

**BEFORE THE KERALA STATE ELECTRICITY
REGULATORY COMMISSION**

In the Matter of: **Review Petition against KSERC order dated 28th
April 2012 on Petition OP No. 3 of 2012
on ARR & ERC of KSEB for the year 2012-13.**

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

THE PETITIONER HUMBLY STATES THAT:

- Hon'ble Commission vide the order dated 28th April 2012 on Petition OP No. 3 of 2012 on 'ARR &ERC of KSEB for the year 2012-13' has approved the revenue gap for the year 2012-13 as Rs 1889.15 crore against the Board's projection of Rs 3240.25 crore. A comparison of the various items of ARR &ERC projected by KSEB and approved by the Hon'ble Commission is extracted below.

Table-1
Comparison of the ARR &ERC proposed by KSEB and approved by KSERC

Particulars	2012-13 (Rs. Cr)		
	KSEB ARR	KSERC Order	Difference
Generation Of Power	378.10	193.15	184.95
Purchase of power	5281.09	5008.49	272.60
Interest & Finance Charges	521.21	370.19	151.02
Depreciation	607.42	414.62	192.8
Employee Cost	2231.46	1663.66	567.80
Repair & Maintenance	326.07	195.95	130.12
Administration & General Expenses	215.24	86.11	129.13
Other Expenses	18.50	18.50	0.00
Gross Expenditure (A)	9579.09	7950.68	1628.42
Less : Interest Capitalized	47.09	47.09	0.00
Less : Expenses Capitalized	134.60	134.60	0.00
Net Expenditure (B)	9397.40	7768.99	1628.42
Statutory Surplus/ Roe	240.72	217.42	23.30
ARR (D) = (B) + (C)	9638.12	7986.41	1651.72
Less Non-Tariff Income	366.14	386.16	-20.02
Less : Revenue from Tariff			
(a) With in the State	5255.79	5550.00	-294.21
(b) Fuel surcharge	0.00	161.10	-161.10
(c) Additional revenue	775.94	0.00	775.94
Total Income	6397.87	6097.26	300.61
Revenue Gap	3240.25	1889.15	1351.11

2. As submitted above, Hon'ble Commission has made a total dis-allowance of Rs 1351.11 crore from the amount projected by KSEB on various expenses as detailed below.

(i)	Cost of generation	- Rs 184.95 crore
(ii)	Cost of power purchase	- Rs 272.60 crore
(iii)	Interest and finance charges	- Rs 151.02 crore
(iv)	Depreciation	- Rs 192.80 crore
(v)	Employee cost	- Rs 567.80 crore
(vi)	R&M expenses	- Rs 130.12 crore
(vii)	A&G expenses	- Rs 129.13 crore
(viii)	Return on equity	- Rs 23.30 crore
	Total dis-allowance	- Rs 1651.72 crore

3. KSEB may submit that, Hon'ble Commission has adopted wrong methodology which is against the prudent utility practices, applied arbitrary norms without any basis which are totally against the orders and clarifications issued by the Hon'ble Commission on similar issues during the previous years. Hon'ble Commission had made erroneous assumptions while approving the ARR&ERC order for the year 2012-13. By denying the reasonable expenses projected by KSEB for carrying out its licensed business, KSEB may find it difficult to meet its various obligations including the cost of generation and power purchase, employee cost, R&M expenses etc during the year 2012-13 and it may affect its various obligations to provide quality power. Hence, KSEB files this review petition for kind consideration and favorable orders. The details are given below.

I. Energy sale approved for the year 2012-13.

4. The anticipated energy demand of the State without any restriction on energy usage was estimated as 17140 MU. However, considering the transmission corridor constraints, limitations on importing power through traders and day ahead market etc, KSEB has proposed to regulate the energy usage at normal tariff as 85% of the previous one year consumption. Accordingly, through the proposed regulations on energy usage, KSEB target to reduce the energy sale to different categories of consumers for the year 2012-13 as 16386.30 MU as against the 17140MU estimated without any restriction.
5. However, while approving the ARR, Hon'ble Commission has not approved the regulation on energy usage as proposed by KSEB. Further, Hon'ble Commission has approved the energy sale (without any restriction on energy usage) for the year 2012-13 as 16386MU, i.e, the energy sale approved by the Commission without any restriction was energy sale estimated by KSEB with restrictions on electricity usage. While doing so, Hon'ble Commission has stated that, by initiating

appropriate DSM activities, the consumption of electricity in the State can be curtailed. Introduction / extension of ToD metering shall also help in flattening the load curve etc.

6. However, the present trend of energy usage during the months of April-2012, May-2012 and June-2012 reveals that the energy demand of the State during the year 2012-13 is likely to be 2% to 3% higher than the same approved by the Hon'ble Commission. The comparison of the actual energy usage with the same approved by the Hon'ble Commission is detailed below.

Table-2
Comparison of the energy demand approved and actuals

Month	Demand approved	Actual	(% of increase)	Actual increase in energy usage over approval for the month	Remarks
	(MU/day)	(MU/day)		(MU)	
Apr-12	53.25	55.88	4.94	78.90	The actual consumption is with 10% restriction on electricity usage and ½ hour cyclic load shedding
May-12	55.62	57.56	3.49	60.14	
Jun-12	48.89	54.58	11.64	170.70	
Total				309.74	

