	48.61	1.42	0.32	0.91	0.19	37.45	5.45	0.00	0.09	246.72
Total	**1369.20**	**241.23**	**13.35**	**11.69**	**4.43**	**3.15**	**109.66**	**10.69**	**0.87**	**0.52**	**1764.79**

92. It can be seen from the above that, out of the total amount of Rs 1764.79 crore collected as 'OYEC' charges from different categories, Rs 1369.20 crore (78%) is being collected from domestic categories alone. Since the said amount was collected from consumers for giving priority for service connections, it is not mandatory to create any assets out of the said amount. However, as per the accounting practices followed by the Board, any amount collected from consumers are accounted under 'account head 55 i.e., the head under the consumer contribution and grants are accounted. Since KSEB has not created any assets using OYEC charges, KSEB vide the ARR&ERC petition has requested before the Hon'ble Commission to exclude the amount collected towards OYEC charges from the 'consumer contribution and grants' for the purpose of allowing depreciation. Accordingly out of the total amount of Rs 3893.61 crore booked under 'contribution and grants', KSEB has considered only Rs 2128.82 crore as 'contribution and grants' excluding 'OYEC charges' for the purpose of dis-allowing depreciation.

93. Though KSEB had provided sufficient details of the OYEC charges collected from consumers, for the purpose of excluding the same from dis-allowing depreciation, Hon'ble Commission has not considered the same.

94. Hence KSEB may be request to exclude the 'OYEC charges collected from consumers amounting to Rs 1764.79 crore from the 'amount booked under contribution and grants' for the purpose of dis-allowing depreciation and allow the depreciation for the year 2013-14 as Rs 435.84 crore, as projected in the ARR&ERC petition.

X. T & D loss reduction targets.

95. The actual T&D loss reduction achieved for the year 2011-12 was 15.65%. As per the provisional accounts, the T&D loss for the year 2012-13 was 15.30%, i.e., a reduction of 0.35% over the loss reduction achieved for the year 2011-12.

96. Considering the present level of T&D loss reduction already achieved and also considering the efforts taken by the Board for further loss reduction, KSEB has proposed a loss reduction target of 0.32% for the year 2013-14. It is further submitted that, KSEB has already reduced the loss reduction at 15.30% (including transmission loss).

97. However, while approving the ARR, Hon'ble Commission has arbitrarily approved a loss reduction target of 0.50% as against 0.32% proposed by KSEB. KSEB feels that, this is a highly ambitious target difficult to achieve. Further, during the past also, Hon'ble Commission has been approving un-achievable loss reduction targets while approving the ARR and finally imposing penalty on KSEB for not achieving the loss reduction targets approved by the Hon'ble Commission.

98. Hence, KSEB may kindly request before the Hon'ble Commission to approve the loss reduction targets as proposed by KSEB in the ARR&ERC petition.

XI. Transmission charges, wheeling charges and cross subsidy surcharge for open access consumers.

99. Hon'ble Commission vide the order dated 30-04-2013 has approved the transmission charges, wheeling charges and cross subsidy surcharges payable by the open access consumers of the State. The transmission charges, wheeling charges payable by different categories of consumers as ordered by the Hon'ble Commission is extracted below for ready reference.

Table-27 Transmission charges and wheeling charges payable by open access consumers

Particulars	Pre-revised rate	Revised rate w.e.f 01-05-2013
	(Rs / kWh)	(Rs/ kWh)
Transmission charges	0.22	0.19
Wheeling charges	0.26	0.24

100. While approving the transmission charges for the year 2013-14, the following discrepancies are noted.

(i) Hon'ble Commission has approved the total ARR excluding the generation and power purchase cost for the year 2013-14 at Rs 2957.69 crore (9546.20-207.77-6380.74). However, for determining the transmission charges, the ARR adopted (excl. Gen & PP cost) at Rs 2602.44 crore. It seems that, Hon'ble Commission had reduced the 'Non-tariff income' amounting to Rs 355.25 crore from the total ARR while apportioning the ARR among transmission function.

It may be noted that the 'non-tariff income' including the meter rent, miscellaneous charges including theft, interest for belated payments etc are mainly related to the 'distribution business' only and it is not related to transmission business.

Hence, Hon'ble Commission may kindly consider the 'total approved ARR including the amount to be admitted through this review petition' for apportioning the same to transmission function.

