BEFORE THE HONOURABLE KERALA STATE ELECTRICITY REGULATORY COMMISSION

In the Matter of: **Review Petition against KSERC order dated 14 August 2014 on Petition OP No. 9 of 2014 on ARR & ERC of KSEBL for the year 2014-15.**

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

THE PETITIONER HUMBLY STATES THAT:

1. Hon'ble Commission vide the order dated 14th August 2014 on Petition OP No. 9 of 2014 on ARR & ERC of KSEBL for the year 2014-15 has approved the revenue gap for the year 2014-15 as Rs 1092.78 crore against the Board's projection of Rs 2931.21 crore. A comparison of the various items of ARR &ERC projected by KSEBL and approved by the Hon'ble Commission is extracted below.

Table 1: Comparison of the ARR &ERC proposed by KSEBL and approved by KSERC

Particulars	2014-15 (Rs Crores)		
	Proposed by KSEBL	KSERC order	Difference
Generation of Power	285.91	276.15	9.76
Purchase of power	6575.40	6205.29	370.11
Interest & Finance Charges	1694.10	1469.11	224.99
Depreciation	585.50	414.80	170.70
Employee Cost	2042.25	1269.91	772.34
Repair & Maintenance	315.54	235.75	79.79
A&G Expenses	240.65	103.60	137.05
Other Expenses	27.68	6.50	21.18
Gross Expenditure (A)	**11767.03**	**9981.09**	**1785.94**
Less : Interest Capitalized	141.64	141.64	0.00
Less : Expenses Capitalized	192.46	192.46	0.00
Net Expenditure (B)	**11432.93**	**9646.99**	**1785.94**
Statutory Surplus/ ROE (C)	542.35	489.86	52.49
Impact of APTEL orders(D)	82.34	82.34	0.00
ARR (D) = (B) +(C)+(D)	**12057.62**	**10219.19**	1838.43
Less Non-Tariff Income	453.30	453.30	0.00
Net ARR	**11604.32**	**9765.89**	**1838.43**
Less Revenue from sale of power	8673.11	8673.11	0.00
Revenue Gap	**2931.21**	**1092.78**	**1838.43**

2. As submitted above, Hon'ble Commission has made a total disallowance of Rs 1838.43 crore from the amount projected by KSEBL on various expenses as detailed below.

Table 2: Total Disallowance made by Commission

S.No	Particulars		Disallowance (Rs crores)
i.	Cost of Generation	:	9.76
ii.	Cost of power purchase	:	370.11
iii.	Interest & Finance Charges	:	224.99
iv.	Depreciation	:	170.70
v.	Employee Cost	:	772.34
vi.	R&M Expenses	:	79.79
vii.	A&G Expenses	:	137.05
viii.	Other Expenses	:	21.18
ix.	Return on Equity	:	52.49
	Total	:	**1838.43**

3. KSEBL submits before the Hon'ble Commission that denial of the reasonable expenses projected by KSEBL for carrying out its licensed business, may cause it difficult to meet its various obligations including the cost of generation and power purchase, employee cost, R&M expenses etc during the year 2014-15 and it may affect its various obligations to provide quality power.

4. Hon'ble Commission vide the order dated 30th September-2014 in the original petition No. 9/2014 has also approved the open access charges, meter rent , pooled cost of power purchase and Cost at voltage model. Though Hon'ble Commission has reduced the meter rent from 1st October-2014 onwards, however Hon'ble Commission has approved the non-tariff income on the presumption of continuance of the meter rent at the pre-revised rate for the entire financial year 2014-15. Thus, there was considerable revenue shortfall on account of the reduction of the meter rent and the same was not considered while appoving the ARR&ERC of KSEBL for the year 2014-15.

5. KSEBL files this review petition for kind consideration and favorable orders. The details are given below.

(A) Interest on working Capital

6. The total unrecovered revenue gap as per the orders of the Hon'ble Commission as on 31-03-2014 is about Rs 2445.73 crore as detailed below.

