

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**O.A No.15/2016**

In the matter of : Amendment to the Order on truing up of accounts for financial year 2009-10 of M/s KPUPL

Applicant : M/s KINESCO Power and Utilities Private Limited

Present : **Shri T.M.Manoharan, Chairman**  
**Shri K.Vikraman Nair, Member**  
**Shri S.Venugopal, Member**

**AMENDMENT ORDER DATED 20/03/2017**

The Commission had issued an order dated 10/3/2017 in OA No.15/2016 on truing up of accounts of KPUPL for the financial year 2009-10, approving the revenue from sale of power at Rs. 1694.00 lakh and thereby arriving at a revenue surplus of Rs.388.80 lakh for the year.

The Commission in the said order had stated that the amount of Gross revenue from sale of energy reported by the licensee included the Electricity Duty under Section 4 of the Kerala Electricity Duty Act, 1963, which has to be remitted to the Government. Since the licensee has not furnished any documentary evidence to substantiate the claim towards the Electricity Duty under Section 4 of the Kerala Electricity Duty Act, 1963, the same cannot be considered for working out revenue gap / revenue surplus.

The Commission subsequently reconsidered the matter and decided to revise the revenue from sale of power at Rs.1627.75 lakh, as submitted by the licensee in the application for truing up of accounts. Accordingly, the revenue surplus arrived at for the year 2009-10 is revised to Rs.332.55 lakh and the accumulated surplus relating to the distribution business of the licensee at the end of the financial year 2009-10, after the truing up of accounts is Rs.1735.56 lakh.

The Order dated 10-03-2017 is amended to this effect.

Sd/-  
**K. Vikraman Nair**  
**Member**

Sd/-  
**S. Venugopal**  
**Member**

Sd/-  
**T.M. Manoharan**  
**Chairman**

Approved for issue

Santhosh Kumar.K.B  
Secretary

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**O.A No.15/2016**

In the matter of : Application filed by KINESCO Power and Utilities Private Limited for approval of truing up of accounts for financial year 2009-10

Applicant : M/s KINESCO Power and Utilities Private Limited

Present : **Shri T.M.Manoharan, Chairman**  
**Shri K.Vikraman Nair, Member**  
**Shri S.Venugopal, Member**

**ORDER DATED 10/03/2017**

In accordance with the KSERC (Terms and Conditions of Tariff for Retail Sale of Electricity) Regulations, 2006 (*hereinafter referred as Tariff Regulations*) and upon directions from the Kerala State Electricity Regulatory Commission, the KINESCO Power and Utilities Private Limited (*hereinafter referred as KPUPL or the licensee*) submitted its application for truing up of accounts for the financial year 2009-10 on 18-12-2014. The Commission, in exercise of the powers vested in it under Section 61, Section 62 and Section 64 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by KPUPL, the matters raised during the public hearing on 7-12-2016, and all other relevant materials placed before it, issues this order.

**Background**

1. KPUPL has filed the application for the truing up of accounts for the financial year 2009-10 on 18-12-2014, which was admitted as OA No.15/2016. The Commission had issued the ARR&ERC order for 2009-10 for the licensee on 30-8-2008 (*hereinafter referred as order dated 30-08-2008*) on a multiyear format for the years 2008-09 to 2010-11
2. M/s. Kinfra Export Promotion Industrial Parks Limited (KEPIP) was a fully owned subsidiary of M/s.KINFRA, a statutory body under the State Government. M/s

KEPIP was the distribution licensee of industrial Park at Kaakkanad from 16-1-2004 and KEPIP obtained the licence for distribution of electricity from the Government of Kerala as per the G.O.(P) No.18/2003/PD dated 8-5-2003. After the enactment of Electricity Act 2003, KEPIP has become a deemed distribution licensee, as per the first proviso of Section 14 of Electricity Act 2003.

3. As per the orders of Government of Kerala, a joint venture company was formed between KINFRA and NTPC Electric Supply Company Limited (NESCL) to take over the retail distribution of power in the industrial areas/parks/economic zones run by KINFRA. Government of Kerala had issued sanction for the formation of a joint venture company between M/s KINFRA and M/s NESCL vide G.O (MS) No.88/2008/ID dated 27<sup>th</sup> June 2008. It was stated in the said government order that the main objective of the joint venture company is distribution of power as a licensee in the Industrial Parks, Special Economic Zones and other Industrial Projects. In terms of the Government order dated 27.06.2008 a joint venture company namely M/s KINESCO Power and Utilities Private Limited (KPUPL) was incorporated on 17.09.2008 with 50% equity held by M/s KINFRA and 50% equity held by M/s NESCL, under the Companies Act, 1956. Based on a joint venture agreement between KINFRA, KEPIP and NESCL, the entire electricity distribution assets of M/s KEPIP was transferred to M/s KPUPL from 1-2-2010.
4. Both KEPIP and KPUPL had entered into an agreement of operations dated 27-1-2010 with effect from 1-2-2010, and both parties also mutually agreed that utilities and fixed assets of KEPIP electrical licensee shall be transferred to KPUPL at the depreciated book value as on 31-1-2010. Pursuant to the said agreement, the possession of immovable properties along with its improvements and assets of KEPIP was handed over to KPUPL with effect from 1-2-2010 for the absolute possession and enjoyment of KPUPL. KEPIP also agreed to transfer the capital work in progress to KPUPL upon completion of certain works on a future date and KEPIP handed over the possession of the said assets to KPUPL on 1-4-2012 after completing the work.
5. KPUPL assumed the liabilities of prepaid metering advances received from various consumers of KEPIP amounting to Rs.164.64 lakh as on 31-1-2010. Accordingly, the gross amount to be paid for the assets shall be Rs.1424.08 lakh and after setting off the liabilities towards prepaid metering advances from KEPIP shall be Rs.1259.43 lakh.