(ii) Apportioning the ARR among generation, transmission and distribution functions:

Hon'ble Commission had apportioned the ARR into generation, transmission and distribution as per the ratio of the same in the provisional accounts of KSEB for the year 2011-12. However, the methodology adopted for approving the various components of ARR is entirely different from the annual accounting rules ESAAR-1985 adopted by KSEB for preparing the provisional accounts. Further, Hon'ble Commission has been dis-allowing the depreciation on the assets created out of 'contribution and grants' also while approving the regulatory accounts, but as per the ESAAR, Board has been providing depreciation on the entire assets irrespective of whether it has been created with consumer contribution. Further, the entire amount booked under 'contribution and grants' also related to distribution functional area only and hence the dis-allowance on depreciation on 'contribution and grants' can be considered only for approving the 'depreciation of the distribution function'.

Hence, KSEB may be request that, while apportioning the ARR into transmission function, the values in the provisional accounts may be adopted with appropriate modifications.

101. Wheeling charges- split up of distribution ARR into HT and LT level.

For determining the wheeling charges, Hon'ble Commission had apportioned the distribution ARR into HT and LT level in the ratio of 25% and 75% respectively. This apportioning seems to be not correct.

During the last 13 years since 2000-01, the HT lines has been increased from 30035 ckt-km to 52146 ckt-km (an increase of 73%) where as the said period the LT line has increased from 187169 ckt-km to 272781 ckt-km only (an increase of 45%). Further, as part of improving HT-LT ratio, KSEB has been giving due thrust for adding HT line instead of LT lines.

Considering the HT and LT line extensions in the recent past and also considering the present level of progress of HT, LT line extension, distribution transformers etc the ratio of 40% to 60% seems to realistic than the arbitrary figure of 25% to 75% adopted by the Hon'ble Commission.

Hence, KSEB requests before the Hon'ble Commission that, the distribution ARR may be split in to HT and LT in the ratio of 40:60 for determining wheeling charges.

102. Cross subsidy surcharge and additional surcharge for open access consumers.

Kind attention of the Hon'ble Commission is invited to the provisions under section-42 of the Electricity Act-2003 for providing open access.

(i) Section 42(2) of Electricity Act 2003 provides that, the State Commission mandates to provide open access to the intending consumers after giving due consideration for the **<u>cross subsidies and other operational constraints</u>**. Further the first proviso to Section 42 (2) also provides that the open access consumers has to pay surcharge in addition to normal wheeling charges. Further, Section 42(4) of Electricity Act 2003 envisages that:

Quote:

"*Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.*"

Unquote

(ii) Hon'ble Commission had determined the cross subsidy surcharge as per the methodology prescribed under paragraph 8.5 of the tariff policy, based on the 'weighted average cost power purchase of top 5% at the margin excluding the liquid fuel based generation and renewable power. Accordingly, Commission has adopted Rs 5.00/unit, the average rate of short-term power purchase approved for the year 2013-14.

103. Hon'ble Commission had approved the transmission charges, wheeling charges and cross subsidy surcharge applicable to all open access consumers irrespective of whether they are availing open access on short-term, medium term or long term basis. In this matter KSEB may submit that,

(i) Considering the extreme power shortage that prevailed in the State and also the restriction on power usage imposed on the consumers during the year 2012-13, Hon'ble Commission has permitted the industrial consumers to avail open access on day ahead basis. It may be noted that, these consumers are availing power from exchanges as and when power is available at the energy exchanges at competitive rates. But these consumers are not even giving schedule to State LDC. However, considering the extreme power shortage and restrictions, KSEB permitted them to avail open access.

(ii) Hon'ble Commission may kindly note that, as per the instructions of the Hon'ble Commission and also considering the section-43 of the Electricity Act-2003 for the obligations to provide supply to the consumers on demand, KSEB has been taking following steps to provide power supply to the consumers of the State without any restrictions on energy usage in the near future.

(a) In addition to the power allocation from CGS and Hydel, KSEB has already entered into agreement with traders for procuring 200 MW RTC power by availing MTOA for the period from June-2013 to May-2014.

(b) KSEB had already made arrangements for procuring 200 MW from GRIDCO on firm basis from July-2013 to November-2014.

(c) KSEB had also made arrangements for procuring 100 MW from June-2013 to May-2014 and 600 MW from November-2013 to October-2014 on firm basis through traders by availing STOA.

(d) KSEB had made arrangements for procuring 400 MW through case-1 bid from March-2014 to February-2015.

(e) KSEB has been taking steps to procure 500 MW power through case-1 bid from the year 2015 onwards on long-term basis.

(f) In addition to the above, KSEB has been taking steps to avail maximum power from CGS and UMPP coming across the country.

(iii) All the power sourced by KSEB including CGS, availing power through traders on STOA and MTOA and case-1 bid, KSEB has to meet fixed payment obligations/ penalties for reduction in scheduling on month to month basis

(iv) KSEB had made the above arrangements for procuring power considering the energy demand of all the consumers including the HT&EHT consumers and their demand growth.

