

KERALA STATE ELECTRICITY REGULATORY COMMISSION

THIRUVANANTHAPURAM

PRESENT: Sri.K.J.Mathew, Chairman
Sri.P.Parameswaran, Member
Sri.Mathew George, Member

April 26, 2011

Petition OP No.10/2011

In the matter of Truing up of accounts of Kanan Deven Hill Plantations
Company Private Limited (KDHPCL) for 2005-06

Petition OP No.11 /2011

In the matter of Truing up of accounts of Kanan Deven Hill Plantations
Company Private Limited (KDHPCL) for 2006-07

Petition OP No.30 /2010

In the matter of Truing up of accounts of Kanan Deven Hill Plantations
Company Private Limited (KDHPCL) for 2007-08

Petition OP No.31 /2010

In the matter of Truing up of accounts of Kanan Deven Hill Plantations
Company Private Limited (KDHPCL) for 2008-09

Petition OP No.32 /2010

In the matter of Truing up of accounts of Kanan Deven Hill Plantations
Company Private Limited (KDHPCL) for 2009-10

Kanan Deven Hill Plantations Company Private Limited - Petitioner

ORDER

Background

1. Kanan Deven Hill Plantations Company Private Limited (*hereinafter referred to as KDHPCL or licensee*) is a distribution licensee supplying electricity in Munnar. M/s KDHPCL obtained the Licence for distribution through the transfer

of licence from M/s Tata Tea Limited as per the order dated 9-1-2007 of the Commission. The Commission has been approving the ARR&ERC of the licensee since 2005-06 for M/s Tata Tea limited, then licence holder and to KDHPCL since the transfer of licence.

2. M/s KDHPCL approached the Appellate Tribunal for Electricity on the Orders of the Commission on the ARR&ERC for the years 2008-09 (Appeal No.160 of 2009) and 2009-10 (Appeal No. 193 of 2009). The APTEL in its order dated 18-5-2010 allowed part of the Appeal in the ARR&ERC Order for 2008-09. APTEL ordered, while considering the T&D loss, the line loss is to be considered and in view of the changes in the structure and the accounting methodology adopted due to transfer of licence from M/s. Tata Tea Limited to M/s.KDHPCL to reconsider the actual expenses on employee costs, R&M expenses, interest charges and A&G expenses. In respect of Appeal No. 193 on ARR&ERC for 2009-10, the APTEL also ordered that there shall not be any discrimination between the consumers and KDHPCL's so called 'own consumption', and all consumers shall be treated equally. Hon.APTEL ordered that till such time the meters are installed for measuring 'Own consumption' the present method of estimation of maximum demand may be adopted as an interim measure. APTEL also directed the licensee to install meters within in 6 months. M/s.KDHPCL sought a review of the decision pointing out the fact that meters are already present, but no relief was given in the Review Order dated 24-11-2010 by the APTEL. In the review petition, the KDHPCL had submitted that in the case of billing of maximum demand meters are available though the APTEL has presumed that there were no meters. In the review Order, the APTEL ordered that in case meters are available, the actual meter reading shall be used for billing. The Commission in disposing of the present truing up petitions would follow the orders of the APTEL in Appeal No. 160 and 193. Accordingly, the major issues to be considered by the Commission in the light of APTEL orders are regarding the accounting of income for KDHPCL's 'own consumption', which is to be treated at par with other similar consumers. 'Own consumption' refers to the sales to tea factories owned by the licensee KDHPCL and offices, bungalows, guest houses etc., owned by the licensee company. In the case of various expenses items, as APTEL ordered, the Commission would consider the ownership change and licence transfer in finalizing the truing up.
3. In the mean time, the Commission in its order dated 25-5-2010 revised the Bulk Supply Tariff applicable to M/s KDHPCL with effect from 1-12-2007. Though an appeal was filed by M/s/ KDHPCL, the APTEL in its order dated 28-1-2011 has

upheld the above decision of the Commission revising the BST tariff applicable to KDHPCL.

4. In reply to the Commission's direction to submit truing up petitions, M/s.KDHPCL has provided a comparison of approved and actual ARR&ERC for the year 2007-08 (from 1st July 2007) and 2008-09 on 6-1-2010. M/s.KDHPCL was later directed by the Commission to file the truing up petition in proper format and the same was filed on 7-4-2010. The petition for truing up for the year 2009-10 was filed vide letter dated 18-10-2010. The Commission conducted a hearing on the petition on 16-8-2010 and noted that the petition required detailed scrutiny. The Commission also insisted that the truing up petition from 2005-06 onwards needs to be filed by the Company. However, M/s. KDHPCL has taken a stand that truing up petition from 1-7-2007 can only be filed since information prior to the take over of the distribution business from M/s.Tata Tea Limited are not available. However, the Commission noted that the licence was transferred from M/s Tata Tea Limited to KDHPCL, which is a company in which the major shareholder is M/s Tata Tea Limited and even the Executive Director of the new company and the old company is the same person. Further, the business of distribution of electricity transferred to the new company, is a continuous function and cannot be treated in the manner argued by the M/s,KDHPCL. The Commission insisted to furnish the truing up petition from 2005-06 onwards. Vide letter dated 1-12-2010, KDHPCL filed audited accounts for the year 2005-06 of distribution held by M/s Tata Tea Limited, but stated that accounts for the year 2006-07 and for the period 1-4-2007 to 30-6-2007 are not readily available. Even after considerable lapse of time, M/s.KDHPCL could not provide the details for the year 2006-07 and for the period from 1-4-2007 to 30-6-2007.

