

**THE KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

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

June 10, 2011

Petition No OP 23/2010	Kerala State Electricity Board, Vydhyuthi Bhavanam, Thiruvananthapuram 695004	Petitioner
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**In the matter of
Truing up of Accounts of Kerala State Electricity Board for the year 2007-08**

ORDER

Background

1. Kerala State Electricity Board has filed the truing up petition on 6-9-2010 for the years 2007-08 and 2008-09. The Commission had previously, initiated *suo motu* penal proceedings and imposed a penalty of Rs.1,00,000 on the Board for non-compliance of the repeated directions of the Commission to file truing up petitions for the year 2007-08 and 2008-09. The Board had approached Hon. High Court and the Court had admitted the petition for detailed hearing. Based on the plea of the Board, the High Court had allowed the Board to comply with the directions of the Commission, which is subject to the result of the writ petition. The petition was filed before the Commission then.
2. While the petition was before the consideration of the Commission, the Board filed a review petition on the Orders of the Commission on the truing up for the year 2006-07. In the review petition, the Board requested to reconsider the decision of not allowing return on equity for the amount of Rs.1553 crore, based on a Government Order dated 13-12-2010 in which the Government had with retrospective effect modified the conversion of equity into grant. In the mean time, the two members of the Commission who had originally heard the truing up

petitions retired. Considering this and the fact that the decision on the issue of equity had a bearing on the truing up petitions, the Commission reheard the truing up petition along with the review petition filed by KSEB on 16-3-2011.

3. The Commission in its ARR&ERC Order for 2007-08 of the Board had approved Rs.4074.22 crore as ARR and Rs.4403.95 crore as ERC resulting in a surplus of Rs.329.73 crore. As against this, the truing up petition shows a revenue gap of Rs.91.29 crore. A comparison of the approved ARR&ERC and the actuals as per the audited accounts and the truing up petition for the year 2007-08 is given below:

Comparison of Approved and Actual ARR &ERC for 2007-08

	Particulars	Approved (Rs. Crore)	Actual (Rs. Crore)
1	Generation Of Power	143.30	195.97
2	Purchase of power	1734.65	2101.08
3	Interest & Finance Charges	458.61	352.78
4	Depreciation	260.18	419.09
5	Employee Cost	1090.00	904.88
6	Repairs & Maintenance cost	101.47	116.26
7	Administration & General Expenses	54.47	125.35
8	Other Expenses	100.00	871.72
9	Gross Expenditure	3942.68	5087.13
10	Less : Expenses Capitalized	37.63	48.08
11	Less : Interest Capitalized	48.25	29.33
12	Total Expenditure	3856.80	5009.72
13	Return on Equity/Statutory Surplus	217.42	217.42
14	ARR (12 + 13)	4074.22	5227.14
	Revenue		
15	Sale within the State	3898.07	3764.83
16	Non-tariff income	361.84	438.9
17	Sale to other States	144.04	258.27
18	Sale to M/s.NVVN and PTC		673.85
19	Total (15+16+17+18)	4403.95	5135.85
20	Revenue Surplus/(Gap)	329.73	-91.29

4. The Board in their petition stated that, the Order on ARR&ERC for the year 2007-08 was issued by the Commission about 8 months after the commencement of the financial year. The Board had carried out the business based on the projections as per ARR on the presumption that the Commission

would approve the ARR&ERC as such. The Board also stated that the accounts are prepared as per the Electricity (Supply) Annual account rules 1985, which is audited by C&AG.

5. After receiving the truing up petition, the Commission sought clarifications on many items vide its letters dated 25-10-2010, 27-10-2010 and 11-11-2010. The Board had provided reply vide letter dated 22-11-2010 for the first set of clarifications. The other set of clarifications mainly on the writing off of arrears from Kerala Water Authority and actual disbursement/reversals of provisions were given vide letter dated 3-2-2011 and 26-5-2011 respectively.
6. In their petition, KSEB stated that though the Electricity (Supply) Act, 1948 stands repealed, the rules made under Section 69(1) of the said Act shall continue to have effect until such rules are rescinded or modified. Accordingly the Electricity (Supply) (Annual Accounts) Rules (ESAAR) 1985, are in force, and the Board is bound to follow the rules and the annual accounts are prepared in accordance with the above rules, which are certified and audited by the Comptroller and Auditor General of India.

Public hearing on the petition:

7. The public hearing on the petition was held on 11-11-2010 and on 16-3-2011. In the hearing held on 11-11-2010, Shri. K.G. Madhu representing Kerala Small Scale Industries Association stated that there is considerable delay in preparation and audit of accounts of KSEB, which needs to be avoided by suitably employing the developments in IT. The capital expenditure of the Board is low and the T&D loss reported is high. KSEB has charged interest on dues to the Government where as interest is not charged for the dues from the Government. According to him writing off of dues from the KWA cannot be accepted. Shri. George Thomas representing the Kerala State HT-EHT Industrial Electricity Consumers Association made a detailed presentation of their objections. As an introduction, he stated that the Commission was not bound by the audited Accounts of the Board as per the Orders of the Hon. Supreme Court and the Appellate Tribunal for Electricity. Regarding the performance, the KSEB has not met the loss target of 19.55% fixed by the Commission. The actual level of losses is 0.47% more than the approved level. According to them, as per APTEL Order, once the target is fixed, the Utility is bound to achieve the target. They opposed the claims of the Board on the continuous achievement of loss reduction since 2001-02 and the claim of the

Board for incentives for loss reduction. According to them incentives should be given for good performance and it is claimed for underperformance of the Board. According to them only the approved level of loss ie.19.55% should be considered as the loss target for 2007-08 and 88MU of power purchase cost should be disallowed based on the cost of generation at marginal ie., variable cost of BSES (Rs.7.49/kWh). According to them the total disallowance shall be Rs.65.93 crore.

8. Regarding interest and financial charges, the Association submitted that the Commission should allow only the actual Rs.352.77 Crore in the truing up. As per the data provided by the Board there is an interest component of Rs.106 crore, if the interest rate is assumed at 10%, the investment required will be about Rs.1060 crore. The Board had not utilised these deposits for redeeming the high cost loans. In the light of the observations of the Appellate Tribunal, in Appeal No. 5 of 2009, the depreciation is to be determined based CERC norms and shall allow only Rs.260.18 crore for 2007-08.
9. The Association stated that to reduce the employee costs, the Board has to outsource the non-critical jobs and address the pension liabilities, which are unfunded at present. The actual employee cost is lower than the approved level, mainly due to wrong estimation resorted to by the Board. For repair and maintenance expenses, the Board had exceeded the approved level and stating that increase is only marginal by 4.5%. According to the objector, the basis should be the approved level of expenses in 2006-07, in such case the increase would be 29.18% and hence the increase in the claim shall not be allowed. Considering the Order of APTEL, in the A&G expenses, the section 3(1) duty shall not be included. The Commission shall not consider the write off of dues from the Government to the tune of Rs.400 Crore and hence only Rs.2.15 crore should be allowed under other debits. Under other expenses, an income of Rs.52 crore alone needs to be considered.
10. In the case of return on equity, the Board could not produce any justification for claiming return on equity as directed in the truing up order for 2006-07, so the token return given shall be disallowed. On the above grounds, the aggregate revenue requirements worked out by the objector was Rs.3763 crore. The total income including subsidy receivable from Government of Kerala on account of 20 paise rebate given is Rs.52.29 Crore and hence the revenue surplus for the year 2007-08 worked out by them is Rs.1466 Core. They requested the Commission to initiate suo-motu proceeding for returning the surplus to the consumers.