Table-3. Details of the un-bridged revenue gap

Year	Revenue gap approved	Revenue gap met through tariff revision	Net un-bridged revenue gap	Remarks
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)	
Till 31-03-2011			424.11	As per the Truing up orders
2011-12	928.62	Nil	928.62	No tariff revision
2012-13	1889.15	1257.13	632.02	Tariff revision effected from 01-07-2012 only.
2013-14	1049.91	588.93	460.98	Part of the revenue gap only allowed to recover through tariff revision
Total			2445.73	

7. KSEBL has been heavily availing overdraft from financial institutions to meet the revenue gap and requested to allow Rs 250.00 core as carrying cost and claimed as part of the interest on working capital. However, while approving the ARR, Hon'ble Commission had allowed carrying cost only for the net unbridged revenue gap as on 31-03-2011.

8. As detailed in the Table-3 above, Rs 2445.73 crore is the net un-bridged revenue gap approved by the Commission as per its own orders on ARR till the FY 2013-14. The actual revenue gap as per the audited/ provisional accounts during the said period was much higher than the revenue gap approved by the Commission as detailed below.

Table-4. Comparison of the revenue gap approved and actuals

Year	Unbridged gap as per the order of the Commission	Revenue gap as per auditted/ provisional accounts	Increase over approval	Remarks
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)	
2011-12	928.62	1934.13	1005.51	Auditted accounts
2012-13	632.02	3999.14	3367.12	Provisional accounts
2013-14	460.98	1427.97	966.99	Estimate
Increase over approval			5339.62	

9. As per the provisions of the Electricity Act-2003 and also as per the various judgments of the Hon'ble APTEL, Hon'ble Commission should have to ensue financial viability of the distribution companies. Further, Hon'ble APTEL vide the judgment dated 1^{8th} October-2012 on Appeal petition No. 7 of 2011, 46 of 2011 and 122 of 2011 ordered as follows.

> "11.5 On the basis of the above findings of the Tribunal we decide as under: i) When the utility gives its projected expenditure under a head in the ARR, the Commission either accepts it or decides a lower expenditure. However, if in the true up of the ARR subsequently the Commission finds that the expenditure which was denied/reduced earlier under that head needs to be approved then carrying cost may be allowed for such additional expenditure under that particular head which was denied earlier.
> ii) The utility is entitled to carrying cost on his claim of legitimate expenditure if the expenditure is: a<u>) accepted but recovery is deferred e.g. interest on regulatory assets</u>,
> b) claim not approved within a reasonable time, and
> c) disallowed by the State Commission but subsequently allowed by the Superior Authority."

10. As per the judgment of the Hon'ble APTEL, KSEBL is eligible to claim interest on the outstanding unbridged revenue gap approved as per the orders on ARR. However, vide the order on ARR&ERC for the year 2014-15, Hon'ble Commission has allowed carrying cost only for the outstanding revenue gap as on 31-03-2011 amounting to Rs 424.11 crore. This is against

the judgment of the Hon'ble APTEL and also against the prudent utility practices followed across the country.

11. It is further submitted that, though Hon'ble Commission has approved Rs 1092.78 crore as the revenue gap for the year 2014-15, the additional revenue mobilization through tariff revision effected from 16-08-2014 is is about Rs 682.99 crore only leaving Rs 409.79 crore as regulatory asset. Hence over and above the interest on the unbridged revenue gap of Rs 2445.73 crore as on 31-03-2014 as detailed under Table-4, Hon'ble Commission has also to allow carrying cost for the unbridged gap of Rs 409.79 crore approved for the year 2014-15.

12. Hence, KSEBL may humbly request that, carrying cost may kindly allowed under interest on working capital for the outstanding unbridged approved revenue gap amounting to Rs 2445.73 crore as on 31-03-2014 plus the unbridged revenue gap of Rs 409.79 crore approved for the year 2014-15.

(B) Depreciation

13. 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 KSEBL, 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.