7. As detailed above, the actual energy consumption during the last three months itself was higher by 309.74 MU over the same approved during the same period. Hon'ble Commission may kindly note that, this increase in energy consumption has been recorded even with the restriction on energy usage to the extent of 10% during the months of April and May-2012 was in force. The power restrictions were withdrawn the month of June-2012. It is seen that the energy usage had increased by 11.64% over the same approved during June-2012.
8. With the present trend of energy usage, the annual energy consumption by the consumers is likely to be more than 17140MU, i.e., higher than the energy sale estimated by KSEB with out any restriction. As against the same, Hon'ble Commission has restricted the energy sale figure as 16386MU, i.e, the quantity approved was 754MU less than the same estimated by KSEB. In order to meet the excess energy consumption of 754MU over the same approved, KSEB has to procure additional power to the extent of 875.66MU through short-term market/ traders during the current year and this would result in an additional liability over and above the cost of generation and power purchase approved.
9. By underestimating the energy demand for the year 2012-13, Hon'ble Commission has dis-allowed substantial quantum of power from liquid fuel stations. It is further submitted that, considering the transmission constraints for procuring power through traders and energy exchanges, KSEB has to schedule higher quantum of energy from liquid fuel stations etc. during the year 2012-13 over the same than that was approved for meeting the anticipated energy demand of the State. Aggravating the

situation further, the year is likely to be a draught year and the net hydro availability may be considerably less than the same approved in the ARR.

10. Considering the reasons as above, Hon'ble Commission may kindly approve the energy sale for the year 2012-13 as 17140MU. Further, in order to meet the energy demand, Hon'ble Commission may approve to procure 875.66 MU from liquid fuel stations at an average variable cost of Rs 10.29 per unit, i.e., the variable cost approved for RGCCPP Kayamkulam.

II. Energy availability from Koodamkulam power plant

11. Due to the uncertainty on the commissioning of Koodamkulam plant, KSEB has not considered the energy availability from this plant while projecting the energy availability from CGS. However, while approving the ARR, the Commission has considered that the 1st unit of Koodamkulam plant would be commissioned by August-2012 and the 2nd unit by December-2012 and estimated the energy available from this plant during the year 2012-13 as 700MU at generator bus and 665MU at KSEB periphery.
12. However, the schedule of commissioning of the Koodamkulam plant is yet to be finalized and the synchronization of the 1st unit is yet to start. Nuclear plants usually requires three to four months for declaring the Commercial Operation from the date of synchronization. Hence, there is very remote chance for the commissioning of the plant especially the second unit during this financial year 2012-13. Hence it is too early to consider the energy availability from Koodamkulam plant without knowing a firm date on the commercial operation of the plant.
13. It is further submitted that, while approving the ARR, Hon'ble Commission has considered the energy cost of Koodamkulam plant as Rs 3.19 per unit. Since the Koodamkulam plant is not likely to be commissioned as per the schedule considered by the Hon'ble Commission, KSEB has to procure additional energy from alternate sources including traders, energy exchanges, liquid fuel stations etc. to meet the short fall. It is further submitted that, the indicative energy price of all the alternate sources are likely to be much higher than the energy rate approved for Koodamkulam plant. Hence KSEB is likely to have an additional liability more than Rs 100.00 crore for procuring power from alternate sources to meet the energy shortages on account of the delay in commissioning of Koodamkulam plant.
14. Considering the above, KSEB request before the Hon'ble Commission to kindly review its decision and allow KSEB to procure/ schedule energy from alternate sources and provide sufficient amount at the average procurement rate of Rs 4.50 per unit approved for short-term purchase.

III. Employee cost

15. In the ARR & ERC, KSEB has estimated the total employee cost including pension liabilities for the year 2012-13 as Rs 2231.46 crore. The split up details of the employee cost projected by KSEB are detailed below.

Basic pay	- Rs 448.26 crore
DA	- Rs 582.75 crore
Provision for DA revision	- Rs 44.83 crore
Other allowances	- Rs 45.03 crore
Earned leave encashment	- Rs 82.00 crore
Provision for pay revision	- Rs 174.12 crore
Pension liabilities	- Rs 853.97 crore

16. However, while approving the ARR, KSERC has disallowed a total amount of Rs 567.8 crore from the employee cost projected by KSEB and approved the employee cost at Rs 1663.66 crore. The amount disallowed by the Hon'ble Commission is about 25% of the total amount projected by KSEB. A comparison of the various components of the ARR as projected by KSEB and the same approved by the Hon'ble Commission is detailed below.

Table-3.

A comparison of the various components of the employee cost projected by KSEB and the same approved by the Hon'ble Commission for the year 2012-13

Particulars	Projected by KSEB	Approved by KSERC	Difference	Percentage of reduction
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)	
Basic pay	448.26	426.23	-22.03	-4.91
DA including DA revision	627.58	290.27	-337.31	-53.75
Other allowances (over time, medical allowances etc)	45.03	43.29	-1.74	-3.85
EL encashment	82.50	81.86	-0.64	-0.77
Pension liabilities	853.97	704.92	-149.05	-17.45
Provision for pay revision	174.12	117.08	-57.04	-32.76
Total employee cost	2231.46	1663.66	-567.80	-25.45

It can be seen from the above that, Hon'ble Commission has dis-allowed the DA to the extent of 53.75%, pension liabilities by 17.45% and the provision for pay revision by 32.76% over the same projected in the ARR.

17. Inorder to limit the employee cost to the approved level, KSEB has to (1) curtail the DA now being released to its employees, (2) reduce the pension payments, (3) make reduction on the pay revision already effected by KSEB etc. However, it is not possible for a public utility like KSEB to adopt such drastic steps which was ultimately end up in employee unrest and legal hurdles. Further, the salaries and wages are governed by bi-lateral wage settlement agreement entered into between the KSEB and trade unions. KSEB cannot unilaterally withdraw from the wage settlement mutually agreed with trade unions.