11. Shri. A.R Satheesh, supporting the contentions of HT-EHT Association, stated that there is difference in the inflow and generation details presented by the Board. He also emphasised that the emerging power markets should be used for the advantage of KSEB for reducing the cost of electricity. Shri. Nawas of M/s Binani Zinc Limited, also endorsed the views of the Association and stated that the surplus of about Rs.1760 crores would amount to Rs.1.20/kWh reduction in tariff. At least 20 to 30% of the amount should be passed on to the consumers so that cross subsidy reduction can be effected.
12. Shri. B. Pradeep, representing the KSEB Officers Association stated that there are three issues such as treatment of surplus, return on equity and employee costs to be addressed by the Commission in the truing up petition. According to him Kerala power sector as a business model is not viable since the number of consumers are increasing and per capita consumption is reducing, which is attributable to the fact that HT-EHT consumers in the State have failed to flourish in the State. The employee cost per consumer in rural areas is about Re.1 and in the town it is only 20 ps. According to him there is surplus in past years. However, Board has used the surplus to repay the debt burden, the benefit of which was passed on to the consumers. In future revenue deficit is expected due to increase in cost and due to revision of CERC norms. The financial restructuring of the Board is progressing and there is a huge burden of unfunded pension liabilities for which resources have to be pooled in. Holistic approach then would be to account the surplus to fund the unfunded liabilities rather than adjusting against the future deficit. Regarding return on equity, the conversion of equity was part of the energy policy announced by the Government in 1998. The C&AG has denied the equity quoting clause 12, where as Section 66A of the Electricity (Supply) Act 1948 is more relevant. If the equity is not available, the return on capital employed should be allowed as a basis for returns rather than denying the return.
13. Shri. Bose V Jose and Shri. Abdul Nusheer representing domestic and small consumers also objected to the petition. According to them, the T&D loss target is not achieved so approved level should be considered. They have also suggested that the request of the Board for allowing the incentives shall not be allowed.

Analysis and decision of the Commission

14. The Commission has considered the petition, the views of the objectors and the arguments of the Board and its findings on various items of the petition are as follows:

Energy Sales:

15. In the order on ARR&ERC, the Commission had approved energy sales of 12321 MU, but the actual energy sale within the State during 2007-08 reported by the Board was 12050MU. The detailed energy sales statement is as follows:

Energy sale for 2007-08 (MU)

Category	Approved sales	Actuals
	(MU)	(MU)
Domestic	5700	5603
Industrial	1040	984
Commercial & Non Domestic	1402	1378
Agriculture	237	231
Public Lighting	252	249
Sub Total	8631	8444
HT I Industrial	1563	1461
HT II Non-Industrial/ Non-Commercial	138	138
HT III Agriculture	11	9
HT IV Commercial	464	507
Sub Total	2176	2115
EHT 66KV	328	308
110 KV	756	717
Railways	78	109
Sub Total	1162	1134
Bulk Supply	351	357
Total	12321	12050

16. According to the Board, except for HT IV Commercial category, there was considerable reduction in the sale of power approved by the Commission. The reduction in energy consumption was attributed to the weather conditions which prevailed in the State. For the purpose of truing up Commission allows the actual energy sales reported by the Board.

T&D Loss

17. The Board in the petition has stated that the actual energy loss for 2007-08 was 20.02%. The loss figure was arrived at as follows.

Sl No.	Particulars	Unit	KSERC Approval	Actual
1	Net Generation and Power Purchase at KSEB periphery (excl. PGCIL	(MU)	15757	16411.91
2	Energy sale outside the State	(MU)	442	1346.76
3	Net Energy input into the KSEB system = (1) -(2)	(MU)	15315	15065.15
4	Energy sales within the State	(MU)	12321	12049.85
5	T&D Losses (3)- (4)	(MU)	2994	3015.3
6	T&D Loss as percentage of total energy input	(%)	19.55	20.02

18. According to the Board, in the ARR&ERC for 2007-08, the loss reduction targeted by the Board was 1.83%, but the Commission approved a higher target of 2% loss reduction. However, the actual performance reported by the Board was only 1.45%. In order to justify under achievement, the Board has advanced the argument that the Order on ARR&ERC was given in the month of December, 2007 and only 4 months were available for achieving the target. The loss depends on many factors and the volume of energy has a direct impact on the losses. Though the Commission has not fixed any loss reduction road map to be followed by the Board, Board had achieved loss reduction of 1.45% with all constraints.

19. The Board also stated that from 2001-02 to 2007-08, the cumulative loss reduction achieved by the Board was 10.74% which resulted in saving of power purchase cost to the tune of Rs.701.08 Crore. The initial years, the loss reduction was achieved by faulty meter replacement, auditing etc., now the emphasis is given for system strengthening and expansion. The Board also quoted from a PFC study which shows that loss levels in Kerala is better compared to other States. According to the Board, the contribution of faulty meters to the T&D loss is marginal. If the meter is faulty, bill will be issued based on the previous average consumption till the meter is replaced. So the Board requested to allow to retain 50% saving in cost of generation and power purchase as a motivation factor for further loss reduction.

20. The consumers severely objected to the request of the Board to retain 50% of the saving on loss reduction. According to them, the Board had never achieved the loss reduction targets fixed by the Commission. Hence, the proposal of the Board amounts to rewarding underperformance which shall not be allowed. The Commission is of the view that the objections of the consumers cannot be ruled out. The loss reduction target of 2% fixed by the Commission for the year 2007-08 was not achieved by the Board. The reason given by the Board for underachievement is not sustainable since the loss level of 1.45% achieved by them was much less than their own projection of 1.83% made in the ARR petition.

21. For evaluating the achievement of loss reduction, it is pertinent to analyse the achievements under the capital programmes planned and achieved. The underachievement of loss targets needs to be viewed in relation to the performance of the Board in capital expenditure and other measures. It was proposed to replace 4.13lakh of faulty meters and undertake series of capital works under APDRP and RGGVY. Further, number of lines and substations were also planned to complete in 2007-08. A comparison of the achievements reported is given below:

Year	2007-08	
	Proposed	Actual achievement
Substations (Nos)		
220kV	2	1
110 kV	11	4
66kV	1	1
33kV	12	13
Lines (Km)		
220kV	30.70	1.01
110 kV	114.75	56.38
66kV	36.99	11.13
33kV	170.50	105.27
11 kV lines	3427	1807
LT lines	4043	8128
Distribution Transformers (Nos)	2009	2553
Faulty meter replacement (lakhs)	4.30	5.80

22. In comparison to the target proposed by the Board, achievement was not creditable in some areas where as in some areas, performance was better. In 2007-08, progress of achievement in completion of transmission substations and lines was dismal but LT lines and faulty meter replacement, progress was better. However, this achievement is to be compared with the past performance to have a complete picture. A comparison of cumulative targets and achievements from 2005-06 to 2007-08 is shown below:

Year	2005-06		2006-07		2007-08		Total	
	Proposed	Actual	Proposed	Actual	Proposed	Actual	Proposed	Actual
Substations (Nos)								
220kV	3	1	4	0	2	1	9	2
110 kV	8	4	10	2	11	4	29	10
66kV	7	4	3	3	1	1	11	8
33kV	30	10	71	10	12	13	113	33
Lines (Km)							0	0
220kV	33.25	56	52.1		30.7	1.01	116.05	57.01
110 kV	108.26	55	49	30	114.75	56.38	272.01	141.38
66kV	62.77	13		15	36.99	11.13	99.76	39.13
33kV	527.8	131		95	170.5	105.27	698.3	331.27
11 kV lines	4000	1062	6000	1820	3427	1807	13427	4689
LT lines	13000	7441	17000	8229	4043	8128	34043	23798
Distribution Transformers (Nos)	8500	1751	8500	2124	2009	2553	19009	6428
Faulty meter replacement (lakhs)	8.5	6.38	4	2.69	4.3	5.8	16.8	14.87

23. Thus, the comparatively better figures in terms of installation of substations and lines could be due to the completion of spill over works which should have been completed earlier. It is corroborated by the achievements in financial targets in capital spending as shown below: The achievement in capital expenditure in 2007-08 is dismal, in place of Rs.1027 Crore proposed, the actual expenditure was only Rs.374 crore.