14. KSEBL is not claiming depreciation on consumer contribution and grants for the purpose of annual revenue requirement calculation. However, KSEBL as a new entity formed vide the Government notification G.O (p) No. 46/2013/PD dated 31st October-2013, KSEBL has to follow the balance sheet as per the above Government notification on re-vesting. Hence, for the purpose of calculation of depreciation on consumer contribution and grants, KSEBL has relied upon consumer contribution and grants allocated through Second Transfer Scheme notified by GoK and provisional balance sheet of KSEBL for FY 2012-13. The consumer contribution and grants for FY 2013-14 and FY 2014-15 are projected as Rs. 357.46 Cr and Rs. 367.29 Cr respectively. This estimation has been done considering historical trends of consumer growth and consumer contribution.

Table-5: Consumer Contribution and Grants Profile (Rs. Cr)

Parameter	FY 2013-14	FY 2014-15
Opening Consumer Contribution and Grants	0.00*	347.97
Additions	357.46	367.29
Closing Consumer Contribution and Grants	357.46	724.75

**As per KSEBL provisional balance sheet on1st April 2013.*

15. However, while approving the ARR, Hon'ble Commission has not considered the consumer contribution and grants as per the Government notification dated 31-10-2013 and depreciation on the consumer contribution and grants was dis-allowed based on the books of accounts of the erstwhile KSEB.

16. Hence, KSEBL humbly requests the Hon'ble Commission to consider the consumer contribution and grants allocated through Second Transfer Scheme notified by Govt of Kerala and provisional balance sheet of KSEBL for FY 2012-13 which is now available, to re-estimate the additions to consumer contribution and grants and to thus allow the depreciation of Rs. 585.5 Crores as estimated by the licensee.

(C) Shortfall in revenue from the approved Non-tariff income due to the reduction of 'Meter Rent'.

17. Hon'ble Commission vide the order dated 30-09-2014 in original petition No.9/2014 has reduced the meter rent with effect from 01-10-2014 as detailed below.

Table 6:- Meter rent approved for the year 2014-15

Sl No	Description	Meter rent (Rs/month or part thereof)			
		Existing	Proposed	Approved	% reduction over the existing meter rent
1	Single phase static energy meters with LCD and ToD facility and with ISI certification	10	20	6	40%
2	Three phase static meters with LCD and ToD facility and with ISI certification	20	50	15	25%
3	LT CT operated three phase four wire static energy meters (Class 0.5 accuracy) with LCD and ToD facility and ISI certification	75	60	30	60%
4	3 phase AC static tri-vector energy meters with ABT, ToD facility and compliant to Device Language Message Specification (DLMS) protocol		2000	1000	

18. In the ARR&ERC petition for the year 2014-15, KSEBL has estimated the revenue from meter rent as part of the 'non-tariff' income as Rs 175.00 crore at the pre-revised rate of meter rent. However, by reducing the meter rent from 1st October-2014 onwards, the short fall in revenue expected during the year is about Rs 35.22 crore. The details are given below.

Table-7. Shortfall in non-tariff income due to reduction of meter rent

Sl No	Particulars	Number of consumers	Meter rent at pre-revised rate for one year	Meter rent at revised rate for one year	Short fall for one year	Short fall for 7 1/2 months during the year 2014-15 from 16th August-2014
		(Nos)	(Rs.Cr)	(Rs.Cr)	(Rs.Cr)	(Rs.Cr)
1	**Single phase consumers**	10688214	128.26	76.96	51.30	32.06
2	**Three phase consumers**	809807	19.44	14.58	4.86	3.04
3	**Three phase consumers with CT facility**	3373	0.30	0.12	0.18	0.11
	Total		148.00	91.65	56.34	35.22

19. Hence, KSEBL may humbly request before the Hon'ble Commission to approve the revenue shortfall on account of the reduction in meter rent during the year 2014-15.

(D) Return on Equity

20. In the ARR&ERC petition for the year 2014-15, Board has claimed Rs 542.35 crore as RoE @15.5% for the Equity Capital of Rs 3499.00 crore. However, while approving the ARR, Hon'ble Commission has allowed Rs 489.86 crore as RoE @14.00%. However, Hon'ble Commission has not specified the reason for allowing a lower rate for return than that claimed by the KSEBL. In this matter, KSEBl may submit the following for the kind consideration of the Hon'ble Commission.