5. The Commission held a hearing of the petition of truing up on 16-8-2010. In order to clarify the details provided by KDHPCL a meeting was held on 20-11-2010 at the office of the Commission. Shri. Srikrishnan, Managing Director represented the Company. M/s.KDHPCL provided the details on the clarifications sought by the Commission in its letter dated 1-12-2010. In the absence of filing the actual accounts for the year 2006-07 by M/s.KDHPCL, the Commission decided to give one more opportunity to present truing up petitions for all the years from 2005-06 to 2009-10. The hearing was held on 1-3-2011 at the office of the Commission. As per the direction of the Commission during the hearing, the M/s.KDHPCL filed a petition showing the comparison of actual and approved expenses and income for the years 2005-06, 2006-07 and for first quarter of 2007-08 vide its letter dated 12-3-2011.. Through the petition lacks in adherence to prescribed formats,

the Commission accepted the same for the purpose of truing up. During the hearing held on 1-3-2011, the Commission mentioned that since orders of the Commission revising the BST of M/s.KDHPCL is in force after the dismissal of the petition filed by M/s.KDHPCL before the APTEL, the power purchase cost needs revision. M/s KDHPCL in their letter dated 8-3-2011 provided additional commitment due to revision of BST for the years 2007-08, 2008-09 and 2009-10. However, in the letter they have mentioned that the details are provided purely in compliance with the directive of the Commission without prejudice to the appeal filed before the Hon. Supreme Court of India against the Order of APTEL dated 28-1-2011. In the course of processing of the petitions, M/s.KDHPCL has provided clarification/details as per the following communications:

1. Letter No.S&M/K-1/303 Dated 6-1-2010
2. Petition dated 24-9-2010
3. Letter No.S&M/K-1/303 Dated 26-2-2010
4. Letter No.S&M/K-1/303/316 Dated 7-4-2010
5. Letter No.S&M/K-1/335 Dated 31-7-2010
6. Letter No.S&M/K-1/341 Dated 16-8-2010
7. Letter No.S&M/K-1/354 Dated 16-9-2010
8. Letter No.S&M/K-1/282 Dated 7-10-2009
9. Letter No.S&M/K-1/218 Dated 18-10-2008
10. Letter No.S&M/K-1/361 Dated 18-10-2010
11. Letter Dated 10-11-2010
12. Letter Dated 1-12-2010
13. Letter No.S&M/K-1/303 Dated 6-1-2010
14. Letter No.S&M/K-1/384 Dated 19-2-2011
15. Letters dated 8-3-2011 (3 nos)
16. Letter dated 2-3-2011
17. Letter No. S&M/E-1/389 dated 12-3-2011 (petition for 2005-06 & 2006-07)

Hearing on the matter

6. Hearing on the truing up petition was held on 16-8-2010 and on 1-3-2011. In the hearing held on 1-3-2011, all the truing up petitions were heard. Kerala State Electricity Board had given written comments on the petition of M/s.KDHPCL. According to the Board truing up for the year 2003-04 onwards have to be taken up to get a clear idea on the financial status of the licensee. KDHPCL had provided only partial details for the year 2007-08, which is highly irregular. M/s Tata Tea Limited had shown that asset transfer has been effected by paying an amount of Rs.127.76 lakhs by the transferee. It is not clear that the approval of

the Commission has been obtained for the transfer. The asset transfer appears to be improper and resulted a situation whereby net asset of Rs.78.39 lakhs is taken over by paying Rs.127.76 lakhs. This has resulted in 650% increase in interest and financing charges which need not be passed on to the consumers. From the details filed before the Commission it is also seen that 'own consumption' included consumption of M/s Tata Tea, another entity which is highly irregular. 'Own consumption' is accounted at a reduced tariff, which is not correct. As per the orders of the Appellate Tribunal for Electricity normal tariff has to be charged for 'own consumption'. The depreciation shall be based on the CERC norms and not as per the Companies Act 1956. In case of O&M expenses, prudence check is to be exercised. The enhanced employee cost and expense for feasibility study of hydro project needs to be scrutinized.

Analysis and decision of the Commission

7. The Commission in these proceedings is taking up the truing up from 2005-06 to 2009-10. Though the Commission insisted on submission of actual details from 2005-06, M/s KDHPCL had claimed that even though the licence was transferred, the assets and liabilities were taken over only on 1-7-2007 and hence data from 1-7-2007 alone were available. However, after the hearing held on 1-3-2011, M/s KDHPCL had provided the actual details of income and expenditure for 2005-06, 2006-07 and first quarter of 2007-08. Based on the information furnished by the Licensee, the approved actual ARR&ERC for the years 2005-06 to 2009-10 is as follows:

Category	2005-06 (Rs.lakhs)		2006-07 (Rs.lakhs)	
	Approved	Actual	Approved	Actual
Power Purchase Cost	893.28	1,114.80	994.09	1,033.70
Interest & Financing charges	-		2.78	3.27
Depreciation	2.78	9.93	2.68	11.18
Employee costs	43.44	14.94	32.24	24.72
R&M Expenses	22.25	9.81	16.72	17.56
A&G Expenses	2.55	0.61	9.33	3.71
Duty under Section3(1)	8.93	15.22	4.90	14.84
Duty on line loss		2.28	2.30	2.74
Licence fee			0.27	0.35
Others		3.32		
Total Expenditure	973.23	1,170.91	1,065.31	1,112.07
Revenue from Tariff	914.35	1,181.12	1,172.57	1,213.25
Non Tariff Income	0.51	0.76	0.40	1.37
Total Revenue	914.86	1,181.88	1,172.97	1,214.62
Revenue Gap	(58.37)	10.97	107.66	102.55