	Proposed in the ARR (Rs. Crore)		
	2005-06	2006-07	2007-08
<i>Capital Expenditure</i>	695.21	662.6	924.49
<i>IDC capitalized</i>	99.51	53.3	37.11
<i>Other expenses capitalized</i>	158.95	43.9	65.26
Total capital expenses	953.67	759.8	1026.86
<i>Expenses transferred to Gross asset</i>	905.68	603.33	821.48
	Actuals (Rs. Crore)		

	2005-06	2006-07	2007-08
<i>Capital Expenditure</i>	407.82	459.13	296.3
<i>IDC capitalized</i>	48.5	35.13	29.33
<i>Other expenses capitalized</i>	43.61	43.19	48.08
Total capital expenses	499.93	537.45	373.71
<i>Expenses transferred to Gross asset</i>	651.65	505.23	467.7

24. A comparison of Loss reduction targets proposed by the Board, approved by the Commission and the actuals are given below.

Comparison of loss reduction targets and achievement by the Board

Year	Proposed in the ARR (%)	Approved by the Commission (%)	Actual achieved by KSEB (%)
2004-05	2.33	3.00	2.50
2005-06	2.72	2.72	1.99
2006-07	1.76	2.50	1.50
2007-08	1.83	2.00	1.45
2008-09	1.63	1.63	1.32

T&D Loss targets proposed, approved and actuals

Year	Proposed in the ARR	Approved level	Actual
	(%)	(%)	(%)
2003-04	26.60	26.60	27.45
2004-05	24.77	24.50	24.95
2005-06	22.59	21.89	22.96
2006-07	21.58	20.45	21.47
2007-08	19.72	19.55	20.02

25. The above analysis reveals that the Board could not achieve the targets fixed by the Commission as well as its own target. The main reason could be that the proposed loss targets were fixed in isolation without reference to the works planned. There are no technical studies to support the loss reduction proposal and the planned capital expenditure.

26. Based on the principle followed by the Commission in the previous orders and also in the light of the order of APTEL in 94 of 2008, the loss reduction target for the year 2007-08 shall be 2%, which is the approved target for 2007-08.

Accordingly, the loss target for 2007-08 would have been 19.47% (Actual T&D loss for 2006-07 less loss target ie., 21.47%-2.0%). However, considering the higher loss level approved in the ARR&ERC for 2007-08, the Commission limits the loss level target at 19.55%.

	2007-08		
	ARR Order	Actual as per Audited accounts	Allowed in True UP
T&D Loss	19.55%	20.02%	19.55%

27. As shown in the table below, at an allowed T&D loss of 19.55%, for meeting the internal energy sale of 12050MU, the energy requirement would be 14978MU. As per the data furnished by KSEB, at the interface point 15065MU was used, which is due to the higher loss of 20.02%. Hence the excess energy purchase of 87MU (15065MU-14978MU) shall be disallowed from power purchase. The cost of additional energy purchase due to non achievement of T&D loss to the tune 87MU is to be deducted from the power purchase cost, as has been done in the previous years in line with the Orders of APTEL

T&D Loss allowed after truing up for 2007-08

	ARR Order	Actual as per Audited accounts	True up
Net available/required at interface (MU)	15315	15065	14978
Sale within the state (MU)	12321	12050	12050
T&D loss (%)	19.55%	20.02%	19.55%
Excess power purchase (MU)			87

Generation and Power purchase

28. The Commission in the ARR order for 2007-08 had approved hydel generation of 7783MU. The actual hydel generation for 2007-08 was 8327MU of which 7705MU was utilised for meeting the internal demand and balance was sold outside. The Commission had approved 250MU from the diesel stations at a cost of Rs.142.68 crore. The Board had however, utilised these machines during the peak hours and sold the power during the off peak hours. Thus, the total

generation from diesel stations was 374MU and of this, 74MU was sold through traders. In 2007-08, Government of India had cancelled the allocation of power from unallocated quota and hence the CGS allocation was reduced to 1036.11 MW from 1182MW. In the Order on ARR&ERC for 2007-08, the Commission has considered this matter and made appropriate adjustments. Another development was regarding the compensatory allocation for RGCCPP, where, Ministry of Power, Government of India vide letter dated 21-3-2007 had directed that KSEB and TNEB shall ensure 50% utilisation of RGCCPP from July to October and full utilisation in the balance months (November to June) as a condition for compensatory allocation of 180 MW power from Talcher II. Extension of allocation from Talcher shall be as per recommendation of CEA on the utilisation of RGCCPP. Hence, the Board is forced to schedule power from RGCCPP. The Board had scheduled 453.MU from RGCCPP and sold 309MU through traders. Similarly from BSES also 353 MU was scheduled and 339MU was sold through traders. Generation from KPCL was limited to 35.38MU. Comparison of approved and actual generation and power purchase for 2007-08 is given below:

Comparison of approved and actual Generation and Power purchase

Source	ARR Order		Actual	
	Energy (MU)	Cost (Rs.Cr)	Energy (MU)	Cost (Rs.Cr)
Hydel	7,783.46		8,327.45	
Wind	3.00	0.62	1.96	
BDPP	250.30	142.68	95.80	50.48
KDPP			278.35	145.49
Sub Total	8,036.76	143.30	8,703.56	195.97
CGS				
Talcher – II	2755.46	371.99	3418.95	452.12
NLC-II - Stage-1	380.13	65.74	401.79	62.72
NTPC- RSTPS	2024.72	289.73	2254.67	375.81
NLCII - Stage II	542.02	86.01	568.26	90.02
NLC – Exp	410.73	87.25	467.58	95.95
MAPS	102.01	18.86	74.58	15.29
Kaiga	237.36	35.35	188.97	57.61
Kudamkulam	233.28	75.82	0	0
Kaiga Stage-II	341.35	88.18	0	0
UI Export/sale	529.92	105.98	-141.89	-81.59
Sub total	7556.98	1224.91	7232.91	1067.93

IPPs				
KPCL	50.24	41.6	35.28	26.69
BSES	110.09	170.15	353.15	342.09
Kayamkulam		98.34	453.28	447.6
Sub total	160.33	310.09	841.71	816.38
Transmission Charges				
Eastern Region				0.31
Southern Region		166.19		184.1
Kayamkulam		33.46		32.3
Sub total		199.65		216.71
Total	15754	1877.95	16778	2296.99

29. As shown in para 26 above, the cost of excess energy due to non-achievement of T&D loss targets should be disallowed. As per the methodology adopted by the APTEL, additional cost of purchase due to non-achievement of the loss target shall be deducted from the power purchase cost. Accordingly the average power purchase cost is worked out as follows:

Average power purchase cost

	Energy (MU)	Cost (Rs.Crore)
Talcher – II	3,418.95	452.12
NLC-II - Stage-1	401.79	62.72
NTPC- RSTPS	2,254.67	375.81
NLCII - Stage II	568.26	90.02
NLC – Exp	467.58	95.95
MAPS	74.58	15.29
Kaiga	188.97	57.61
KPCL	35.28	26.69
BSES	353.15	342.09
Kayamkulam	453.28	447.60
Total	8,216.51	1,965.90
Average Cost (Rs./kWh)		2.39

30. The average power purchase cost works out to be Rs.2.30/kWh. Hence the total disallowance of power purchase cost for **87MU is Rs.20.79 Crore.**

31. The Commission for 2007-08 had approved the transmission charges for the CTU as Rs.199.65 Crore based on the projections of KSEB. The actual

transmission charges paid by the Board was Rs.216.71 Crore. Since, the Board has to pay the charges as per the rates ordered by CERC, the Commission has considered the actual transmission charges paid for the truing up.