21. Kind attention of the Hon'ble Commission is invited to the CERC (Terms and Conditions of Tariff) regulations, 2014 dated 21st February-2014. As per the regulation 24 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, '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'. 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 KSEBL has been continuing as a single utility and doing generation, transmission and distribution activities, KSEBL has claimed the base rate of return of 15.50% prescribed by CERC.

22. 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.

23. Though KSEBL 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 KSEBL, 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 RoE@15.50%.

(E) Business Growth of the Utility has not considered while approving the O&M expenses of KSEBL for the year 2014-15.

24. While approving the Operation & Maintenance Expenses including Employee cost, Repair & Maintenance Expenses and Administration & General Expenses for the year 2014-15, Hon'ble Commission has adopted the actual O&M expenses incurred for the year 2008-09 as the base and inflated the same based on the weighted average indices of the Consumer Price Index (CPI) and Wholesale Price Index (WPI) at the weightage of 70:30.

25. Accordingly, the increase in O&M cost allowed for the year 2014-15 is limited to cover the inflation level only over the same approved for the year 2008-09.

26. If KSEBL has been handling its business activities including the Generation business, transmission business and distribution business etc during the year 2014-15 with the same consumer strength, energy sales, gross fixed assets etc as that during the year 2008-09, then the increase in O&M expenses approved based on inflation over and above the same approved by the year 2008-09 may be logical. i.e., the methodology adopted by the Commission may be suitable for a Generating Station with constant installed capacity or a transmission line element or substation.

27. However, the consumer strength, energy sale, gross fixed assets etc of KSEBL has been increasing year after year since the year 2008-09. The details are given below.

Table-8. Consumer strength, energy sale and GFA during the period between 2008-09 to 2013-14

Year	Consumer strength			Annual energy sale			Gross Fixed Assets		
	(Lakhs)	(%) increase over previous year	Cumulative increase over 2008-09 (%)	(MU)	(%) increase over previous year	Cumulative increase over 2008-09	As on 31st of March (that of erstwhile KSEB)	(%) increase over previous year	Cumulative increase over 2008-09
2008-09	94.00			12414			9249		
2009-10	97.00	3.19	3.19	13971	12.54	12.54	10185	10.12	10.12
2010-11	101.00	4.12	7.32	14548	4.13	16.67	11204	10.00	20.12
2011-12	105.00	3.96	11.28	15981	9.85	26.52	12073	7.76	27.88
2012-13	108.00	2.86	14.13	16838	5.36	31.89	12693	5.13	33.01
2013-14	112.00	3.70	17.84	17454	3.66	35.54	13743	8.27	41.29

28. As detailed above, the consumer strength has increased by 17.84%, the annual energy sale has increased by 35.54% and the GFA has increased by 41.29% as on 31-03-2014 over the same for the year 2008-09. In order to provide the quality power to the consumers of the State with minimum breakdown etc, KSEBL has to engage more employees, definitely there will be increase in repair and maintenance expenses, vehicle and other related expenses etc. However, while approving the ARR, Hon'ble Commission has not considered all these factors.

29. KSEBL has been appraising all these issues before the Hon'ble Commission during the public hearings on ARR, through filing review petition against the truing up of accounts for the year 2009-10, filing review petition against the orders on ARR&ERC for the years for the periods from 2011-12, 2012-13 and 2013-14.

30. However, while notifying the draft KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014, Hon'ble Commission has duly considered the business growth of the utility and evolved the draft norms for employee cost and A&G costs etc linked to consumer growth, energy sales and distribution transformation capacity etc. The norms for R&M expenses is arrived as a percentage of gross fixed assets. The draft O&M norms proposed for the Transmission and Distribution business vide the draft KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014 is detailed below.