Category	2007-08 (Rs.lakhs)		2008-09 (Rs.lakhs)		2009-10 (Rs.lakhs)	
	Approved	Actual	Approved	Actual	Approved	Actual
Power Purchase Cost	1,168.76	1,122.21	1,041.54	1,319.47	1,049.70	1,044.31
Interest & Financing charges	4.15	16.77	5.61	19.59	10.08	29.83
Depreciation	4.12	11.03	6.43	12.80	9.09	15.97
Employee costs	24.84	50.44	21.86	60.72	65.78	68.45
R&M Expenses	21.57	9.55	10.30	14.61	10.75	21.58
A&G Expenses	5.90	6.30	8.22	17.68	6.34	26.00
Duty under Section3(1)	-	-		11.33		
Duty on line loss	3.10	-	1.41	0.34	0.34	0.20
Licence fee	0.27	-	0.34		0.38	
Others	1.80	1.17	4.03	0.77	2.72	(11.33)
Total Expenditure	1,234.51	1,217.47	1,099.74	1,457.31	1,155.18	1,195.01
Revenue from Tariff	1,446.15	1,316.77	1,254.50	1062.64	1,370.73	1,193.58
Non Tariff Income	1.05	5.34		47.53		14.23
Other income	-	-				
sale of scrap	-	53.17		11.09		
Total Revenue	1,447.20	1,375.28	1,254.50	1,121.26	1,370.73	1,207.81
Revenue Gap	212.69	157.81	154.76	(336.05)	215.55	12.80

Detailed analysis of each of the expenses are given below:

8. Energy sales:

Actual energy sales reported by the KDHPCL for the years 2005-06 to 2009-10 is as follows:

Consumer category	2005-06	2006-07	2007-08*	2008-09	2009-10
	(MU)	(MU)	(MU)	(MU)	(MU)
HT industrial	16.50	15.91	7.16	8.02	8.50
HT IV commercial			0.46	0.81	0.90
LT Domestic	6.19	6.20	4.27	5.27	4.25
LT colonies			0.15	1.22	1.14
LT industries			0.12	0.15	0.28
LT non-domestic			0.48	0.72	0.72
LT Commercial	2.00	2.37	1.79	1.98	2.10
Street lighting	0.21	0.22	0.17	0.23	0.23
Own consumption	7.31	6.71	11.29	15.53	16.42
Total Energy sales	32.21	31.41	25.89	33.93	34.54

*from 1-7-2007 only

The Commission has noted that there is substantial variation in 'own consumption' booked by the licensee before and after the transfer of licence. As a clarification, the licensee has provided the details of 'own consumption' booked by M/s Tata Tea Limited for the years 2005-06 & 2006-07 and M/s KDHPCL for the years 2007-08 to 2009-10 in its letter dated 19-2-2011. According to the licensee, the apparent variation in the own consumption is on account of transfer of electricity distribution operation from M/s Tata Tea limited to M/s KDHPCL. When the operations were under M/s TTL, the consumption averaging about 8 MU per annum was treated as 'own consumption'. After the transfer of distribution operations on 1-7-2007, the consumption of KDHPCL averaging about 15 MU was treated as 'own consumption'. This substantial increase in own consumption after transfer of licence needs to be further looked into especially in view of the fact that M/s Tata Tea Limited, the erstwhile licensee is still having their presence in the licensee area. However, the Commission notes the reply of the licensee. All along the Commission insisted that the 'own consumption' should be treated at par with sales to any other consumer, which was upheld by the Hon. APTEL. Accordingly, the Commission directs that the licensee within in one month of the date of this order provide a detailed list of connections under 'own consumption' showing appropriate tariff category, load details and consumption and also the consumption details of M/s Tata Tea limited with the details of tariff category under which they are billed for their different supply points. In the mean time, the Commission for the purpose of truing up allows the sales to other consumers and *provisionally* accepts the 'own consumption' reported by M/s.KDHPCL.

9. **T&D Losses:** Based on the energy sales and total energy input into the system actual T&D loss reported by the licensee as per the letter dated 19-2-2011 is as follows:

	2005-06	2006-07	2007-08	2008-09	2009-10
Total energy input into KDHPCL system (Lakh units)	463.51	454.66	467.34	460.20	466.81
Feed back to KSEB (Lakh units)	50.40	50.75	51.19	54.59	57.43
Net energy input (Lakh units)	413.11	403.91	416.15	405.61	409.38
Total sales (Lakh units)	322.01	313.98	340.78	339.23	345.74
Distribution loss (Lakh units)	91.10	89.93	75.37	66.38	63.64
Distribution loss (%)	19.65%	19.78%	16.13%	14.42%	13.63%

The T&D loss approved by the Commission for various years is given below:

	2005-06	2006-07	2007-08	2008-09	2009-10
Approved Energy loss	17.70%	19.00%	19.00%	18.97%	14.49%