18. The methodology adopted by the Hon'ble Commission for estimating the employee expenses is extracted below for ready reference.
- (a) In the order on ARR, Commission has decided to benchmark the employee cost based on CPI-WPI basis. The employee cost as per the audited accounts for year 2008-09 is taken as the base. It includes, basic pay of Rs 378.70 crore and all other expenses including DA, pension, terminal benefits, EL encashment etc as Rs 876.48 crore.
 - (b) Commission has allowed an increase of 3% on basic salary for the subsequent years 2009-10, 2010-11, 2011-12 and 2012-13. Thus, Commission has arrived at basic salary for the year 2012-13 as Rs 426.23 crore against Rs 448.26 crore proposed by KSEB.
 - (c) For DA, pension and other allowances, Commission has indexed the same to the Whole Sale Price Index and Consumer Price Index (given 70% weightage for CPI and 30% for WPI). Commission has arrived at the composite weighted average of CPI& WPI for the year 2009-10 as 7.75%, 8.11% for 2010-11, 6.65% for 2011-12 and 6.69% for the year 2012-13. Accordingly, Commission has approved the DA, other allowances including EL surrender, pension and other terminal benefits as Rs 1237.43 crore as against Rs 1783.20 crore projected by KSEB.
 - (d) Commission has further stated that, "The Board shall limit the employee expenses to the approved level. The expenditure over the approved level shall not be passed on to the consumers through tariff. In the truing up process for the year, the allowable employee costs will be refixed based on the actual CPI-WPI for the year 2012-13. However, the Commission has referred this item to the consultants for their study and recommendation. The Commission is prepared to take a relook on the issue."
19. In this matter, KSEB may submit that, there is a conceptual mistake in the methodology adopted by the Commission. The details are given below.
- (a) Basic pay**
20. Hon'ble Commission has adopted the absolute employee cost of the base year 2008-09 as the base instead of normative values i.e., employee cost per unit sold. It may be noted that, the employee cost of a distribution utility is being represented based on unit cost of the energy sold.
21. It is a fact that, the business activity of a distribution utility has been increasing year after year. The energy sale during the year 2008-09 was 12414.32MU and the same approved for the year 2012-13 was 16386MU. i.e., Hon'ble Commission has approved an increase in energy sale by 32% during the period from 2008-09 to 2012-13.

22. The number of consumers as on 31-03-2008 was 90.33 lakhs, which was increased to 104.50 lakhs as on 31-03-2012 and the same is likely to be 108.00 lakhs as on 31-03-2013. The increase in consumer strength during the period under consideration was about 20%.
23. However, despite the increase in energy consumption, number of consumers, Hon'ble Commission want to limit the base employee cost of the subsequent years as **'same as that approved for 2008-09'**.
24. It is true that, Hon'ble Commission has approved an increase of 3% on basic pay. Hon'ble Commission is aware that, the increase provided is not sufficient to provide the annual increment to the serving employees even if **'KSEB contained the employee strength of the subsequent years'** as same as that of 2008-09.
25. Hence, KSEB may humbly submit that, the approach to limit the basic pay of the subsequent years as 3% of the basic pay for 2008-09 is not correct. It is further submitted that, the amount so provided is not sufficient to meet the annual increment of subsequent years for even the employees that existed as on 31-03-2008. Hence KSEB submit that, Hon'ble Commission may kindly allow an increase of 5.00% on the basic pay of the employees as provided in the ARR.

(b) Dearness Allowances

26. As submitted in the ARR petition, KSEB has been providing DA to its employees as and when the same is released by the Government to its employees. The DA is allowed as a percentage of the basic salary. This is the accepted practice everywhere. The DA allowed to KSEB employee at the pre-revised scale is given below.

Table-4
DA allowed to KSEB employees as on date

Date of effect	Rate of DA	Total DA applicable on the Basic Pay
January-04	2% of the Pay	2%
July-04	3% of the pay	5%
January-05	3% of the pay	8%
July-05	4% of the pay	12%
January-06	3% of the pay	15%
July-06	5% of the pay	20%
January-07	6% of the pay	26%
July-07	6% of the pay	32%
January-08	6% of the pay	38%
July-08	7% of the pay	45%
January-09	10% of the pay	55%
July-09	9% of the pay	64%
January-10	14% of the pay	78%
July-10	16% of the pay	94%
January-11	12% of the pay	106%
July-11	12% of the pay	118%
January-12	12% of the pay	130%

27. Further, KSEB has anticipated additional DA @ 20% at the pre-revised scale, i.e, 10% w.e.f July-2012 and additional 10% w.e.f January-2013. Thus the total DA as on July-2012 would be 140% of the basic pay and the same as on January-2013 would be 150% of the basic pay. Accordingly KSEB estimated the DA at the prevailing rate of 130% at the beginning of the year as Rs 582.75 crore and further a provision of Rs 44.83 crore has been provided for the additional DA likely to be released during July-2012 and January-2013.

28. It is further submitted that, Hon'ble Commission vide the letter No. 1235/ARR&ERC 10-11/KSERC /2010 dated 28th July-2010 addressed to KSEB, has pleased to communicate as under:

“the expenditure on account of DA/DR increases announced by the Government from time to time can be paid to the employees and pensioners without reference to the Commission. Any additional expenditure in this regard over and above the approved expenditure can be considered at the time of truing up as has been done in the previous years”

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

“Existing salary, DA and pension are considered as uncontrollable items in the tariff determination process. In the past also all such increases in salary and DA have been allowed even if it was higher than the approved level while finalizing each years accounts. In one of the previous Orders, the Commission had stated that *“the increase in DA due to inflation has to be allowed to KSEB employees as and when it becomes due and shall not be permitted to accrue.”* There is also a provision in the Electricity Act that there shall not be any deterioration in the terms and conditions of employees in the reform process.”

Accordingly, KSEB has been releasing the DA to its employees as and when the same is released by the Government to its employees.

30. Kind attention of the Hon'ble Commission is invited to the regulation 22(d) of the model regulation notified by the forum of regulators, where in, it is clearly indicated that, the 'dearness allowances' and 'terminal benefits' in employee cost are beyond the control of the distribution licensees and the same **shall be** excluded from the norms in the trajectory.