Table-9 O&M cost for Transmission

Particulars	FY 2015-16	FY 2016-17	FY 2017-18
O&M Expenses Per Bay (Rs Lakh)	7.54	7.98	8.45
O&M Expenses Per ckt. km (Rs Lakh)	0.74	0.78	0.83

Table-10. Normative O&M cost of distribution

O&M Expenses	FY2015-16	FY 2016-17	FY 2017-18
Employee Expenses			
Rs Lakh/000 consumers	5.77	6.1	6.46
Rs.Lakh/MVA of Distribtion transformation capapcity	8.89	9.41	9.96
Rs/unit of sales	0.21	0.22	0.24
A&G Expenses			
Rs Lakh/000 consumers	0.27	0.29	0.31
Rs.Lakh/MVA of Distribtion transformation capapcity	0.42	0.45	0.47
Rs/unit of sales	0.01	0.01	0.01
R&M Expenses			
% of opening GFA	3%	3%	3%

31. It is further submitted that, while approving the employee cost for the year 2012-13, Hon'ble Commission has considered the argument of the Board and stated as follows:

Quote:

Approved estimate of Employee cost for 2012-13

	(Actual)	Estimates* (Rs. Crore			Approved expenses (Rs.Crore)
	2008-09	2009-10	2010-11	*2011-12*	*2012-13*
Basic Pay Projection	378.70	390.06	401.76	*413.82*	*426.23*
Other components					
CPI component (70%)	613.54	689.43	761.45	*820.97*	*885.14*
WPI Component (30%)	262.94	272.96	298.90	*324.50*	*352.29*
Total	**1,255.18**	**1,352.45**	**1,462.11**	***1,559.28***	***1,663.66***
% increase		*7.75%*	*8.11%*	*6.65%*	*6.69%*

** The figures arrived at for the intermediate years (2009-10, 2010-11 & 2011-12) are relevant only for estimation purpose, and cannot be construed as approved figures. Approved figures for these years are as per the respective ARR&ERC Orders.*

Based on the above formula, the approved employee cost for 2011-12 is Rs.1663.66 Crore. 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 refixed based on the actual CPI-WPI for the year 2012-13. However, the Commission has referred this item to the consultants for their study and recommendation. The Commission is prepared to take a relook on the issue.

Unquote

32. It may be noted that, for a Generating Station or a Transmission asset like that of the power stations of NTPC, NLC and Transmissions lines of PGCIL (each line is being treated separately), the yearly escalation linked to inflationary indices may be sufficient to meet the yearly increase. However, for a utility like KSEB wherein consumer base is growing, the energy sales to the consumers has also been increasing, new assets are being added to the system in all the three functional areas - Generation, Transmission and Distribution.

33. As discussed in detail in the 'Discussion paper on 'Developing Regulations and Norms for determination of tariff for Generation, Transmission and Distribution Business in the State of Kerala' published along with the draft norms, almost all the regulators across the country has been duly considering the business growth of the utility while approving the O&M expenses. The Model Regulation notified by the Forum of Regulators also duly addressing the business growth while notifying the norms for various expenses for Distribution Utilities.

34. Hence, KSEB kindly request before the Hon'ble Commission to consider the business growth of the utility also while approving the Employee Cost, Repair & Maintenance Expenses and A&G expenses for the year 2014-15.

(F) Dis-allowance on Employee cost

35. In the ARR & ERC, KSEBL has estimated the total employee cost including pension liabilities for the year 2014-15 as Rs 2042.25 crore. The employee cost is projected taking into consideration the transfer scheme and the separation of terminal liabilities and establishment of master fund for meeting the terminal liabilities. The split up details of the employee cost are detailed below.

Table 11: Split of employee expenses:

Basic pay	Rs 804.33 crore
DA	Rs 834.94 crore
Bonus & Other allowances	Rs 65.57 crore
Earned leave encashment	Rs 115.82 crore
Provision for pay revision	Rs 120.47 crore
Contribution to pension fund	Rs 101.12 crore
Total	Rs 2042.25 crore

36. However, while approving the ARR, Hon'ble Commission has disallowed a total amount of Rs 772.34 crore from the employee cost projected by KSEB and approved the employee cost at Rs 1269.91 crore . The amount disallowed by the Hon'ble Commission is about 38 % 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-12. Details of employee cost projected by KSEBL and approved by the Commission

Particulars	Projected by KSEBL (at the revised pay scale)	Approved by KSERC	Difference	Percentage of reduction
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)	%
Basic pay	804.33	452.19	352.14	43.78
Other components		646.60	369.73	36.38
DA including DA revision	834.94			
Other allowances (over time,	65.57			
EL encashment	115.82			
Contribution to pension fund	101.12	101.12	0.00	0.00
Provision for pay revision	120.47	72.00	48.47	40.23
Total employee cost	2042.25	1271.91	770.34	37.72

37. As detailed above, through Hon'ble Commission has approved Rs 1271.91 crore as employee cost, the amount adopted under Table-7.1 for approving the revenue gap is Rs 1269.91 crore only. This clerical error may be corrected.