32. The total generation and power purchase cost allowed for truing up would be Rs.2276.17 Crore as against the Rs.2296.99 Crore as per the actual accounts

	2007-08 (Rs. Crore)		
	ARR Order	Actual	Allowed in True UP
Internal Generation Cost	143.30	195.97	195.97
Power Purchase Cost	1535	1,884.31	1,884.31
Less Power purchase cost disallowed			(20.79)
Transmission Charges	199.65	216.71	216.71
Total Generation & Power Purchase Cost	1,877.95	2,296.99	2,276.20

Interest and finance charges

33. The actual interest and financing charges as per audited accounts for 2007-08 was Rs. 352.77 Crore as against Rs. 458.61 Crore approved by the Commission. The reason given by the Board for lower interest charges was less than anticipated borrowings during the year. The Borrowing was virtually Nil and the Board also had redeemed loans worth Rs.644.88 Crore in 2007-08. However, the capital expenditure for the year was Rs.373.71 Crore as against the approved figure of Rs.1026.44 crore.

34. The actual interest on outstanding liabilities for 2007-08 was Rs. 232.84 Crore as against the approved level of Rs.356.28 Crore ie., a difference of Rs. 123.44 Crore. The Board stated in the petition that interest on Government loans (Rs.45.64 crore) allowed in the ARR was not charged in the actual accounts as per the netting off of dues in which the Government loans were adjusted against the duty payable to the Government. The total capital payments of Rs.1018.59 Crore (repayment of Rs.644.88 crore and capital investment of Rs.373.71 crore), made in 2007-08 is Rs.225.79 crore in excess of depreciation allowance. Considering the better performance, the Board requested that the interest and financing charges should be allowed at the approved level (Rs.356.28 crore).

Comparison of Interest and financing charges for 2007-08 (Rs. Crore)

Sl. No	Particulars	Approved	Actual	Difference
I	Interest on outstanding Loans and Bonds	356.28	232.84	(123.44)
II	a) Interest on Security Deposit	37.44	42.50	5.06
III	Other Interest and Finance Charges			
	a) Interest on borrowings for working capital	5.41	2.80	(2.61)
	b) Discount to consumers for timely payment of Charges	0.78	1.44	0.66
	c) Interest on PF	42.11	33.78	(8.33)
	d) Other Interest charges	0.01	-	(0.01)
	e) Cost of raising finance	1.00	0.04	(0.96)
	f) Guarantee Commission	9.30	12.32	3.02
	g) Bank Charges	6.28	8.23	1.95
	h) Rebate accrued for prompt payment to NVVN	-	18.83	18.83
	Total of III	64.89	77.43	12.54
	Grand Total (I+II+III)	458.61	352.77	(105.84)

35. There are substantial differences in a number of items in comparison with approved level. The interest on working capital is Rs.2.80 crore as against the approved level of Rs.5.41 crore. The interest allowed to consumers was Rs.1.44 crore and the actual interest on PF balance was only Rs.33.78 crore. The guarantee commission was Rs.12.32 crore and other bank charges Rs.8.23 crore. KSEB allowed a rebate of 2% to traders to the tune of Rs.18.83 crore for the sale of 1346.76 MU. According to KSEB the rebate was allowed as per the CERC norms.

36. The Commission analysed the claims of KSEB on allowing the approved level of interest charges on items which are higher than the actuals. On verification it is noted that out of the Rs.123.44 Crore reduction in the interest on outstanding borrowing, Rs.110.93 Crore is due to interest on Government loans (Rs.45.64 Crore) and interest on additional borrowing allowed (Rs.65.29 crore). The balance could be due to additional repayment (Rs.536.70 crore-Rs.644.88 Crore). The Commission is not convinced from the petition that special efforts were made to reduce the interest expenses since the difference was largely due to the differences in estimation during ARR filing. However, the Commission is of the view that KSEB has been taking consistent efforts to reduce the outstanding long term liabilities, which stands at Rs.1856.72 Crore as on 31-3-2008.

37. The claim of the Board that interest shall be allowed as per CERC norms in the ratio of 70:30 on capital investment, has already been addressed by the Commission in the previous truing up for 2006-07. The 30% equity norm is applicable when own resources are actually invested in the regulated business. The Board is yet to substantiate that such practices are being followed.
38. Regarding other interest charges, KSEB claimed vide para 6.7 of the petition that the actual payment of interest on security deposits was Rs.42.50 Crore as against the approved level of Rs.37.44 Crore and requested to approve the same. The Commission sought the details of actual disbursement as part of clarification. However, the Board stated that the details are yet to be received from the field. The Commission notes that this statement of KSEB in the petition that the actual interest on security deposit is Rs.42.50 crore is a misrepresentation of fact. The Board in the letter dated 31-10-2008, had given the actual disbursement of interest on security deposits to consumers for three years : 2005-06 - Rs. 3.23 Crore; 2006-07 - Rs.22.85 Crore 2007-08 - Rs. 35.72 Crore. Further, the Schedule 27 of the Annual accounts shows that every year the account balance under 'interest payable to consumers' deposits' is increasing consistently, due to the balance/provision booked under the head as shown below;

Year	Interest on security deposit booked (Rs. Crore)	Balance outstanding as per Schedule 27 (Rs. Crore)
2005-06	32.74	58.47
2006-07	37.44	74.50
2007-08	42.50	80.69

39. As at the end of 2007-08, the accumulated balance is Rs.80.69 crore, which is Rs.6.10 crore higher than previous year obviously due to lower disbursement of interest during the year. As per the letter dated 26-5-2011, the Board has informed that the actual interest on security deposit disbursed for the year 2007-08 was Rs.32.97 crore, though vide letter dated 31-10-2008 Board has stated under the same head Rs.35.72 crore. The Commission notes the inconsistency in the figures reported by the Board, which will be examined in the subsequent truing up exercise. The interest allowed for the year 2007-08 shall be Rs.32.97 crore as reported by the Board.

40. The actual interest on working capital is Rs.2.80 crore against the approved level of Rs.5.41 crore. The Commission allows the actual for the purpose of truing up. The Board claimed Rs.18.83 crore towards the rebate allowed to traders for prompt payment for the outside sale of energy. The Board stated that the rebate was allowed strictly as per the CERC norms. The Commission called for the specific clause of CERC norms which provides for the rebate. In the reply the Board stated that clause 25 of CERC (Terms and conditions of Tariff) Regulations 2004 provides for rebate of 2% for prompt payment of sale of power through traders which is reproduced below:

“Clause 25

For payment of bills of capacity charges and energy charges through a letter of credit on presentation, a rebate of 2% shall be allowed. If such payments are made other than through LC but with a period of one month of presentation of bills by generating company a rebate of 1% shall be allowed”.