31. However, while approving the ARR, Hon'ble Commission has indexed the DA to the Whole Sale Price Index (WPI) and Consumer Price Index (CPI) (70% weightage for CPI and 30% weightage for WPI). Accordingly the DA

arrived by the Hon'ble Commission for the subsequent years is submitted below.

Table-5
DA approved as a percentage of the basic salary

Year	Basic salary approved	DA approved	DA approved as a (%) of the basic salary	Actual DA provided	Shortfall in DA (%)
	(Rs.Cr)	(Rs. Cr)			
2008-09	378.70	204.17	53.91	55.00	1.09
2009-10	390.06	222.11	56.94	78.00	21.06
2010-11	401.76	243.88	60.70	106.00	45.30
2011-12	413.82	268.67	64.92	130.00	65.08
2012-13	426.23	290.27	68.10		

32. Further, as submitted earlier, the DA has been provided as percentage of the basic, to compensate the erosion of purchasing capacity due to inflation. Further, the DA rates is being approved by the Ministry of Finance, department of expenditure, Government of India (Gol) once in every six months and based on the order of the Gol, the State Government has been releasing the DA to the State Government employees. Hence there is no rational in indexing the DA as done by order on ARR.
33. As detailed above, the amount of DA approved by the Hon'ble Commission is totally insufficient to meet the DA liability of KSEB at the rates approved by the State Government. As submitted earlier, Hon'ble Commission has already given approval for releasing the same as and when the same is released by the State Government to its employees. As submitted under Table-3 above, the reduction in DA over the approval was about Rs 337.31 crore and the reduced amount is a substantial quantum, which has to be allowed to its employees as per the clarifications and directions issued by the Commission.
34. Considering the reasons stated above, KSEB may kindly request before the Hon'ble Commission to approve the DA as per the original ARR & ERC petition for the year 2012-13.

(b) Pension liabilities

35. KSEB had estimated the pension liabilities for the year 2012-13 as Rs 853.97 crore. However, while approving the ARR, Hon'ble Commission has taken the actual pension and other emoluments for the year 2008-09 as the base and inflated the base as per the weighted average indices of CPI & WPI as explained earlier. Accordingly Hon'ble Commission has approved the pension liabilities for the year 2012-13 as Rs 704.92 crore, i.e., a reduction of Rs 149.05 crore from the amount proposed by KSEB. It is submitted that, the dis-allowance made by the Hon'ble Commission is about 32.76% of the amount proposed by KSEB.

36. It is submitted before the Hon'ble Commission that, here too, there is a conceptual error in the methodology adopted for approving the pension liabilities due to the following.
- (i) The pension & terminal benefits are the total liability towards existing pensioners as well as employees due to retire in each year. However, while approving the pension liabilities, Hon'ble Commission has not considered the employees retired after the year 2008-09. Further, as and when DA is released to serving employees, Dearness Relief is to be allowed to the pensioners on their basic pension.
 - (ii) Pension is a firm liability of KSEB and Board cannot deny pension and other allowances to its employees. Hence, the pension cannot be limited to any indices as ordered by the Hon'ble Commission.
 - (iii) As explained earlier, it also depends on the additional employees retired in each year in addition to the existing employees and half yearly DR releases. Till date pension remains an unfunded liability. However, KSEB is committed to create pension fund as part of the re-vesting of the assets and liabilities of KSEB in a corporate entity.
37. Kind attention of the Hon'ble Commission is invited to the regulation-22 (d) of the model tariff regulation notified by the 'Forum of Regulators' wherein it is clearly specified that, the 'terminal benefits' in employee cost etc are beyond the control of the distribution utilities and the same shall be excluded from the norms in the trajectory. The same was extracted under paragraph-30 above.
38. Hence, KSEB kindly request before the Hon'ble Commission to approve the pension liabilities as submitted in the original ARR & ERC petition and also allow the actuals at the time of truing up of the actual accounts.

Provision for pay revision

39. As submitted in the ARR&ERC petition, the pay revision to the employees has been implemented w.e.f 1st August-2008 and Officers from 1stJuly-2008. For the year 2008-09, KSEB has made provision of Rs 82.35 crore as pay revision arrears which was due for 8 months for employees and 9 months for officers, i.e, the provision of pay revision arrears made for the year 2008-09 was only for the part of a year. However, while approving the orders on ARR, Hon'ble Commission has adopted the provision made for the year 2008-09 as the base and escalated the same at the inflationary indices computed for the subsequent years and thus approved the provision for pay revision as Rs 117.08 crore against Rs 174.12 crore proposed by KSEB for the year 2012-13. Accordingly, the provision of pay revision approved for the

year 2012-13 reflect only the additional liability required for a part of the year. Hence, if the Hon'ble Commission is adopting the employee cost for the year 2008-09 as the base, then the provision of pay revision made for the part of the year should have been suitably modified to reflect the requirement of the full year. This anomaly may kindly be noted and corrected.

40. In the order on ARR&ERC, Hon'ble Commission has criticized KSEB that, the employee cost of KSEB is on the higher side. Further, no concrete steps were taken to contain the employee cost. In this matter, kind attention of the Hon'ble Commission is invited to the following.
41. The growth of KSEB power system since the year 2003-04 is given below for ready reference to the Commission.