It can be seen that from 2007-08 actual losses are lower than the approved losses. However, actual losses are higher than the loss targets set by the Commission for two years 2005-06 and 2006-07. T&D loss is a performance parameter in electricity distribution business. In the event of non-achievement of T&D loss target, as per the methodology approved by APTEL, the additional cost of energy equivalent to the excess T&D loss has to be deducted from the power purchase cost i.e., additional purchase necessitated due to excess T&D loss shall not be passed on to the consumers. The additional purchase necessitated due to excess T&D loss is calculated as shown below:

	2005-06	2006-07
Actual Distribution loss (%)	19.65%	19.78%
Approved Energy loss (%)	17.70%	19.00%
Excess T&D Loss (%)	1.95%	0.77%
Excess energy (lakh units)	9.00	3.50

10. Expenses : It is clarified that the licensees are not eligible for claiming Section 3(1) as an expense item and Section 4 duty collected from the consumers is payable to the Government. The Duty on Line loss is charged by the Government for excess line loss at the rate of Section 4 duty by considering the excess line loss as sales. Accordingly, expenses charged under this head cannot be passed on to the consumers.

11. Power purchase cost :

The approved and actual power purchase cost as per the accounts is given below:

Power purchase cost (Rs.lakhs)

Years	Approved	Actual
2005-06	893.28	1,114.80
2006-07	994.09	1,033.70
2007-08	1,168.76	1,122.21
2008-09	1,041.54	1,319.47
2009-10	1,049.70	1,044.31

The Commission as part of the clarifications, sought the split up details of power purchase cost booked by the licensee. M/s. KDHPCL in their letter dated 1-12-2010 provided the following details.

Split up of power purchase cost (Rs.lakhs)

	2007-08*	2008-09	2009-10
Power purchase Cost	803.19	1,186.43	1,043.84
Duty III & IV	45.96	59.31	61.93
Inspection fee	0.60	0.77	0.77
Surcharge	4.55	6.07	6.56
5A Self Generation	0.19	0.38	0.48
Thermal surcharge	-	66.51	-
Total	854.49	1,319.47	1,113.58

*from 1-7-2007

It can be seen that, in the power purchase cost booked, M/s.KDHPCL has included section 3(1) duty and other duties payable by the licensee. In 2008-09, KDHPCL included the thermal surcharge billed by KSEB. Since, it is collected from the consumers and passed on to KSEB, the same is excluded both from power purchase cost and revenue from sale of power. However, for the years 2005-06 and 2006-07, the section 3(1) duty and other levies are shown separately.

As per the order dated 25-5-2010 the Commission has revised the bulk supply tariff with retrospective effect from 1-12-2007. The Commission has sought the details of additional commitment on account of revision of power purchase cost. As per the estimates of the licensee, the additional cost on account of revision of BST is as follows.

Additional cost due to revision of BST

	2007-08*	2008-09	2009-10
Energy purchase (MU)	14.42	40.62	40.94
Maximum demand (kVA)	28,495	90,212	82,461
Excess demand (kVA)	950.00	8,100.00	4,574.00
Additional Energy charges @ 70 ps/kWh (Rs.lakhs)	100.92	284.34	286.57
Additional demand charges @Rs.15/kVA (Rs.lakhs)	4.27	13.53	12.37
Penalty for excess demand @Rs.7.50/kVA (Rs.lakhs)	0.07	0.61	0.34
Total Amount (Rs. Lakhs)	105.26	298.48	299.28
Less 5% rebate	5.26	14.92	14.96
Net Amount (Rs.lakhs)	100.00	283.56	284.32

* from 1-12-2007

While providing the details, the licensee has clarified that the excess power purchase cost is not recognized in the books of accounts and the amount has not been paid to KSEB. The licensee has also approached the Hon. Supreme Court

against the order of the APTEL upholding the order of the Commission. The Commission is of the view that power purchase cost has to be accounted as per the revised rates. However, as reported by the licensee since the appeal is pending before the Hon. Supreme Court, the accounting of power purchase cost is subject to the final order of the Hon. Supreme Court.

As shown in para 9, the Commission has to disallow additional power purchase cost equivalent to excess T&D loss. Accordingly, the power purchase cost that can be allowed in the true up is as shown below

Power purchase cost as per Truing up (Rs.lakhs):

	Approved	Actual	Additional cost due to revision of BST	Total power purchase cost	Less duty & Thermal surcharge	Less Excess T&D loss	Allowed in the True up
2005-06	893.28	1,114.80		1,114.80	-	21.79	1,093.01
2006-07	994.09	1,033.70		1,033.70		8.06	1,025.64
2007-08	1,168.76	1,122.21	100.00	1,222.21	46.15	-	1,176.06
2008-09	1,041.54	1,319.47	283.56	1,603.03	126.20	-	1,476.83
2009-10	1,049.70	1,044.31	284.32	1,328.63	62.41		1,266.22

12. Interest and financing charges: Interest and financing charges reported by the KDHPCL as per the accounts are as follows:

Interest and financing charges (Rs. Lakhs)

Year	Approved	Actual
2005-06	-	-
2006-07	2.78	3.27
2007-08	4.15	16.77
2008-09	5.61	19.59
2009-10	10.08	29.83