The Commission is of the view that the said regulation is not applicable to the present case as has been given above. Primarily clause 2 of the CERC regulation states about its applicability, which is given below:

2. Scope and extent of application: (1) *Where tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.*

(2) *These regulations shall apply in all other cases where tariff is to be determined by the Commission based on capital cost.*

41. The regulations even in the wildest interpretation, cannot be made applicable to traders. It is specifically provided for determination of tariff based on capital cost. This being the fact, the Board continuously presses for the applicability of the said clause to the sale of power to traders. The Commission however, is inclined to allow the 2% rebate given by the Board to the traders if it is a commercial condition of sale rather than based on the CERC regulations. However, the Commission notes that the Board has not made any payment under this head and hence the amount is not allowed. As and when the payment is effected promptly the same shall be eligible for allowing in the tariff.

42. The Guarantee commission payable to the Government is booked as Rs.12.32 crore, which is inclusive of Rs.2.71 crore paid to KPFC. The Commission sought the details of guarantee commission actually booked and paid to the Government. As per the details given by KSEB, as on 31-3-2008, the total guaranteed loan outstanding is Rs.635.45 crore. The total guarantee commission booked till 2007-08 is Rs.126.53 crore, whereas only Rs.63.31 crore was paid to the Government and the balance outstanding is Rs.63.22 crore.

43. Based on the above the total interest charges allowed for truing up is as follows.

Interest and financing charges allowed after truing up

Sl.No	Particulars	Approved	Actuals	Truing up
I	Interest on outstanding Loans and Bonds	356.28	232.84	232.84
II	a) Interest on Security Deposit	37.44	42.50	32.97
III	Other Interest and Finance Charges			
	a) Interest on borrowings for working capital	5.41	2.80	2.80
	b) Discount to consumers for timely payment of Charges	0.78	1.44	1.44
	c) Interest on PF	42.11	33.78	33.78
	d) Other Interest charges	0.01	-	-
	e) Cost of raising finance	1.00	0.04	0.04
	f) Guarantee Commission	9.30	12.32	12.32
	g) Bank Charges	6.28	8.23	8.23
	h) Rebate accrued for prompt payment to NVVN	-	18.83	0.00
	Total of III	64.89	77.43	58.61
	Grand Total (I+II+III)	458.61	352.77	324.42

Depreciation

44. The Board has claimed depreciation of Rs.419.09 Crore in the accounts as per the ESAA Rules 1985. The Board has given detailed arguments in this regard. However, the Commission is of the view that further deliberation on the subject is not necessary. The depreciation is allowed as per the provisions of the Act and Tariff Policy. The approach adopted by the Commission was upheld by the Appellate Tribunal for Electricity in the Order dated 18-8-2010 in Appeal No.5 of 2009. Hence the Commission is not in a position to deviate from the stand taken in the earlier orders. In reply to the clarification sought by the Commission on

calculation of depreciation as per the CERC norms, the Board informed that an Appeal on the orders of the Appellate Tribunal is filed before the Hon. Supreme Court and any decision on the matters pending before the court shall be subject to the final decision of the Apex Court. The Commission notes that the Hon. Supreme Court while admitting the Board's petition has specifically mentioned that there is no stay on the Order. It is also to be noted that the appeal is against the Order on ARR&ERC for 2008-09, the applicability of which in the proceedings needs to be carefully looked into.

45. As per the calculations provided by KSEB on CERC norms, the depreciation is Rs.274.51 crore only and the Commission accepts the same.

Employee Cost:

46. The Commission has approved an employee cost of Rs.1090 crore, which is inclusive of Rs.125 crore as anticipated additional liability for pay revision. The actual employee cost booked by the Board for 2007-08 was Rs.904.88 Crore as shown below:

Actual Employee cost for 2007-08

Particulars	ARR Order	Actual
Salaries	272.22	348.41
DA	236.03	97.90
Sub total	508.25	446.31
Overtime, other allowances, Bonus.	27.86	27.75
Earned Leave encashment	32.92	36.65
Medical expenses reimbursement, staff Welfare expenses, payment under works men compensation,	4.08	4.16
Terminal benefits (including terminal Surrender)	391.89	390.01
Provision for pay revision	125.00	
Grand total	1,090.00	904.88

47. The Board has revised the pay and allowance of workmen category with effect from August 2003 and officers from July 2003. 59% of the DA was merged in the salary revision. The revision of pension was made subsequently in the year 2008-09. According to KSEB, necessary provisions for pay revision since the year 2004-05 was made in the accounts and the additional liability for pay

revision was made from such provisions in the respective years. Hence, Rs.125 crore allowed by the Commission was not utilised in 2007-08 but only during the later years. The Board has given following reasons for reduction in employee costs in 2007-08.

- a) In the ARR, Board has estimated the salary and claims for a total estimated strength of 26170 nos of employees. But the actual working strength of employees during 2007-08 was 24034 nos only, i.e, there was a reduction in the salary and benefits for 2136 nos of employees.
- b) The working employee strength during 2006-07 was 25117 nos, that was reduced to 24034 nos during 2007-08, with a reduction of 1083 employees over 2006-07.
- c) Even though the orders on pay revision was implemented during 2007-08, pay revision process has not been completed in certain ARUs till 31-03-2008, hence the liabilities due to pay revision was not fully disbursed and accounted in the year 2007-08.

48. Terminal benefits as per the accounts is Rs.390.01 crore against the Rs.391.01 crore approved in the ARR. The Commission sought the details of employee costs booked and the provisions made in the past years. The Board has provided the details. The Board further has clarified that revision of pay and allowances to the employees and pensioners due from July 2008 and provision was made for 2008-09. The Commission noted that in 2007-08 alone Rs.145 crore has been provided for pay revision. This practice has been continuing from 2004-05. The Commission has so far allowed these provisions in the truing up. However, the utilisation of the provisions are not properly disclosed so far. The Commission also notes that Rs.772.54 crore has been accumulated under 'Staff related liabilities and provisions' as on 31-3-2008. The Commission has sought the details under this head and the Board in its letter dated 26-5-2011 has stated that as on 31-3-2009, the staff related liabilities is Rs.850 Crore and of this salaries and Bonus etc. payable Rs.830.91 Crore. The Commission has to examine such high payable reported in under current liabilities. The matter will be taken up in the truing up for subsequent years. As per the statement of KSEB the pay revision is implemented from 2008-09. Hence the provisions made and the utilisation of the provisions upto 2008 is to be verified as part of truing up for 2008-09. Pending that, the Commission approves the employee cost as per the annual accounts for 2007-08 for truing up.