Table -6.
Growth of the Kerala power system since the inception of the Hon'ble Commission

Year	Consumer strength	Annual energy sale	Connected load	No of S/s	EHT lines	HT Lines	LT lines	Dist. Transformers	No of section offices	Revenue from sale of Power
	(Lakhs)	(MU)	MW	(Nos)	(Km)	(Km)	(Km)	(Nos)		(Rs. Cr)
2003-04	73	8910.84	9910	229	8958.00	33280.00	201638.00	34758.00	556	2756.09
2004-05	78	9384.40	10334	250	9220.00	34235.00	207711.00	36640.00	558	2917.36
2005-06	83	10269.80	10907	267	9478.00	34596.00	217899.00	37724.00	603	3367.3
2006-07	87	11331.00	11466	280	9652.00	36419.00	226128.00	39848.00	619	4009.71
2007-08	90	12049.85	12378	298	9825.00	38235.00	234286.00	42401.00	640	4696.95
2008-09	94	12414.32	15267	314	10012.00	41284.00	241849.00	46510.00	641	4893.02
2009-10	97	13971.09	15867	337	10279.00	44682.00	249687.00	52300.00	641	4747.17
2010-11	101	14547.90	16682	340	10414.00	48232.00	256616.00	58427.00	694	5641.26
2011-12	105	15921.53	17518	368	10714.00	53075.00	259479.00	63381.00	697	5984.6

42. In addition to the growth of the power system, the employee cost including DA is highly susceptible to inflation. The inflation during the period from 2003-04 to 2011-12 is detailed below.

Table-7.
Rate of inflation during the period from 2003-04 to 2011-12

Year	Inflation	Cumulative inflation
	(%)	(%)
2003-04	3.87	
2004-05	3.83	7.70
2005-06	4.41	12.11
2006-07	6.69	18.80
2007-08	6.21	25.01
2008-09	9.09	34.10
2009-10	12.32	46.42
2010-11	10.53	56.95
2011-12	9.04	65.99
2012-13	8.39	74.38

43. The employee cost for the supply for each unit to its consumers is detailed below.

Table-8
Per unit employee cost since the year 2003-04

Year	Employee cost	Annual energy sale	Employee cost	(%) increase of employee cost over 2003-04
	(Rs.Cr)	(MU)	(Rs/unit)	(%)
2003-04	788.31	8910.84	0.88	
2004-05	789.64	9384.40	0.84	-4.89
2005-06	862.52	10269.80	0.84	-5.06
2006-07	898.09	11331.00	0.79	-10.41
2007-08	904.87	12049.85	0.75	-15.12
2008-09	1255.19	12414.32	1.01	14.29
2009-10	1451.53	13971.09	1.04	17.44
2010-11	1712.80	14547.90	1.18	33.08
2011-12	1912.18	15921.53	1.20	35.76
2012-13	2231.46	16386.30	1.36	53.93

44. The employee cost admissible based on inflation as detailed under Table-7 is detailed below.

Table-9
Employee cost admissible based on the inflation rate

Year	Inflation	Cumulative inflation	Employee cost admissible (based on inflation)	Employee cost actual	Reduction in employee cost (compared to the same admissible based on inflation)
	(%)	(%)	(Rs/unit)	(Rs/unit)	(Rs/unit)
2003-04	3.87		0.88	0.88	0.00
2004-05	3.83	7.70	0.91	0.84	0.07
2005-06	4.41	12.11	0.95	0.84	0.11
2006-07	6.69	18.80	1.02	0.79	0.23
2007-08	6.21	25.01	1.08	0.75	0.33
2008-09	9.09	34.10	1.18	1.01	0.17
2009-10	12.32	46.42	1.32	1.04	0.29
2010-11	10.53	56.95	1.46	1.18	0.29
2011-12	9.04	65.99	1.60	1.20	0.38
2012-13	8.39	74.38	1.73	1.36	0.37

45. As detailed above, considering the inflation, the employee cost admissible for the year 2012-13 was Rs 1.73 per unit, however, the actual employee cost projected by KSEB including the pension liabilities was only Rs 1.36 per unit, i.e., there was a reduction in employee cost

to the extent of Rs 0.37 per unit during the regulatory regime since the year 2003-04. This is mainly achieved through employee productivity and other measures initiated by KSEB like computerization of various activities including billing, accounting, supply chain management, HRM etc. The results of the efforts taken by KSEB for improving employee productivity shall be reflected in the employee cost of subsequent years.

46. It is submitted before the Hon'ble Commission, all the power utilities has been revising the pay and allowances of its employees periodically. KSEB also has to revise the same periodically. However, as stated by the Hon'ble Commission, all the additional liabilities arising out of pay revision etc cannot be met through employee productivity alone. None of the regulators in the country has taken such harsh stand while admitting the employee cost.
47. It is noticed that, while approving the employee cost of the small licensees in the State, Hon'ble Commission has been adopting a different and lenient approach.
48. Considering the reasons as above, KSEB humbly request that, the employee cost including the provision for pay revision made for the year 2012-13 may be kindly be approved.

IV. Repair and Maintenance Expenses for the Year 2012-13

49. In the ARR, KSEB has projected the R&M cost required for the year 2012-13 as Rs 326.07 crore based on the R&M plan reported from field offices, past actuals, inflationary trend and age of assets. However, in the order on ARR&ERC, Hon'ble Commission has limited the R&M cost as Rs 195.95 crore, i.e, reduced the R&M cost by Rs 130.12 crore (a reduction of 39.90 % over KSEB's projection) for the year 2012-13.
50. Hon'ble Commission has adopted the R&M cost for the year 2008-09 as the base and allowed the inflation based on weighted average of the CPI &WPI. Commission has also stated that, there is no direct evidence to benchmark the R&M expenses given by the Board , i.e., linked to increase in assets. In this matter, kind attention of the Hon'ble Commission is invited to the regulation 22.2 of the model tariff regulation notified by the 'Forum of Regulators' which is extracted below for ready reference.