In 2005-06, there was no interest and financing charges proposed or approved. Interest charges approved for 2006-07 and 2007-08 are for interest on security deposits as proposed by the licensee. In all the other years, this head included interest on security deposits and interest on bank guarantee given to KSEB. However, in 2007-08, M/s KDHPCL proposed interest for a loan taken from the parent entity. The Commission after detailed analysis in its order on ARR&ERC for 2008-09 dated 21-1-2009, came to the conclusion that the assumptions on

interest rate and loan amount are only hypothetical and not actual. Accordingly the interest on the proposed loan was disallowed. In the subsequent ARR&ERC ie., 2009-10, KDHPCL did not propose interest on loan. M/s.KDHPCL during the clarification meeting claimed that the interest charges proposed for 2008-09 is for the loan taken for the consideration given (Rs.127.76 lakhs) for takeover of the business from M/s Tata Tea Limited. In their letter dated 31-7-2010, M/s KDHPCL stated that they have availed a term loan from ICICI bank for acquisition of business and the interest is charged with effect from 1-7-2007. During the clarification meeting held on 20-11-2010, the Commission sought the detailed rationale for assessing value of the business at Rs.127.76 lakhs and the documents relied upon. However, the licensee could not produce any documents to prove the loan transaction in the accounts and interest paid for the loan. In the consolidated audited accounts of the parent company M/s KDHPCL did not mention about the loan taken for take over of the distribution licence. Thus, the Commission is not convinced of the necessity of the additional burden of interest charges, which apparently seems to be fictitious. It is also to be noted that additional commitment for taking over of the business is not tenable since the consumers are not liable for the additional burden if any made due to the transfer of licence from M/s Tata Tea limited to M/s KDHPCL. The consideration if any paid for takeover of the business is undisputedly an additional burden on the consumers, which would not have been arisen if M/s TTL had continued the business. Hence, such take over costs cannot be reflected in the regulatory accounts and hence not admitted. Based on the above reason, the interest booked for the loan is disallowed in the truing up process. M/s.KDHPCL booked Rs.14.78 lakh as working capital interest for the year 2009-10 in addition to the interest on security deposits, which is allowed in the truing up process. The interest and financing charges allowed for the purpose of truing up is as shown below:

Interest and financing charges allowed for truing up (Rs. Lakhs)

	Approved	Actual	Deductions	Truing up
2005-06	-	-		-
2006-07	2.78	3.27		3.27
2007-08	4.15	16.77	(12.04)	4.73
2008-09	5.61	19.59	(10.78)	8.81
2009-10	10.08	29.83	(6.76)	23.07

13. Repair and maintenance expenses: Repair and maintenance expenses as per the approved and actual are as follows:

Repair and maintenance expenses (Rs.lakhs)

	Approved	Actual
2005-06	22.25	9.81
2006-07	16.72	17.56
2007-08	21.57	9.55
2008-09	10.30	14.61
2009-10	10.75	21.58

The repair & maintenance expenses for 2005-06 and 2007-08 are lower than the approved amount. In 2009-10, the reason for higher expenses was attributed to painting works undertaken for all structures, buildings etc. Considering the importance of R&M works in maintaining the distribution system, the Commission allows the actual costs reported by the licensee.

Repair and maintenance expenses (Rs.lakhs)

	Approved	Actual	True up
2005-06	22.25	9.81	9.81
2006-07	16.72	17.56	17.56
2007-08	21.57	9.55	9.55
2008-09	10.30	14.61	14.61
2009-10	10.75	21.58	21.58

14. Employee costs: The employee costs approved and actual for the five years under consideration are as follows:

Employee costs (Rs.lakhs)

	Approved	Actual
2005-06	43.44	14.94
2006-07	32.24	24.72
2007-08	24.84	50.44
2008-09	21.86	60.72
2009-10	65.78	68.45

The Commission has noted that there has been increase in the employee costs since the transfer of licence even though there is no change in the persons employed. As part of the clarification exercise, the increase in employee costs from 2007-08 was explained by the licensee. According to the licensee, the former entity M/s Tata Tea Limited considered the electricity operations as an

integrated part of their other operations in Munnar and they have not clearly identified the expenses of all the employees engaged in the power distribution operations for the inclusion of ARR&ERC. However, after take over, the M/s KDHPCL treated the distribution of electricity as a separate operation and clearly identified the employees and extent of their services to the operations. In their letter dated 31-7-2010, they have stated that the identification is complete in 2008-09. However in their letter dated September 16, 2010 on the same issue M/s KDHPCL stated that the process of allocation of employees engaged in other operations of the Company were undertaken only from the year 2009-10 and for 2007-08 and 2008-09, share of other operations done by the employees are not identified and the expenses of identified employees are fully charged to electricity operations. They further reported that if the costs of employees doing other operations are separated, the employee costs would be lower by Rs.4.78 lakhs in 2007-08 and Rs.8.17 lakhs for 2008-09. The Commission accepts the reasoning and the separation of the employee operations proposed by the licensee for the purpose of truing up. However, it is noted that of the total employee costs charged for distribution operation, the cost of Manger itself is about 15%. The Commission doubts whether the total contribution of the Manager is commensurate with the costs booked for the distribution operations. This is also unreasonable in comparison with operations of other distribution licensees. The Licensee pointed out that as per the Orders of Appellate Tribunal of Electricity, the transfer and restructuring of the business needs to be considered for approving the expenses. A separate exercise is being initiated to properly identify and separate the joint costs of the licensees. Till then the Commission allows the costs as proposed by the Licensee. The employee cost approved for the purpose of truing up is as follows:

Employee costs allowed after true up(Rs. Lakhs)