Employee cost allowed after truing up

Employee costs	2007-08 (Rs. Crore)		
	ARR Order	Actual	Allowed in True UP
Salaries	272.22	348.41	348.41
DA	236.03	97.90	97.90
Sub Total	508.25	446.31	446.31
Overtime, other allowances, Bonus.	27.86	27.75	27.75
Earned Leave encashment	32.92	36.65	36.65
Medical expenses, Staff Welfare expenses etc. ,	4.08	4.16	4.16
Terminal benefits (including terminal Surrender)	391.89	390.01	390.01
Provision for pay revision	125.00		-
Grand total	1,090.00	904.88	904.88

Repair and maintenance Expenses

49. The repair and maintenance expenses as per the audited accounts is Rs,116.26 crore, which is higher by Rs.14.79 crore than approved by the Commission. According to the Board the R&M expenses were only 4.75% over the previous year actuals. However, it is about 15% over the approved level of expenses. According to the Board the inflation was 5.72% and hence increase of 4.75% is reasonable. The R&M expenses as percentage of GFA is 1.41%. According to the Board, the GFA has increased from Rs.7711.62 crore to Rs.8216.85 crore in 2007-08. The function wise break up of R&M expenses as shown below:

R&M expenses as percentage of GFA

Particulars	GFA at the beginning of the Year	R&M Expenses	R&M expense as % of GFA
	(Rs.Cr)	(Rs.Cr)	(Rs. Cr)
Generation	2995.64	7.02	0.23
Transmission	2580.86	29.75	1.15
Distribution	2640.35	79.49	3.01
Total	8216.85	116.26	1.41

50. According to the Board, of the total R&M expenses, 88.5% is towards maintenance of plant and machinery, lines, cable network etc. which is needed for maintaining quality of supply. KSEB also stated that due to proper maintenance, the quality of supply and reliability has improved. The reliability index for Trivandrum and Kochi during 2007-08 was reported as 99.45% and 99.92% respectively.

51. The Commission analysed the claims of the Board. In all the previous years, the Commission generally allowed the projections of KSEB in the case of R&M expenses. The projections are made with necessary increments over the previous year. However, the actuals would be about 10 to 15% more than the approved level. This no doubt shows the lack of control mechanisms in the Board. Either the budgets are made without proper diligence or due care is not given to adhering to the budget. All the State Commissions have recognised that R&M expenses are controllable item of expenditure. The Board as part of clarifications stated that ARR is a budgetary document prepared five to six months in advance and the R&M expenses booked in the audited accounts are actual expenses made by the field units. As per the delegation of powers the field officers have the freedom to incur reasonable expenses for maintaining the assets. It is difficult to estimate the exact amount of R&M expenses in advance or stick to the amount approved.

52. The Commission also sought the split up details of R&M expenses. As per the details given by the Board, of the total Rs.116.60 crore under the head, materials accounts for Rs.48.06 crore, of which Rs.38.78 crore is for lines, cable and network. The balance is payment to contractors. The Board also made following points.

- i) The labour escalation of the State is about 10% which is much higher than the national level
- ii) Material cost escalation is also much higher than the inflation level
- iii) New assets are being added every year.

53. According to the Board, considering the difficulties in limiting the R&M expenses in advance, CERC and other State Commissions are allowing R&M expenses on a normative basis for generation and transmission utilities. However, the arguments of the Board on lack of control of R&M expenses are not acceptable on many counts. The statement that R&M expenses cannot be projected in

advance is not correct. All the Regulatory Commissions in the Country were recognised R&M expenses as controllable item of expenditure. It is surprising to note the argument of the Board that ARR estimates made prior to 6 months and hence there is divergence. This argument if accepted will completely break down the premise of ARR&ERC approval system being followed in the country and the role for budgetary system and controls. The argument of Board is such that in the field if repairs are to be made, it has to be undertaken without considering the budgetary constraints to maintain the supply. There is no doubt that in the field in certain cases, maintenance and repairs occur suddenly which may not be predicted in advance. However, this does not mean that reasonable projections cannot be made. If the arguments of the Board that R&M expenses cannot be predicted is correct, then the expenses is at random and in at least some of the previous years, it has to show a lower figure, which is not happening. The fact is that expenses are always overshooting the approved amount. The Board is of the opinion that the R&M expenses are linked to Assets. However, the Commission feels that even if it is linked to R&M expenses, it will not help the Board as shown in the table below. The actual R&M expenses are no way connected to percentage of GFA. Even if this approach is followed the issue still remain. It can also be seen that the R&M expenses for each function is different and a common ratio cannot be followed.

Year	R&M expense as % of GFA
2004-05	1.14%
2005-06	1.33%
2006-07	1.44%
2007-08	1.41%

54. All the above points out that the unpredictability R&M expenses as claimed by the Board is due to lack of preventive maintenance and lack of proper control systems. The Commission feels that such practices are not in the interest of consumers. **The Commission is of the opinion that the Board shall earnestly institute an expert study preferably with an experienced external consultant to review and study the repair and maintenance practice being followed in the functional areas for its necessity, adequacy and improvements required so as to suggest best practices and system to be adopted for cost control.** With these observations, the Commission allows the R&M expenses for the year 2007-08 as per the audited accounts.

R&M expenses allowed after truing up

	2007-08 (Rs. Crore)		
	ARR Order	Actual as per Audited accounts	Allowed in True UP
R&M Expenses	101.47	116.26	116.26

Administration and General Expenses

53. The A&G expenses including electricity duty under section 3(1), is Rs.125.35 Crore for the year 2007-08. A&G expenses net of duty is Rs.47.81 Crore against the approved level of Rs.54.47 crore. The details are given below:

Actual A&G expenses booked for 2007-08

Sl. No	Particulars	2006-07	2007-2008	
		Actual	ARR Order	Actual
		(Rs.Cr)	(Rs.Cr)	(Rs.Cr)
1	Rent, Rates and Taxes	3.65	3.82	3.45
2	Insurance	0.86	1.05	0.60
3	Telephone/telex charges, etc.	3.41	3.88	3.60
4	Internet and related charges	0.01	0.08	0.01
5	Legal charges	17.94	9.08	2.42
6	Audit fees	1.85	1.72	2.27
7	Consultancy charges	0.09	0.22	0.05
8	Technical Fees	0.12		0.19
9	Other Professional charges/Training	0.21	0.26	0.21
10	Conveyance and vehicle hire charges	11.57	10.52	11.21
11	Sub Total (Total of 1 to 9)	39.71	30.63	24.01
12	OTHER EXPENSES			
	a) Fess and subscriptions	0.24	0.24	0.48
	b) Printing & Stationary	3.60	3.85	3.91
	c) Advertisements	0.66	0.65	1.22
	e) Contributions/Donations	1.00	1.75	0.78
	f) Electricity Charges	3.27	2.94	3.38
	g) Water charges	0.10	0.13	0.11
	h) Entertainment	0.47	0.70	0.59
	i) Miscellaneous expenses	4.79	9.19	5.78

13	Total of OTHER EXPENSES	14.13	19.45	16.25
14	Freight	6.61	2.20	5.30
15	Other purchase related expenses	2.87	2.19	2.25
	Total (11+13+14+15)	63.32	54.47	47.81

54. The Commission verified the difference between actual and approved level. The major reason for lower actual expenses is due to difference of Rs.6.66 Crore in the legal charges. This was due to wrong estimation made in the ARR. The increase in the expense towards conveyance and vehicle hire charges was due to increase in fuel and other costs. The Board has stated that the purchase of vehicles has been drastically reduced and hired vehicles are being used which had increased the conveyance expenses. Since the variations are minor, the Commission allows the A&G expense at actuals for the purpose of truing up.