Quote: Clause-22.2 of Model tariff regulations notified by FOIR

22.2 Repairs and Maintenance Expense

Repairs and Maintenance expense shall be calculated as percentage (as per the norm defined) of Opening Gross Fixed Assets for the year governed by following formula:

$$R\&M_n = K_b * GFA_n$$

Where:

R&M_n: Repairs & Maintenance expense for nth year

GFA_n: Opening Gross Fixed Assets for nth year

K_b: Percentage point as per the norm

Un Quote:

51. 33It is seen from the above that, the normative R&M expenses as per the regulation notified by the FOIR was linked to the Gross Fixed Asset at the beginning of the Year.
52. It is further submitted that, the 'Terms and conditions of tariff' notified by the State Commissions as per the section-61 of the Electricity Act-2003 clearly provides the R&M costs linked to the gross fixed assets and duly incorporating the increase of asset added every year.
53. However, as submitted earlier, Hon'ble Commission has adopted the R&M costs incurred for the year 2008-09 as the base and not allowed any increase in the R&M cost for the assets added for the subsequent years.
54. The growth of Gross Fixed Assets since the year 2008-09 is submitted below.

Table-10.
Gross fixed assets on KSEB system.

Year	GFA at the beginning of the Year	Increase over 2008-09	Increase as percentage of GFA at the beginning of the year
	(Rs. Cr)	(Rs. Cr)	(Rs. Cr)
2008-09	8684.45		
2009-10	9249.11	564.66	6.50
2010-11	10185.00	1500.55	17.28
2011-12	11203.00	2518.55	29.00
2012-13	12219.00	3534.55	40.70

As detailed above, though the GFA has increased by 40.70% over the base year 2008-09, no provision was allowed for the assets addition.

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

Table-11.
Per unit R&M cost approved

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

R&M expenses are highly susceptible to inflation and age of assets. Most of the assets are old. However KSEB has been extending its life through proper maintenance. It is submitted that, due to inflation, there was abnormal increase in the labour and materials needed for carrying out the R&M works. Hon'ble Commission is also aware of the fact that, no distribution utility can maintain the same level of per unit cost of R&M cost through the years without any increase.

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

Table-12
R&M cost admissible on the basis of inflation

Year	Admissible			Actuals / projection		Approval	
	Inflation	Cumulative inflation	R&M cost admissible on the basis of inflation	R&M actually incurred	Reduction in R&M cost over admissible	R&M cost approved	Dis-allowance over admissible
	(%)	(%)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2008-09			0.11	0.11	0.00	0.11	0.00
2009-10	12.32	12.32	0.12	0.12	0.00	0.11	0.01
2010-11	10.53	22.85	0.15	0.16	-0.01	0.12	0.04
2011-12	9.04	31.89	0.20	0.17	0.03	0.11	0.09
2012-13	8.39	40.28	0.28	0.20	0.08	0.12	0.16

Though the actual/ projected R&M cost has been increasing over the years, the actual/ projected amount was less than the same admissible on the basis of inflation.

57. As submitted on the previous occasions, KSEB has been continuing as the single utility and the R&M costs claimed in the ARR is the total cost required for maintaining the assets in the generation, transmission and distribution. Till date, Hon'ble Commission has not finalized any regulations that provide provision to claim R&M costs for the three functions together. Hence, as requested by KSEB, Hon'ble Commission has appointed a consultant to specify tariff norms applicable to KSEB. However, in the absence of a proper regulation, Hon'ble Commission has been adopting regulation-15 of the KSERC (Terms and Conditions for **Retail Sale of Electricity**) Regulations, 2006. It is submitted that, the above regulations is intended for the 'distribution utility'. Hence, till the finalization of the regulations by the consultants, Hon'ble Commission may kindly approve the R&M cost as projected in the ARR and admit the actuals as per the audited accounts.

58. Considering all these aspects as detailed in the petition, KSEB kindly request before the Hon'ble Commission to approve the R&M expenses as projected in the ARR&ERC petition which was projected duly considering the GFA as on 1st of April-2012, inflationary factors, age of assets and

the importance of R&M for maintaining the assets to provide quality supply etc.

V. Administration and General Expenses

59. In the ARR, KSEB has projected the A&G expenses for the year 2012-13 at Rs 215.24 crore, which includes Rs 96.39 crore towards electricity duty. Thus the A&G expenses claimed excluding section 3(1) duty amounts to Rs 118.85 crore. However, while approving the ARR, Hon'ble Commission has disallowed the section 3(1) duty altogether and approved the A&G cost as Rs.86.11 crore.
60. Hon'ble Commission has adopted the same methodology, that was adopted for approving the R&M expenses, i.e., the actual A&G expenses for the year 2008-09 is taken as the base and escalated at the indices of CPI& WPI in the ratio of 70:30.
61. Even though the A&G expenses is a controllable item, the same would increase in proportion to the business growth of the utility including new service connections provided, increase in energy sale volume, new capital works in progress etc in addition to the inflationary factors. However, Hon'ble Commission wants KSEB to maintain the same A&G expenses irrespective of the business growth of the utility.
62. The business growth of the utility including number of consumers, consumption, revenue from sale of power etc since the year 2008-09 is detailed below.

Table-13
Growth of KSEB system during the period between 2008-09 to 2012-13

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

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

63. In this matter kind attention of the Hon'ble Commission is invited to the regulation 22.3 of the model regulation notified by the forum of regulators, which are extracted below for ready reference.

Quote:

22.3 Administrative and General Expense

A&G expense shall be computed as per the norm escalated by wholesale price index (WPI) and adjusted by provisions for confirmed initiatives (IT etc. initiatives as proposed by the Distribution Licensee and validated by the Commission) or other expected one-time expenses, and shall be governed by following formula:

$$A\&G_n = (A\&G_b * WPI \text{ inflation}) + \text{Provision}$$

Where:

A&G_n: A&G expense for the year n

A&G_b: A&G expense as per the norm

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

Provision: Cost for initiatives or other one-time expenses as proposed by the Distribution Licensee and validated by the Commission.

Un quote.