	Approved	Actual	True up
2005-06	43.44	14.94	14.94
2006-07	32.24	24.72	24.72
2007-08	24.84	50.44	45.66
2008-09	21.86	60.72	52.55
2009-10	65.78	68.45	60.45

15. Depreciation: The depreciation booked as per the actual accounts and the approved depreciation is as follows:

Depreciation (Rs. Lakhs)

Depreciation	Approved	Actual
2005-06	2.78	9.93
2006-07	2.68	11.18
2007-08	4.12	11.03
2008-09	6.43	12.80
2009-10	9.09	15.97

The depreciation booked by the licensee is substantially higher than the approved figures. During the clarification meeting, the licensee stated that the higher amount was due the fact that the depreciation is booked based on the provisions of Companies Act 1956. Another reason attributed was the increase in capital expenditure for replacement and network strengthening. The licensee reported that capital additions for three years 2007-08, 2008-09 and 2009-10 are Rs.50.31 lakhs, Rs.41.33 lakhs and Rs.19.56 lakhs respectively. As per the provisions of the Electricity Act 2003 and the Tariff Policy, the depreciation shall be as per the CERC Norms for the period under consideration. The Licensee in their letter dated 1-12-2010 gave detailed estimation of depreciation as per the CERC norms for the years 2007-08, 2008-09 and 2009-10. The Commission accepts these estimates for the purpose of Truing up. For the years 2005-06 and 2006-07, there are no estimates of depreciation available from the licensee as per CERC norms. In the absence of information, the Commission is forced to accept the approved figures for the purpose of truing up. Accordingly, the depreciation allowed for the years for truing up is as follows:

Depreciation allowed for truing up (Rs. Lakhs)

Depreciation	Approved	Actual	True up
2005-06	2.78	9.93	2.78
2006-07	2.68	11.18	2.68
2007-08	4.12	11.03	6.92
2008-09	6.43	12.80	8.60
2009-10	9.09	15.97	9.49

16. Administrative and General Expenses: The A&G expenses approved and the actual as per the accounts are as follows:

A&G expenses (Rs.lakhs)

	Approved	Actual
2005-06	2.55	0.61
2006-07	9.33	3.71

2007-08	5.90	6.30
2008-09	8.22	17.68
2009-10	6.34	26.00

A&G expense is a controllable item. In 2005-06 and 2006-07, the A& G expenses were lower than the approved amount. However from 2008-09 onwards, there has been considerable increase in expenses. The Commission generally approved the A&G expenses proposed by the licensee. However, the actual booked was much higher. The major item of expense for the last three years is the legal expenses and miscellaneous expenses. The Commission sought the split up details of A&G expenses for 2008-09 and 2009-10. The details provided by the licensee as per letter dated 19-2-2011 is as follows:

Split up details of A&G expenses (Rs. Lakhs)

Particulars	2009-10	2008-09
Provision for doubtful debts	11.93	0.10
Legal expenses	5.01	2.09
Electricity charges	2.31	2.87
Prior period expenditure account	1.61	
Bus fare and batta	0.87	0.86
Security guard service	0.78	0.51
Licence fees	0.45	0.28
Advertisement	0.41	0.29
Insurance	0.49	0.31
General charges	0.51	0.41
Audit Fee	0.33	0.22
Travel expenses	0.39	
Stationery and printing	0.41	0.34
Bank charges	0.26	
Rates and taxes general	0.24	0.34
Consultancy charges		9.06
Total	26.00	17.68

As per the filing of the licensees, the miscellaneous expenses cover busfare and batta. The Commission also noted that substantial increase under electricity charges in 2008-09. The licensee clarified that it was due to refund on correction of errors in billing occurred in the previous years and the licensee gave the detailed list of consumers for which revision was made. The Commission is of the view that such corrections in the form of billing errors have to be properly accounted under revenue and not under A&G expenses. Further the licensee

stated that A&G expenses for the year 2008-09 is inclusive of Rs.9.06 lakhs on expenses towards a hydro project feasibility study. The licensee could not explain the rationale for such expenses incurred for distribution function. Further the licensee neither informed the Commission nor got approval for such studies. Hence, the Commission is not convinced that the expenses are useful for the distribution business and for the consumers in the licensee area. Hence the amount is not allowed to be passed on to the consumers. For the year 2009-10, the total A&G expenses is Rs. 26 lakhs. Out of this, the licensee claimed Rs.11.93 lakhs as receivable from Police, Forest and Fire brigade services departments, which is treated as bad debts. The Commission is not in a position to allow such write off since the burden of non-payment by government departments need not be borne by the other consumers. The write off will be allowed only if it is reasonably sure that the amount is turned bad. The licensee may initiate suitable action as provided in the Act to recover the amount from these departments immediately and report the progress to the Commission. Under the other heads in A&G expenses, items of expense are combined with the main tea business and the actual accounts reflect apportionment of costs. The Commission is of the view that as far as possible for the identifiable items of expense separate accounts shall be made. As mentioned in Para 14, a separate study needs to be initiated to separate the joint costs. Considering this and the orders of Hon. Appellate Tribunal, the Commission approves A&G expenses leaving provision for doubtful debts in 2009-10 and consultancy charges in 2008-09 as follows:

A&G expenses allowed for truing up (Rs. Lakhs)

	Approved	Actual	True up
2005-06	2.55	0.61	0.61
2006-07	9.33	3.71	3.71
2007-08	5.90	6.30	6.30
2008-09	8.22	17.68	8.62
2009-10	6.34	26.00	14.07

The Commission further directs that the licensee shall properly account the expenditure under appropriate heads hence forth.