A&G expenses allowed after truing up

	2007-08 (Rs. Crore)		
	ARR Order	Actual as per Audited accounts	Allowed in True UP
A&G expenses other than Electricity duty	54.47	47.81	47.81

Other expenses

55. The other expenses include Other debits and Net prior period charges. The Board has booked Rs.932.27 Crore under Other debits, against the approved level of Rs.50 Crore. Major components are Miscellaneous write off (Rs.402.15 Crore) and provision for bad debts (Rs.529.80 crore). The miscellaneous write off is based on the recommendations of the Committee constituted for netting off of dues of Rs.2002.30 crore and accordingly Rs.400 crore is made for write off. The balance of Rs.2.15 crore is on compensation for injuries/death of staff and loss on stores. The total bad and doubtful debts provided is Rs.529.80 crore. The Government vide its order dated 26-09-2008 has ordered to freeze Rs.524 crore due from Kerala Water Authority (KWA) out of Rs.774 crore arrears. Government ordered to settle the claim by paying Rs.250 crore to KSEB in lumpsum as 'one time settlement'. Accordingly, the Board had written off Rs.524 crore as bad and doubtful debts for the year 2007-08 in the total provision of Rs.529.80 crore. However, considering the remarks of the Commission, the amount of Rs.524 crore receivable from KWA which was written off in 2007-08

was written back as prior period income for the year 2008-09. Hence, KSEB requested that in the truing up of accounts, the amount of Rs.524 crore may be excluded from bad and doubtful expenses for 2006-07 and the income considered in 2008-09 shall also be not considered. The balance Rs.5.8 crore is on account of withdrawal of credits (Rs.5.26 crore) and provision for bad and doubtful debts (Rs.0.54 crore). Since the Commission in the ARR&ERC order had allowed a higher provision under the provision for bad debts, for the purpose of truing up the Commission allows a total amount of Rs.25. Crore under the head for 2007-08.

56. As prior period income for the year 2007-08 was Rs. 85.88 crore and expenses was Rs.25.12 crore and the net amount is an income of Rs.60.76 crore. The Board has stated that in the year 2006-07, an amount of Rs.13.83 crore was wrongly classified as legal expenses, which was corrected by including the same in the prior period expenses in 2007-08. Based on the request, the Commission has disallowed the amount in the A&G expenses for 2006-07. Accordingly, the amount of Rs.13.83 crore shown as prior period income is not available for the year 2007-08 and the actual amount under this head would be only Rs.46.93Crore.

57. The Commission has analysed the details provided under the item 'other debits'. The Commission has already taken a stand on the write off on account of netting off of dues. Hon. APTEL also upheld the stand taken by the Commission in the order on Appeal No.5 of 2009. The Commission further notes that the Board has discontinued the practice of writing off from 2008-09 onwards. Hence the claim of Rs.400 crore is not allowed. Regarding the write off KWA and legal charges the Commission accepts the reasons given by the Board. Accordingly the Other expenses allowed for 2007-08 are as follows:

Other expenses allowed after truing up

Other debits	2007-08 (Rs. Crore)		
	ARR Order	Actual	Allowed in True UP
Research and Development Expenses	50.00	0.32	0.32
Sale of store		-	-
Provision for Bad and Doubtful debts		529.80	25.00
Miscellaneous Losses and write-offs		402.15	2.15
Net prior period charges	50.00	(60.76)	(46.94)
Total	100.00	871.51	(19.47)

Expense capitalised

62. The actual expenses capitalised as per the audited accounts is Rs.48.08 Crore and interest capitalised is Rs.29.33 Crore. As per the principle adopted in the first true up order, the Commission allows the provision as per the audited accounts.

Return on equity

63. The Board has stated that Rs.217.42 Crore has been provided as return on equity at the rate of 14%. According to the Board, all power utilities in the country are eligible to earn a reasonable return either on capital employed or on equity. The Board claimed statutory surplus of 3% as per Electricity (Supply) Act 1948 till 2004-05. After the enactment of Electricity Act 2003, the State Government is not providing budgetary support to the Board and the Board accordingly is claiming 14% return on Government's equity of Rs.1553 crore. The Board also mentioned a letter from Secretary, Ministry of Power, Government of India dated 8-10-2009 expressing concern for not claiming permissible return by the State Utilities. In the ARR&ERC for 2007-08, the Commission had allowed the return on equity claimed by the Board.

64. The objectors have stated that as per the C&AG report and Government Order, there is no equity in the accounts of Electricity Board. They requested the Commission to go into the root of this issue since this is an issue of serious concern.

65. In the truing up Order for 2006-07 and the ARR&ERC Order for 2010-11, the Commission had in detail deliberated on this issue. The Commission has not denied the eligible surplus to KSEB. In this context, the Commission in the ARR&ERC Order for 2010-11 stated as follows:

“However, the Commission is committed to provide enabling environment for attracting funds in the sector. Hence, as an interim measure, the Commission allows a notional return of Rs.100 Crore to Board. This provision will be treated as provisional and will be refixed on the basis of real equity or what can be treated as equity for the purpose calculating return on investment, which will be submitted by the

Board on the basis of a study by a reputed agency with approval of the Commission.”

66. The Board vide letter dated 20-12-2010, has forwarded a Government order amending the G.O.(Ms) NO.25/02/PD dated 9-10-2002. The Order was apparently issued considering the request of KSEB to re-consider the Government Order (Ms).No.35/10/PD dated 13-12-2010. The relevant portion is as follows:

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

- (i) Netting off of the dues will be done after reconciling the final audited figures furnished by KSEB with Government Account
- (ii) The equity of Rs.1553 crore ordered in G.O.(Ms) No.27/98/PD dated 14-9-1998 will continue to be treated as Government’s capital in KSEB.”

Based on this Order, the Board has requested to consider the equity and allow return on equity of Rs.217.42 crore. The Commission directed the Board to file a separate petition for considering the request for allowing return on equity. Accordingly the Board has filed a petition, which is admitted as RP No.4 of 2011. The Commission is of the view that, the Board may be allowed to earn legitimate return so as to have credit worthiness to attract capital. Since the Commission is already examining the separate petition on allowing return on equity in the light of the Government Order dated 13-12-2010, the Commission defers the issue till the disposal of the petition. Till such time, *the Commission allows an adhoc provision of Rs.50 Crore as return for the year 2007-08.*

Non Tariff income:

67. The total non-tariff income for the year 2007-08 is Rs.438.89 Crore, which is inclusive of Meter rent/service line rental (Rs.137.19 Crore), rebate received (Rs.57.06 Crore), interest from banks (Rs.106 Crore), service connection, penalty, recovery for theft of energy, etc. (Rs.99.91 Crore). The Commission for the purpose of truing up allows the non-tariff income as per the audited accounts as Rs.438.89 Crore.

Revenue from tariffs

68. The total revenue from sale of power within the State is Rs.3764.84 Crore for a sale of 12049MU. In addition, through sale of off-peak surplus power outside the State the Board earned Rs.932.11 Crore. During the financial year the Board has sold 622.88MU from surplus hydro generation through M/s NVVN and M/s PTC and earned Rs.323.89 crore at an average rate of Rs. 5.20/kWh. By scheduling the diesel stations during off peak hours, a total 74.42 MU was sold for comfort charges (Rs.1.08/kWh), for an amount of Rs. 56.17 crore. From the IPPs, RGCCPP and BSES, the total sale was 649.22 MU for which a total of Rs. 546.83 crore was realised. Of the total Rs.932.11 crore realised as revenue from export of power, net income realised was Rs.383.93 crore (from comfort charges and sale from hydro stations). The Board further stated that the additional income earned is through dedicated and sincere efforts of the Board to sell the surplus hydel energy as well as unutilised energy from hydel and thermal stations at competitive rates. Hence 50% of the net additional income earned through the surplus power (ie. Rs.191.97 crore) may be allowed to be retained with the Board.
69. The Board in its prayer has requested to adjust the actual accounts and also requested for incentive for the efficient operation such as Rs.350.54 Crore for loss reduction, Rs.105.84 Crore for reducing interest and financing charges and Rs.383.93 Crore for selling surplus power, totalling Rs. 840.31 Crore. If allowed it would result in net revenue gap of Rs.931.59 Crore instead of Rs.91.28 crore as per the actual accounts.
70. As per the audited accounts, the income received from sale of energy within the state was Rs.3764.84 Crore. The Commission notes that the Board has withdrawn the demand to the tune of Rs.100.29 Crore on account of 20 paise rebate extended to LTI(A) and LTVII(A) & LTVII(B) consumers. The Commission sought the details of this entry. The Board has stated that since the Government declined to provide the subsidy, the amount was reversed against the revenue from sale of power. The Commission has taken a view on this matter in the previous years also, which has become final since the appeal filed before the Hon APTEL (Appeal No.177 of 2009) by KSEB was dismissed as devoid of merits.