64. As submitted above, the model regulation also envisages to provide the normative A&G expenses specified for each year factored by inflation. However, Hon'ble Commission provides inflationary increase only over the A&G expenses without considering the business growth.
65. Usually, normative A&G expenses of a utility is generally specified interms of the per unit of energy sold to the consumers as against the absolute values. There is no basis for specifying the absolute values of A&G expenses without considering the business growth of the utility. Hence KSEB may request that, inflationary factors may be allowed to the normative A&G expenses (per unit A&G expenses) for the base year 2008-09.
66. A comparison of the per unit cost of expenses approved and the per unit cost of A&G expenses admissible after duly considering the inflation is detailed below.

Table-14. A&G expenses approved and admissible

Year	Approval			Admissible				Actuals	
	A&G cost approved	Energy sale	A&G cost approved	Inflation	Cumulative inflation	A&G cost admissible on the basis of inflation	Disallowance in A&G cost over admissible	Actuals	Reduction over admissible
	(Rs. Cr)	(MU)	(Rs/unit)	(%)	(%)	(Rs/unit)	(Rs/unit)	(Rs/unit)	(Rs/unit)
2008-09	60.99	12414.32	0.049			0.049	0.00	0.049	0.000
2009-10	66.97	13971.09	0.048	12.32	12.32	0.055	0.01	0.062	-0.007
2010-11	73.78	14547.90	0.051	10.53	22.85	0.068	0.02	0.062	0.006
2011-12	79.71	15921.53	0.051	9.04	31.89	0.089	0.04	0.069	0.021
2012-13	86.11	16386.30	0.053	8.39	40.28	0.125	0.07	0.073	0.053

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

67. Hence KSEB request that, A&G cost may be revised duly considering the business growth of the utility, inflation and other non-controllable expense components of the A&G expenses including audit fees, license fee, fee for filing ARR&ERC, fuel surcharge petitions etc.
68. As the Hon'ble Commission is aware, section 3(1) duty, amounting to Rs 96.39 crore, payable to the State Government is a firm liability of KSEB as a distribution licensee. KSEB has no business other than electricity distribution to account for such huge amount. Hon'ble Commission may please note that, the total RoE allowed to KSEB for Generation, Transmission and Distribution business had been Rs 217.42 crore. In proportion to the GFA of the three functional areas, the RoE attributable to the distribution business would not be sufficient even to meet the liability towards section 3(1) duty payable to the Government. As per the provisions of the Electricity Act-2003, Hon'ble Commission is empowered to ensure financial sustainability of KSEB as a Distribution Utility. With the statutory powers available, the matter of disallowance of section 3(1) duty may be reconsidered and may be allowed as a genuine expense of KSEB by the Hon'ble Commission.

VI. Return on Equity

69. In the ARR&ERC petition for the year 2012-13, Board has claimed Rs 240.72 crore as RoE @15.5% for the Government Capital of Rs 1553.00 crore with the Board. While approving the ARR, Hon'ble Commission has allowed Rs 217.42 crore as RoE @14.00% on the Government capital of Rs 1553.00 crore. However, Hon'ble Commission has not specified the reason for allowing a lower rate for return than that claimed by the Board. In this matter, KSEB may submit the following for the kind consideration of the Hon'ble Commission.
70. Kind attention of the Hon'ble Commission is invited to the CERC(Terms and Conditions of Tariff) regulations, 2009 dated 19th January 2009. As per the regulation 15 of the said regulations, the base rate of return on Equity is specified as 15.50%. Further, 1st proviso to paragraph 5.3 (a) of the National Tariff Policy clearly clarifies that, 'the rate of return notified by the transmission may be adopted by the State Electricity Regulatory Commissions (SERCs) for distribution with appropriate modification taking into view of the higher risks involved'. Thus as per the provisions in the 'Tariff policy' a higher return than that specified by the CERC can be allowed to the DISCOMs. However, since KSEB has been continuing as a single utility and doing generation, transmission and distribution activities, KSEB has claimed the base rate of return of 15.50% prescribed by CERC.

71. In this matter, it is further submitted that, as per the section-61 (a) of the Electricity Act-2003, the methodologies specified by the CERC for determination of tariff applicable to generating companies and transmission licensees and further as per the section 61(i) of the Electricity Act-2003, the National Electricity Policy and Tariff Policy are guiding factors for tariff determination by the Hon'ble Commission.
72. Though KSEB is a Government Utility and continuing as a single entity, it is truly functioning under the provisions of the Electricity Act-2003, and also as per the rules and regulations enforced by the Hon'ble Commission as per the statutory powers envisaged under the Electricity Act-2003. Hence, it is detrimental to KSEB to deny the reasonable return which is ensured to all the Private, Public and Government owned power utilities across the country. Hence, considering the provisions of the Electricity Act-2003 and National Electricity Policy, Hon'ble Commission may kindly allow the reasonable return of Rs 240.72 crore claimed on the Equity of Rs 1553.00 crore @15.50%.

VII. Interest and Finance Charges

73. In the ARR &ERC petition, Board has projected the interest and finance charges for the outstanding capital liabilities as Rs 252.91 crore, however while approving the ARR, the same was reduced to Rs 178.14 crore. While doing so, Hon'ble Commission has considered the additional loan requirement for the year 2012-13 as Rs 500.00 crore as against Rs 1200.00 crore proposed by the Board. Further, Hon'ble Commission stated that enough funds would be available through 'provident fund', 'security deposit' and section-4 duty etc. Even though 'electricity duty' and 'additional security deposits' are collected in cash, fund availability through PF, non cash flow expenses like depreciation, 3(1) duty etc and RoE hold good only when the full revenue gap is recovered through tariff. Hon'ble Commission is also aware that, KSEB could not bridge the approved revenue gap during the last few years due to various reasons.
74. Further, Hon'ble Commission has not approved the tariff revision till 30th of June-2012. At any case, the revenue at revised tariff may be available only for less than 9 months. As per the approved revenue gap for the year 2012-13, the revenue gap for the 1st quarter (Apr-2012 to June-2012) would be about Rs 472 .00 crore. Hon'ble Commission may consider these aspects also while deciding on this issue.
75. Further, there is clerical error while approving the interest on 'short term loan' for the year 2012-13. As per the order of the Commission, the outstanding short-term loan was Rs 907.09 crore at an interest rate of 11.50%. Further the additional borrowing approved for the year was Rs 500.00 crore. The interest admissible for the short-term loan was $(907.09 \times 11.50\% + 500/2 \times 11.50\%)$ Rs 133.06 crore. However, in the order on ARR, Hon'ble Commission has approved the interest charges for

the short-term loans as indicated above as Rs 121.49 crore, i.e., the amount approved was less by Rs 11.57 crore over the same admissible.