17. Other debits: Under other debits, Section 3(1) duty, surcharge, periodical inspection charges, duty on line loss, net prior period charges and licence fee are included. The total other debits booked in the accounts and as per the approved figures are as follows:

Other debits (Rs. Lakhs)

Year	Approved	Actual
2005-06	8.93	20.84
2006-07	7.47	17.93
2007-08	3.37	-
2008-09	5.78	12.44
2009-10	3.44	(11.13)

Of the above items, in 2008-09 M/s KDHPCL included the section 3(1) duty twice under other debits as well as under power purchase. In any case expenses under section 3(1) duty, duty on line loss and Section 4 duty are non-allowable expenses. However, licence fee and periodical inspection charges are pass through. Accordingly, in other debits, the expenses allowed under true up for the years under consideration are as follows:

Other debits allowed for Truing up (Rs.lakhs)

Year	Approved	Actual	True up
2005-06	8.93	20.82	3.32
2006-07	7.47	17.93	0.35
2007-08	3.37	-	-
2008-09	5.78	12.44	0.77
2009-10	3.44	(11.13)	(11.13)

18. Return on equity: The licensee has not shown any portion of equity in the business. In the absence of actual equity invested in the electricity business, the Commission is not in a position to allow return. The Commission is initiating a study to ascertain the possible level of equity/rate base for allowing return for all the licensees. Till such time, the Commission is of the view that certain provision for return is needed for sustaining the business in a continuous manner. Accordingly, the Commission provisionally allows Rs.10 lakhs as return for capital for all years considered for truing up. This amount shall be kept as separate fund and capital expenditure if any shall be met from this fund.

19. Revenue from sale of power: The total revenue from sale of power reported by the licensee and the actual are given below:

Revenue from sale of power (Rs.lakhs)

	Approved	Actuals
2005-06	914.86	1,181.88
2006-07	1,172.97	1,214.62
2007-08	1,125.17	1,055.33
2008-09	1,254.50	1,121.26
2009-10	1,370.73	1,207.81

20. While estimating the revenue from tariffs, the licensee has imputed the power purchase rate as the tariff for 'own consumption'. The Commission in the first ARR&ERC for 2005-06 for M/s Tata Tea limited had ruled that there shall not be any discrimination in the tariff for any type of consumers. Accordingly, so called 'own consumption' was accounted at the same tariff as that of other consumers. This treatment continued for all the years since then. M/s KDHPCL had approached the Hon. Appellate Tribunal for Electricity against this treatment. However, the APTEL had endorsed the views of the Commission and insisted that the licensee shall install meters for all installations so that actual readings can be relied for billing. Till such time, Hon. APTEL allowed the present method of taking the difference of monthly maximum demand of purchase less the demand billed for other consumers for billing the maximum demand. However, on the review petition filed by the licensee, the Hon. APTEL based on the submission of the licensee, had concluded that licensee had already complied with the direction on installation of meters. Thus the billing for own consumption shall be at par with other consumers and as per the meter reading as ordered by APTEL. Accordingly, the Commission treats the income from the sales to 'own units' at par with other consumers. For the years 2008-09 and 2009-10 the licensee had reported that if the so called own consumption is billed at the HT industrial tariff (Rs.3/kWh) for energy charges, the income would increase by Rs.159.97 lakhs and Rs.166.56 lakhs. However, for the years 2005-06, 2006-07 and 2007-08 no estimation is available with the Commission. Further there is no estimation on demand charges. The Commission notes that the 'own consumption' is mostly of HT category. In such situation, the average realization from other HT industrial consumers is more reasonable to impute as the tariff for 'own consumption'. The average realization reported by the Licensee for HT-industrial category other than 'own consumption' from 2005-06 to 2009-10 is as follows:

	2005-06	2006-07	2007-08	2008-09	2009-10
Energy Sales (MU)	16.50	15.91	7.16	8.02	8.50
Revenue from sale of power (Rs.lakhs)	718.86	701.80	311.42	411.27	345.82
Average realisation (Rs.kWh)	4.36	4.41	4.35	5.13	4.07

21. The Commission uses the average realization from HT industrial consumers for estimating the revenue from 'own consumption'. Accordingly the total revenue from sale of power is estimated as follows:

Estimation of revenue from 'own consumption'

	2005-06	2006-07	2007-08	2008-09	2009-10
Average realisation from HT Industrial (Rs./kWh)	4.36	4.41	4.35	5.13	4.07
Average tariff estimated by the licensee for own consumption (Rs./kWh)	2.55	3.00	3.61	2.47	2.51
Difference in Tariff (Rs./kWh)	1.80	1.41	0.74	2.66	1.55
Sales to Own units (million units)	7.31	6.71	11.29	15.53	16.42
Additional revenue from Own consumption (Rs.lakhs)	131.82	94.90	83.95	412.93	255.31

22. The licensee has reported income from sale of scrap for two years 2007-08 and 2008-09. The income from sale of scrap is also considered as revenue in the respective years. Accordingly, the total income for the years under consideration is as follows:

Revenue from sale of Power allowed for truing up (Rs.lakhs)