38. Further as detailed under Table-11 above, Hon'ble Commission has dis-allowed 37.72% of the employee cost of the serving employees amounting to Rs 770.34 crore while approving the ARR&ERC for the year 2014-15. The amount dis-allowed includes the DA provided, other allowance including EL encashment, provision for pay revision etc.

39. The methodology adopted by the Hon'ble Commission for approving the employee expenses is mentioned 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, EL encashment, medical expenses etc. (except terminal benefits & due pay revision) as Rs 380.67 crore.

(b) Commission has allowed an increase of 3% on basic salary for the subsequent years up to 2014-15. Thus, Commission has arrived at basic salary for the year 2014-15 at Rs 452.19 crore against Rs 804.33 crore proposed by KSEBL.

(c) For DA and other allowances (except terminal benefits and pay revision due from July/August 2013), Commission has indexed the them 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%, 10.18% for 2010-11, 8.56% for 2011-12, 9.56% for 2012-13, 8.63% for 2013-14 and 8.66% for 2014-15. Accordingly, Commission has approved the DA, other allowances including Earned Leave surrender as Rs 646.6 crore as against Rs 1016.33 crore projected by KSEBL.

(d) Hon'ble Commission has further stated that, "*Thus the total employee cost allowed for the year 2014-15 is Rs.1271.91 crore…………………….………The licensee shall endeavor to control the employee expenses to bring it 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 2014-15.*"

40. In order to limit the employee cost to the approved level, KSEBL has to curtail the basic and DA now being released to its employees. However, it is not possible for a public utility like KSEBL to adopt such drastic steps which would ultimately end up in employee unrest and legal hurdles. Further, the salaries and wages are governed by bilateral wage settlement agreement entered into between the KSEBL and trade unions as per the provisions of Industrial Dispute Act 1956. Hon'ble Commission may appreciate that KSEBL cannot unilaterally withdraw from the wage settlement mutually agreed

with trade unions. In this matter, KSEBL may further submit the following for the kind consideration of the Hon'ble Commission.

(a) Basic pay

41. In the ARR for the year 2014-15, KSEBL has proposed Rs 804.33 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 2014-15 as Rs 452.19 crore. Thus, the total dis-allowance on basic pay was about Rs 237.70 crore, i.e., about 43.78% of the amount projected by KSEBL.

42. As part of the wage settlement agreement between KSEBL and trade unions, KSEBL 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 existing as on 31-03-2009. As submitted earlier, KSEBL 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%.

43. Hence, KSEBL humbly submits that, Hon'ble Commission may kindly allow the basic pay for the year 2014-15 at the compounded increase of 5.00% on the actual basic pay incurred for the year 2011-12.

(b) **Dearness Allowances**

44. Dearness Allowance has been providing 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.

45. 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"

46. 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."

47. 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.

48. 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 allowed 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) FOR and other regulators considered the DA as an uncontrollable expense to the utilities.

49. 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-13
DA allowed by KSEB during the period from 2008-09 to 2014-15

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	17% of the pay	173%	
Jan 2014	17% of the pay	190%	
July 2014	12% of the pay	202 %	Projected
Jan 2015	12% of the pay	214%	Projected

50. However, the actual DA allowed by the State Commission was just 88.44% as against the 214.00% allowed/ projected by the Board. The details are given below.

Table-14
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	224.18	57.47	78.00	20.53
2010-11	401.76	246.98	61.47	106.00	44.52
2011-12	413.82	268.14	64.80	130.00	65.20
2012-13	426.23	293.65	68.89	154.00	85.11
2013-14	439.02	319.17	72.69	190.00	117.31
2014-15	452.19	346.82	76.70	214.00	137.30

51. 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.