71. Accordingly, the Commission is not in a position to accept the explanation of the Board that subsidy was denied hence the demand was withdrawn. There are three express violations that can be noted in the Board's action. One: violation of section 65 by allowing rebate without advance receipt of subsidy. Two: the consequential violation of reducing the tariff approved by the Commission. Three: withdrawing the demand raised in the books of accounts without prior approval of the Commission. Hence, as in the previous orders, the Commission can treat the short fall in revenue due to non-payment of subsidy as part of the revenue from tariff only. The Board may take necessary steps to realize the amount from the Government as subsidy. As reported by the Board, the shortfall in revenue due to the rebate of Rs.0.20/kWh amounted to Rs.100.29 Crore for 2007-08. Hence total revenue from tariff for the year 2007-08 would increase by Rs.100.29 Crore for the purpose of truing up.

72. The Commission for the purpose of truing up allows the income from sale of surplus power as per the audited accounts. Hence the total revenue from tariff shall be as follows for the purpose of truing up.

Revenue allowed after truing up

	2007-08 (Rs. Crore)		
	ARR Order	Actual	Allowed in True UP
Revenue from sale of power with in the State	3,898.07	3,764.84	3,764.84
Revenue from sale of power	144.04	932.11	932.11
Add short fall in revenue due to 20 paise rebate			100.29
Revenue from Non- Tariff income	361.84	438.89	438.89
Total Revenue	4,403.95	5,135.84	5,236.13

73. Considering the audit observation of C&AG in the 2006-07 accounts, the Commission in the truing up order for 2006-07 has directed KSEB to provide explanation on the violation of the provisions of Act in respect to the transfer of Land from the Brahmapuram Project. Further, as part of the clarifications the Commission again sought the explanation. The Board has given the following reply:

“The transfer of land from KSEB to the Government is a decision taken as per the Order of the Government without the consent of the Board. The relevant Government Orders on the subject matter, G.O.(MS) No.13/07/PD dated 5-7-2007, G.O.(Ms) No.264/2007/PD dated 13-7-02007 and G.O. (Ms)No.16/2008/ITD dated 21-4-2008 is enclosed.

However, KSEB is still in possession of the land and has requested the Government to transfer back the land to the Board to set up the proposed gas based thermal plant at Brahmapuram”.

74. The Commission records the reply of the Board that there was no consent of the Board on the transfer of Assets. As per the reply, the transfer is not yet effected. The Commission has observed that as per Section 17(4) of the Act, any transaction by *sale, lease, exchange or otherwise of the assets of the licensee without the prior approval is void.* The electricity consumers have already contributed for the asset and the same can be disposed of only following the due process envisaged under law. The Government Orders indicate that the District Collector has fixed Rs.7.57 crore as the land value. As per Section 17 of the Act, the Commission hereby directs that any transaction shall be effective only after the due process envisaged under the Act and adequate consideration is obtained.

Total Revenue gap/Surplus after Truing up:

75. As per the ARR & ERC order for 2007-08, the total revenue surplus approved was Rs.329.72 Crore, against which the revenue gap reported by the Board as per the audited accounts was Rs.91.28 Crore. As explained in the previous paragraphs, the Commission has arrived at a revenue surplus of Rs.1338.93 Crore for 2007-08 after the Truing up, as shown below.

ARR&ERC approved after truing up

	Particulars	2007-08 (Rs. Crore)		
		ARR Order	Actual	True up
1	Generation of Power	143.3	195.97	195.97
2	Purchase of power	1,734.65	2,101.07	2080.23
3	Interest & Finance Charges	458.61	352.77	324.42
4	Depreciation	260.18	419.09	274.51
5	Employee Cost	1,090.00	904.88	904.88
6	Repairs & Maintenance	101.47	116.26	116.26
7	Administration & General Expenses	54.47	125.35	47.81
8	Other Expenses	100	871.72	-19.47
9	Gross Expenditure	3,942.68	5,087.11	3,924.61
10	Less : Expenses Capitalized	37.63	48.08	48.08
11	Less : Interest Capitalized	48.25	29.33	29.33

12	Total Expenditure	3,856.80	5,009.70	3,847.20
13	Return on Equity/Statutory Surplus	217.42	217.42	50.00
14	ARR (12 + 13)	4,074.22	5,227.12	3,897.20
15	Revenue from Charges			
16	Revenue from sale within the State	3,898.07	3,764.84	3,764.84
17	Revenue from Export of power	144.04	932.11	932.11
18	Add shortfall in revenue due to 20 ps rebate			100.29
19	Revenue from non-tariff income	361.84	438.89	438.89
20	Total (16+17+18+19)	4,403.95	5,135.84	5,236.13
21	Revenue surplus /(gap)	329.73	-91.28	1,338.93

76. From the above, the Commission notes that the disallowances are under power purchase cost (Rs.20.79 crore), Interest & financing charges (Rs.28.35 Crore), Depreciation (Rs.144.38 Crore), A&G expenses (Rs.77.54 Crore), Statutory Return (Rs.167.42 crore). Of these disallowances, only Rs.20.81 Crore is cash expenses and the balance are non-cash items. Thus the disallowances are not substantial and there will not be any impact on the cash flow of the Board.

Order of the Commission

77. The Commission after considering in detail, the petition filed by the Board, the objections from stakeholders and other materials placed before it hereby arrives at a **revenue surplus of Rs. 1338.93 Crore as against a revenue gap of Rs.91.28 Crore** presented by the Board based on the audited accounts. The revenue surplus so arrived at would be adjusted against accounts of subsequent years. With the above, the petition is disposed of.

This Order is subject to the final Order of Hon. High Court of Kerala in Writ Appeal No. WPC No.26994/2010.

Sd/-
P.Parameswaran
Member

Sd/-
Mathew George
Member

Sd/-
K.J.Mathew
Chairman

Approved for issue

Secretary
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ANNEXURE

List of persons attended the public hearing

Shri. K.G Madhu, KSSIA

Shri George Thomas, President, HT-EHT Association

Shri.A.R Satheesh, General Manager, Carborandum Universal

Shri, AAM Nawas, M/s Blnani Zinc Limited

Shri. B. Pradeep, General Secretary KSEB Officers Association

Shri. Bose V. Jose

Shri. Abdul Nusheer, Nalammile Residential Association

Shri. V. Ramesh Babu, KSEB

Shri. P.V Sivaprasad, KSEB

Shri. T.R. Bhuvanendra Prasad, KSEB

Shri. Gireesh Kumar, V.S, KSEB