(v) However, KSEB may permit the consumers who intends to avail open access, especially who are proposed to avail open access through 'medium term' and 'long term' basis, considering the stipulations that the consumers avail the open access through MTOA or Long term basis may inform the 'quantum of power' they proposed to avail through such arrangements. Further, such consumers shall schedule the power in advance so that, the 'Distribution Utilities' is required to schedule the power only for the balance demand excluding the power availed by open access consumers.

(vi) However, the open access consumers of this State has been availing the power through energy exchanges at 'pick and use' basis. As and when the power is available from energy exchanges for few hours, especially during off-peak hours at cheaper rates, they are availing such power. This has been creating lot of hardship to KSEB especially during the off-peak hours of the monsoon months, due to the following.

(a) Hon'ble Commission may be aware that due to the low demand during off-peak hours of monsoon months, KSEB has been forced to surrender the share from CGS and also reducing the schedule of power arranged through traders by paying penalties.

(b) Aggravating the situation further, some of the industrial consumers has been availing the open access during off-peak hours of the monsoon months, and this has further forced KSEB to surrender CGS and also avoid schedule power from traders etc by paying penalties.

(c) It is further submitted that, such consumers are even not giving schedule of the power they intended to avail through open access route. Since KSEB has been giving every day schedule considering the energy demand of all the consumers of the State, availing open access without giving schedule may cause UI export at low rates. In this matter, kind attention of the Hon'ble Commission is invited to the Draft CERC (Deviation Settlement Mechanism and related matters) Regulations, 2013, where in Hon'ble CERC has proposed to impose stringent ban on the deviation of the schedule and also propose to reduce operating band width of the grid frequency between 49.95 Hz to 50.05 (a band width of 0.1 Hz).

(vii) Considering the above, KSEB requests before the Hon'ble Commission that,

(a) open access may be permitted only to the consumers, who intends to avail power continuously through open access route for a minimum period of one month.

(b) Open access consumers may be required to specify the minimum quantum of power proposed to be availed through open access.

(c) All the consumers shall give the schedule of power based on 15 minutes time block to SLDC Kerala. It is further submitted, at present the energy schedule from energy exchanges also is at 15 minutes time block.

(viii) As submitted earlier, by allowing open access for short durations up to one month may force KSEB to surrender the CGS power and also to reduce the schedule of power contracted through traders etc by giving penalty to such traders. As submitted earlier, the section-42(4) of the Electricity Act-2003 clearly stipulate provisions for recovering the fixed cost commitment from the consumers who are availing open access, of such distribution licensee arising out of his obligations to supply, on month to month basis.

(ix) Since the details of the surrender of CGS, reducing the schedule of power contracted through traders etc on account of allowing open access etc are available at the end of each month, Hon'ble Commission may kindly permit to levy additional surcharge from consumers who are availing power for a short-duration based on the share surrender from CGS / under schedule through traders etc.

104. Considering the facts and submission above, KSEB requests to revise the transmission charges and wheeling charges and cross subsidy surcharge. Further Hon'ble Commission may approve to levy additional surcharge from open access at the rate approved by the Hon'ble Commission on month to month basis.

XII. Capitalization of expenses

105. For the year 2013-14, KSEB has proposed a capital expenditure of Rs 1521.45 crore, however while approving the ARR, Hon'ble Commission has approved the capital expenditure as Rs 1000.00 crore. KSEB has provided the amount capitalized under interest and finance charges and other capital nature of works based on the capital expenses proposed and also the employee cost, A&G expenses and interest charges projected for the year 2013-14.

106. However, while approving the ARR, Hon'ble Commission has made a substantial reduction on the capital expenses to the extent of Rs 590.84 crore, employee cost by Rs 747.69 crore A&G expenses by Rs.149.15 crore and interest and finance charges by Rs 123.05 crore. However, Hon'ble Commission has approved the interest charges and other expenses capitalized without considering the dis-allowance made in the order on ARR. Hence, KSEB requests before the Hon'ble Commission to kindly re-consider the expense and interest capitalized for the year 2013-14 duly considering the ARR Order as well as order on this review petition.

Prayer

Considering the reasons and other details submitted in the foregoing paragraphs as detailed above, KSEB humbly prays before the Hon'ble Commission to review the order dated 30th April 2013 on Petition OP No. 2 of 2013 on ARR&ERC of KSEB for the year 2013-14 on the matters as detailed in the petition as above.

Chief Engineer (Commercial & Tariff)