52. Considering the reasons stated above, KSEB may kindly request before the Hon'ble Commission to approve the DA as per the ARR & ERC petition for the year 2014-15.

(c) Provision for pay revision

53. 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 have 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 2014-15, which may be implemented at a later date. Accordingly, KSEB has created a provision of Rs 120.47 crore during the year 2014-15 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.

54. While approving the ARR, Hon'ble Commission had allowed Rs.72 crore being 6% of the approved employee cost for the year 2014-15 against the projection of Rs.120.47 crore by KSEBL.

55. Regarding the provision for pay revision etc, kind attention of the Hon'ble Commission is invited to the judgment of the Hon'ble APTEL in appeal nos.26,27 &28 of 2009, 160,161 &162 of 2010, 147, 148 &149 of 2011,193,194,195 &196 of 2012 dated 03.07.2013 wherein it was ordered that pay revision arrears are to be allowed in ARR.

(d) Earned leave surrender

56. Hon'ble Commission has raised apprehensions about the estimation of earned leave surrender and terminal surrender. It may kindly be noted that the amount projected under this head is based on past actuals. A sum of Rs.115.82 crore has been estimated for the year 2014-15. Employees are allowed to surrender earned leave up to 30 days in an year and the salary and allowances projected in ARR works out to Rs.1687 crore. If entire employees opt to surrender, then the expense towards this would be Rs.140.58 crore (1687/12).

57. Considering the reasons as above, KSEB humbly requests that, the employee cost including the provision for pay revision made for the year 2014-15 may be kindly approved in full.

(G) Repair and Maintenance Expenses

58. In the ARR, KSEBL has projected the R&M cost required for the year 2014-15 as Rs 315.54 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 235.75 crore, i.e, reduced the R&M cost by Rs 79.79 crore (a reduction of 25.29 % over KSEBL's projection) for the year 2014-15.

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 KSEBL, i.e., linked to increase in assets.

60. In this matter KSEBL may invite the attention of the Hon'ble Commission on the paragraph-22 (b) & (g) model regulations issued by the FOR, which is extracted under paragraph-28 above, where in it is clearly established that, for estimation R&M expenses 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 (FOR)' specify the formula for estimating the R&M expenses.

> Clause-22.2 of Model tariff regulations notified by FOR
> 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&Mn = Kb* GFAn
> Where:
> R&Mn: Repairs & Maintenance expense for n^{th} year
> GFAn: Opening Gross Fixed Assets for n^{th} year
> Kb: Percentage point as per the norm

62. It is seen from the above that, the model regulation also stipulates 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 FOR is a statutory body constituted by the Central Government as per section 166(2) of the Electricity Act-2003 and it has been notifying various model regulations for harmonization of the regulations of the power sector. Hence, KSEBL requests that, Hon'ble Commission may give due consideration of the provisions in the Model tariff regulations till Hon'ble Commission finalizes such norms.

64. Further, 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 finalise the regulations.

65. In any case, the R&M expenses are very essential and critical expenses components. The R&M expenses of a distribution licensee for the year 2014-15 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 Assets that exist at the beginning of the financial year concerned. It is further submitted that, the labour costs and material costs are higher in Kerala compared to other states. This also results in higher R&M expenses.

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

Table 15: Gross fixed assets on KSEBL 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)	(%)
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	12692.87	4008.42	46.16
2014-15	13743.00	5058.55	58.25

As detailed above, though the GFA has increased by 58.25% over the base year 2008-09, Hon'ble Commission has not allowed proportionate increase in R&M expenses.

63. 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 16: Per unit R&M cost approved by Commission

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
2014-15	235.75	18494.44	0.13

64. As mentioned above, the R&M cost per unit approved during the period from 2008-09 to 2014-15 is at the uniform rate of Rs 0.11 to 0.13 per unit, and no provision has been allowed for accounting inflation.