	2005-06	2006-07	2007-08	2008-09	2009-10
Income from sale of power	1,181.12	1,213.25	1,316.77	1,062.64	1,193.58
Additional income from sales to Own units	131.82	94.90	83.95	412.93	255.31
Non-Tariff income & Other income	0.76	1.37	5.34	47.53	14.23
Income from sale of scrap			53.17	11.09	
Total Income	1,313.70	1,309.52	1,459.23	1,534.19	1,463.12

23. Aggregate Revenue Requirements and Income:

The revenue gap/surplus after the truing up process is as shown below:

	2005-06 (Rs.lakhs)			2006-07 (Rs.lakhs)		
	Approved	Actuals	True Up	Approved	Actuals	True Up
Power Purchase Cost	893.28	1,114.80	1,093.01	994.09	1,033.70	1,025.64
Interest & Financing charges	-	-	-	2.78	3.27	3.27
Depreciation	2.78	9.93	2.78	2.68	11.18	2.68
Employee costs	43.44	14.94	14.94	32.24	24.72	24.72
R&M Expenses	22.25	9.81	9.81	16.72	17.56	17.56
A&G Expenses	2.55	0.61	0.61	9.33	3.71	3.71
Others	8.93	20.82	3.32	7.47	17.93	0.35
Return on equity (notional)			10.00			10.00
Total Expenditure	973.23	1,170.91	1,134.47	1,065.31	1,112.07	1,087.93
Revenue from Tariff	914.35	1,181.12	1,181.12	1,172.57	1,213.25	1,213.25
Non Tariff Income	0.51	0.76	0.76	0.40	1.37	1.37
Additional revenue			131.82			94.90
Total revenue	914.86	1,181.88	1,313.70	1,172.97	1,214.62	1,309.52
Revenue gap/Surplus	(58.37)	10.97	179.22	107.66	102.55	221.59

	2007-08 (Rs.lakhs)			2008-09 (Rs.lakhs)		
	Approved	Actuals	True Up	Approved	Actuals	True Up
Power Purchase Cost	1,168.76	1,122.21	1,176.06	1,041.54	1,319.47	1,476.83
Interest & Financing charges	4.15	16.77	4.73	5.61	19.59	8.81
Depreciation	4.12	11.03	6.92	6.43	12.80	8.60
Employee costs	24.84	50.44	45.66	21.86	60.72	52.55
R&M Expenses	21.57	9.55	9.55	10.30	14.61	14.61
A&G Expenses	5.90	6.30	6.30	8.22	17.68	8.62
Others	5.17	1.17	1.17	5.78	12.44	0.77
Return on equity (Notional)			10.00			10.00
Total Expenditure	1,234.51	1,217.47	1,260.39	1,099.74	1,457.31	1,580.79
Revenue from Tariff	1,446.15	1,316.77	1,316.77	1,254.50	1,062.64	1,062.64
Non Tariff Income	1.05	58.51	58.51	-	58.62	58.62
Additional revenue			83.95	-		412.93
Total revenue	1,447.20	1,375.28	1,459.23	1,254.50	1,121.26	1,534.19
Revenue gap/Surplus	212.69	157.81	198.84	154.76	(336.05)	(46.60)

	2009-10 (Rs.lakhs)		
	Approved	Actuals	True Up
Power Purchase Cost	1,049.70	1,044.31	1,266.22
Interest & Financing charges	10.08	29.83	23.07
Depreciation	9.09	15.97	9.49
Employee costs	65.78	68.45	60.45
R&M Expenses	10.75	21.58	21.58
A&G Expenses	6.34	26.00	14.07
Others	3.44	(11.13)	(11.13)
Return on Equity (Notional)			10.00
Total Expenditure	1,155.18	1,195.01	1,393.75
Revenue from Tariff	1,370.73	1,193.58	1,193.58
Non Tariff Income	-	14.23	14.23
Additional revenue			255.31
Total revenue	1,370.73	1,207.81	1,463.12
Revenue gap/Surplus	215.55	12.80	69.38

Based on the above, the total revenue gap/surplus after the truing up process is as follows:

Revenue surplus/gap after truing up (Rs. Lakhs)

	Approved	Actual	True up
2005-06	(58.37)	10.97	179.22
2006-07	107.66	102.55	221.59
2007-08	212.69	157.81	198.84
2008-09	154.76	(336.05)	(46.60)
2009-10	215.55	12.80	69.38
Total	632.29	(51.92)	622.43

The total revenue surplus for 2004-05 to 2009-10 is Rs.622.43 lakhs, after truing up of accounts considering retrospective revision of bulk supply tariff.

Orders of the Commission:

24. The total revenue surplus arrived at above after the truing up process shall be kept in a separate fund and utilized as per the Orders of the Commission, The additional cost due to change in Bulk Supply Tariff may be met from this fund and the utilisation shall be intimated to the Commission periodically.
25. As mentioned in para 8, the licensee shall provide within in one month a detailed list of connections under 'own consumption' showing appropriate tariff category, load details and consumption, separately showing the same details of M/s Tata Tea Limited. Till such time, the own consumption reported by the licensee and the revenue shall be treated as provisional.
26. As mentioned in para 16, the licensee shall initiate suitable action as provided in the Act to recover the amounts from Government and other departments immediately and the progress shall be reported to the Commission in three months.
27. This order is subject to the decision of the Appeal pending before the Hon. Supreme Court.
28. All petitions are disposed of and ordered accordingly.

Sd/-

**P.Parameswaran
Member**

Sd/-

**Mathew George
Member**

Sd/-

**K.J.Mathew
Chairman**

Approved for Issue

Secretary