

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**August 29, 2008**

PRESENT: Shri. C. Balakrishnan, Chairman  
Shri. M.P.Aiyappan, Member

IN THE MATTER OF  
Review in respect of the Order on TP 34 of 2007 on ARR of KSEB

Review Petition RP No. 3 of 2008

Kerala State Electricity Board                      ---- Petitioner

**ORDER**

**Background**

1. Kerala State Electricity Board filed a Review Petition on Order dated 19-4-2008 on the ARR & ERC of KSEB for the year 2008-09 (Petition TP.No.34 of 2007) on 4-6-2008. The Commission accepted the petition as RP No. 3 of 2008 on 20-6-2008, and issued notices for hearing on 30-7-2008. The hearing was later adjourned to 6-8-2008. The Commission also placed the petition in its website and invited objections on the petition from the public. The Commission sought views of the Government vide letter dated 17-7-2008. The Kerala High Tension and Extra High Tension Industrial Electricity Consumers' Association and M/s Binani Zinc Limited filed objections on the petition.

## **Hearing on the matter**

2. In the public hearing held on 6-8-2008, Petitioner KSEB was represented by a team headed by Member (Finance). He presented the grounds for the review petition. There are three main grounds on which he sought review of the Order. Firstly, on allowing depreciation on the rates as per Government of India Notification in 1994 which was followed by the Board as per Annual Account Rules, 1985, against the Commission's Order on depreciation as per CERC norms. Secondly, allowing electricity duty as per section 3(1) of Kerala Electricity Duty Act as an expense in the ARR and thirdly to allow prior period expenses as projected by the Board in the ARR for 2008-09, thereby including Rs 402 Crore provided for netting of dues, in the ARR. To support his arguments, the Member mentioned that, State Commissions such as Tamil Nadu and Andhra Pradesh have allowed depreciation as per GoI Norms and Maharashtra and West Bengal ERCs have adopted their own regulations.
3. Additional Secretary, Power Department, Government of Kerala, who was present in the hearing, mentioned that Government had vide letter dated 15-7-2008 written to the Commission to issue necessary orders on Depreciation and Section 3(1) duty. The issue of netting of dues is under the consideration of Government.
4. The Kerala High Tension and Extra High Tension Industrial Electricity Consumers' Association and M/s Binani Zinc opposed the review petition. They presented similar views. According to them, KSEB could not reduce the T&D loss as directed by the Commission and argued that the contention of the Board to be rejected. They mentioned that, State Commissions in different states, such as in Andhra (APCPDCL), CSEB, PSEB, HPSEB, BSEB,

Delhi Discoms etc., depreciation is in the range of 2.5% to 3.4%. The Commission has allowed 3.23% for KSEB which is correct. They also argued that the claims of the Board on other expenses should not be allowed.

### **Findings of the Commission**

5. The Commission considered the petition of KSEB and the arguments of Member (finance) and the objections raised on the petition. The Commission in its Order dated 11-3-2008 on Review Petition in TP 20 and TP 22 of 2006 and in respect of the Order in TP 23 of 2006, has taken a view that review petition has to be qualified within the purview of the powers conferred upon the Commission under Section 94(1)(f), which has to be as per Order 47, Rule 1, of Code of Civil Procedure. The Commission in its order dated 19-4-2008 had considered different aspects of the issues put forwarded by KSEB such as T&D loss, Depreciation, Electricity Duty, Section 3(1) of KED Act, and prior period expenses including netting of dues. The rationale for arriving at the decisions was deliberated in the original Order in detail. The Review Jurisdiction shall be invoked only for a limited purpose as laid down in Order 47, Rule 1 of Code of Civil Procedure. KSEB could not convincingly urge any ground for invoking our jurisdiction under Order 47, Rule 1 of Code of Civil Procedure, whereby necessitating the review of decision already taken in the Order dated 19-4-2008
  
6. The representative of Government of Kerala, mentioned that the issue of netting of dues of KSEB is under the consideration of the Government, thus endorsing the stand taken by the Commission in the Order dated 19-4-2008 that, “more importantly, the proposal in its legality, is still in the form of a proposal only as the same was not approved by the Government yet”.

## **Order of the Commission**

On hearing both sides, the Commission is of the view that the present petition for review is not maintainable under Section 94(1)(f) of the Electricity Act. The petition shall stand dismissed.

Sd/-  
M.P. Aiyappan  
Member

Sd/-  
C. Balakrishnan  
Chairman

Approved for issue

Secretary in charge