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

Table 17: R&M cost admissible on the basis of inflation

Year	Admissible		Actuals / projection		Approval	
	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)
2008-09		0.11	0.11		0.11	0.00
2009-10	12.32	0.12	0.12		0.11	0.01
2010-11	10.53	0.13	0.16	-0.03	0.12	0.04
2011-12	8.42	0.14	0.16	-0.01	0.11	0.04
2012-13	10.43	0.16	0.15	0.01	0.12	0.03
2013-14	10.43	0.18	0.16	0.01	0.12	0.04
2014-15	10.85	0.19	0.17	0.02	0.13	0.04

66. Considering all these aspects as detailed in the petition, KSEBL requests the Hon'ble Commission to approve the R&M expenses as projected in the ARR&ERC petition which has been estimated duly considering the GFA as on 1st of April-2014, inflationary factors, age of assets and the importance of R&M for maintaining the assets to provide quality supply etc.

(H) Administration and General Expenses

67. In the ARR, KSEBL has projected the A&G expenses for the year 2014-15 at Rs 240.65 crore, which includes Rs 108.36 crore towards electricity duty. The A&G expenses claimed excluding section 3(1) duty amounts to Rs 132.29 crore. However, as against the same, Hon'ble Commission has allowed only Rs 103.60 crore as A&G expenses, i.e., Hon'ble Commission had made a dis-allowance of 21.69 % on the A&G expenses claimed (excluding section 3(1) duty).

68. While approving the A&G expenses for the year 2014-15, Hon'ble Commission has 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.

69. KSEBL submits that, the A&G expenses 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.

70. In this matter, kind attention is invited to the paragraph-22(b) of the Model regulations for Multi Year Tariff notified by FOR, 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:'

71. Further, paragraph 22.3 of the model regulation notified by the FOR specifies the formulae to be adopted for estimating the A&G expenses which are extracted below for ready reference.

*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.

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

72. Hon'ble Commission is yet to finalise the 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.

73. 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"

74. 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 183: Growth of KSEBL 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, though the business volume has increased considerably, no increase in A&G expenses shall be allowed for accounting business growth.

75. 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 KSEBL 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.

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

Table 194: A&G expenses approved and admissible

Year	Approval			Admissible			Actuals	
	A&G cost approved	Energy sale	A&Gcost approved	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	0.060	0.09	0.062	0.006
2011-12	79.71	15921.53	0.051	8.42	0.065	0.14	0.069	0.021
2012-13	86.11	16386.30	0.053	10.43	0.072	0.19	0.073	0.053
2013-14	94.97	18239.00	0.052	10.43	0.080	0.28	0.067	0.013
2014-15	103.6	18494	0.056	10.85	0.089	0.033	0.072	0.018

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

77. Hence KSEBL requests 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.

(I) T & D loss reduction targets

78. The actual T&D loss reduction achieved for the year 2013-14 was 15% a reduction of 0.30% over the loss reduction achieved for the year 2012-13. Considering the present level of T&D loss reduction already achieved and also considering the efforts taken by the Board for further loss reduction, KSEBL has proposed a loss reduction target of 0.25% for the year 2014-15.

79. However, while approving the ARR, Hon'ble Commission has arbitrarily approved a loss reduction target of 0.50% as against 0.25% proposed by KSEBL. KSEBL feels that, this is a highly ambitious target and is very 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 KSEBL for not achieving the loss reduction targets approved by the Hon'ble Commission.

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

(J)Capitalization of expenses

81. For the year 2014-15, KSEBL has proposed a capital expenditure of Rs 1300 crore, however while approving the ARR, Hon'ble Commission has approved the capital expenditure as Rs 1000.00 crore. KSEBL 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 2014-15.

82. However, while approving the ARR, Hon'ble Commission has made a substantial reduction on the capital expenses to the extent of Rs 300 crore, employee cost by Rs 772.34 crore A&G expenses by Rs.137.05 crore and interest and finance charges by Rs 225.99 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, KSEBL requests before the Hon'ble Commission to kindly re-consider the expense and interest capitalized for the year 2014-15 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, KSEBL humbly prays before the Hon'ble Commission to review the orders dated 14th August 2014 and 30th September-2014 on the main Petition OP No. 9 of 2014 on ARR & ERC of KSEBL for the year 2014-15 on the matters as detailed in the petition as above.

Chief Engineer (Commercial & Tariff)