76. In the ARR, KSEB has estimated the interest on working capital as Rs 96.25 crore. However, while approving the ARR, Hon'ble Commission has approved the interest on working capital as Rs 20.00 crore citing the reason that, Board has filed the tariff petition. However, as submitted earlier, Hon'ble Commission has yet to approve the tariff revision and the approved revenue gap for the 1st quarter from April-2012 to June-2012 would be about Rs 472.00 crore. Further, as per the Hon'ble Commission's order itself, the approved revenue gap till the year 2011-12 was more than Rs 2000.00 crore.
77. Hon'ble Commission may kindly note that, Government has already decided that electricity duty may be earmarked against the Government contribution towards creation of pension fund. In the light of the above facts and considering the precarious financial position of the Board, KSEB is in a position to reduce the overdraft and Short term loan. Hence, it is humbly prayed that the approved level of interest on OD may kindly be reviewed and fixed to the level projected by the Board for the year 2012-13.

VIII. Depreciation

78. In the ARR&ERC petition, Board has claimed the depreciation as Rs 607.42 crore at the CERC approved rates. However, while approving the ARR, Hon'ble Commission has revised the depreciation as Rs 414.67 crore and dis-allowed the depreciation on the consumer contribution and grants.
79. It is further submitted that, Hon'ble Commission has not allowed the depreciation on consumer contribution based on the 'suo-motu proceedings on the recovery of depreciation on assets created out of consumer contribution'. In this matter, KSEB may submit the following before the Hon'ble Commission for the kind consideration.
- (i) The Board is in the final stage of re-vesting the assets and liabilities in to a new corporate entity. Once the re-vesting is over, the accounting practices etc now followed by the Board may be subject to change.
 - (ii) Hon'ble Commission is already engaged a consultant to finalise the tariff norms. The matter was already referred to the consultants.
 - (iii) A substantial portion of the amount now booked under consumer contribution was not collected for creating any specific assets.

(iv) Dis-allowance of depreciation may affect the financials of KSEB.

80. Considering the long standing impact on not allowing the depreciation on consumer contribution, KSEB may file a separate review petition before the Hon'ble Commission against the order dated 13th April-2012 with sufficient details. Pending submission of the review petition on the 'suo- motu proceedings on recovery of depreciation on grants and contribution' KSEB may submit that decision of the matter may be kindly be reviewed till the completion of the re-vesting of the assets and liabilities of KSEB into a new corporate entity.

IX. T&D loss reduction targets.

81. The actual T&D loss reduction achieved for the year 2010-11 was 16.09%. However, the actual energy consumption for the year 2011-12 was excessively higher than the same approved, which results in lower loss reduction target than the same approved for the year 2011-12. As per the provisional accounts, the T&D loss reduction achieved was about 15.70%, i.e., a reduction of about 0.39% as against the target of 0.69% approved by the Hon'ble Commission.
82. Considering the present level of T&D loss reduction already achieved and also considering the efforts taken by the Board for further loss reduction, KSEB has proposed a loss reduction target of 0.25% over the same approved in the year 2011-12. It is further submitted, since KSEB has already achieved a loss reduction is about 16%, the present endeavor of the Board is to maintain the loss reduction sofar achieved.
83. However, while approving the ARR, Hon'ble Commission has arbitrarily approved a loss reduction target of 0.50% as against 0.25% proposed by KSEB. KSEB feels that, this is a highly ambitious target difficult to achieve. Further, during the past also, Hon'ble Commission has been approving un-achievable loss reduction targets while approving the ARR and finally imposing penalty on KSEB for not achieving the loss reduction targets approved by the Hon'ble Commission.
84. Hence, KSEB may kindly request before the Hon'ble Commission to approve the loss reduction targets as proposed by KSEB in the ARR&ERC petition.

X. Capitalization of expenses

85. For the year 2012-13, KSEB has proposed a capital expenditure of Rs 1397.12 crore, however while approving the ARR, Hon'ble Commission has approved the capital expenditure as Rs 980.00 crore. KSEB has provided the amount capitalized under interest and finance charges and other capital nature of works based on the capital expenses proposed

and also the employee cost and interest charges etc projected for the year 2012-13. However, while approving the ARR, Hon'ble Commission has made a substantial reduction on the capital expenses to the extent of Rs 417.12 crore, employee cost by Rs 567.80 crore and interest and finance charges by Rs 151.02 crore. However, Hon'ble Commission has approved the interest charges and other expenses without making any reduction considering the various dis-allowances as detailed above. Hence, KSEB request before the Hon'ble Commission to kindly re-consider the expense and interest capitalised for the year 2012-13 duly considering the ARR Order as well as order on this review petition.

XI. Compliance of Directives

86. KSEB has been taking steps for the strict compliance of various directives issued by the Hon'ble Commission through the order on ARR&ERC petition for the year 2012-13. The report on the compliance of directives shall be submitted to the Hon'ble Commission separately.

Prayer

Considering the reasons and other details submitted in the foregoing paragraphs as detailed above, KSEB may humbly pray before the Hon'ble Commission to review the order dated 28th April 2012 on Petition OP No. 3 of 2012 on ARR&ERC of KSEB for the year 2012-13 on the matters as detailed in the petition as above.

Chief Engineer (Commercial & Tariff)