6. It was also provided in agreement that KEPIP is providing depreciation in the books of accounts at the rates prescribed in the Companies Act 1956, and the written down value of assets as per the books of accounts as on 31-1-2010 was Rs. 1341.63 lakh excluding the capital works in progress of Rs.82.44 lakh. However, for the purpose of truing up and in line with regulatory accounts, KEPIP provided depreciation as per KSERC norms and the written down value of the assets as on 31-1-2010 is Rs.1802.50 lakh.
7. M/s KPUPL has taken over the operational control of the assets and the final asset transfer and the consideration for the asset transfer were not finalized then. In the order on truing up of accounts for the years 2004-05 to 2008-09, the Commission directed the licensee to complete the transfer process and report to the Commission. Further in the orders on ARR&ERC for 2011-12 and 2012-13, the Commission again directed the licensee to submit the statement regarding transfer deed, position of assets etc., Since the licensee failed to comply with the directions, the Commission under Section 19(3) of the Electricity Act 2003 issued notice dated 18-12-2013 for revocation of distribution licence and in the order dated 5-6-2014 the Commission directed the licensee to submit a roadmap with timelines for complying with the conditions of licence and directives of the Commission. Accordingly, M/s KPUPL furnished a timeline in its letter dated 7-7-2014 as shown below and requested the Commission to refrain from revocation of licence.

|  |                         |
|--|-------------------------|
| Signing of PPA with KSEB   | Before 30-8-2014        |
| Asset transfer from KEPIP to KPUPL                                     | On or before 31-10-2014 |
| Application for truing up of accounts for KEPIP                        | On or before 30-9-2014  |
| Truing up of accounts for KPUPL from 2010-11 to 2013-14                | On or before 29-11-2014 |
| Completion of electrical distribution network at Palakkad licence area | On or before 31-3-2015  |

8. The Commission vide letter dated 18-7-2014 communicated the acceptance of the timelines proposed by the licensee and directed the licensee to report the status of activities to the Commission. In the meantime, the 50:50 joint venture between KINFRA and NESCL was terminated and 50% stake of NESCL was taken over by KINFRA in the 31<sup>st</sup> meeting of the Board of Directors of the company held on 15-12-2015. In reply to the Commission's letter, the licensee vide letter dated 29-9-2016, reported the status as shown below:

| Activities   | Date permitted by KSERC | Actual date of completion/expected date of completion. | Remarks/ reason for the delay  |
|--|-------------------------|--|--|
| Signing of PPA with KSEB   | Before 30-8-2014        | 1-10-2014, renewed/ fresh PPA signed with KSEB         | PPA was signed with KSEB initially for one year upto 30-9-2015 for Kakkanad licence area. Renewal of PPA and enhancement of CD to 18 MVA at Kakkanad is signed on 10-6-2016. Fresh PPAs are signed for 500kVA for palakkad on 10-6-2016 and 1 MVA for kalamasery on 4-8-2016.                  |
| Asset transfer from KEPIP to KPUPL                                     | On or before 31-10-2014 | 8-9-2016   | Asset transfer agreements have been signed for Kakkanad and Kalamasery license areas separately with KEPIP and KINFRA on 7-9-2016. Copies of the agreements are submitted to the Commission on 7-9-2016.   |
| Application for truing up of accounts for 2009-10                      | On or before 30-9-2014  | 30-9-2014  | Submitted within the prescribed time schedule  |
| Truing up of accounts for KPUPL from 2010-11 to 2013-14                | On or before 29-11-2014 | 20-7-2016  | Truing up petitions are submitted on 29-4-2016 for 2010-11, on 30-6-2016 for 2011-12 and 2012-13 and on 20-7-2016 for 2013-14.   |
| Completion of electrical distribution network at Palakkad licence area | On or before 31-3-2015  | 5-8-2016   | 22kV substation was energized on 27-6-2016 after obtaining clearance from electrical inspectorate and on getting connectivity from KSEBL. Substation equipments and related networks were handed over to the company on 5-8-2016. The company was commenced licenced activities from 5-8-2016. |

9. In the year 2009-10, two licensees were in charge of operation in the licensed area ie., KEPIP was managing the operations till 31-1-2010 and from 1-2-2010 onwards KPUPL had taken over the operations.
10. The Commission vide order dated 6-12-2011 had issued orders on the truing up of accounts for the years 2004-05 to 2008-09 (during the period M/s KEPIP was the licensee). Though M/s KEPIP, the then licensee had filed truing up application for the year 2009-10 on 03-05-2013, the same was returned by the Commission for curing the defects since the application submitted by KEPIP was for a period of 9 months only. The revised application for the year 2009-10 was subsequently submitted by the licensee on 18-12-2014.

11. A comparison between the audited financial statements submitted by the licensee and the ARR approved by the Commission as per order dated 30.08.2008 for the year 2009-10 is given below:

**Table-1**  
**KPUPL-Comparison of approved and Actual as per Truing up application**  
**for the year 2009-10**

| Particulars                      | Approved in the ARR Order (Rs.lakh) | Actual expenditure (Rs.lakh)     |                             |                 |
|----------------------------------|-------------------------------------|----------------------------------|-----------------------------|-----------------|
|                                  |                                     | KEPIP from 1-4-2009 to 31-1-2010 | KPUPL 1-2-2010 to 31-3-2010 | Total           |
| Revenue from Sale of Power       | 2,465.23                            | 1340.51                          | 287.24                      | 1,627.75        |
| Non – Tariff Income              | 20.00                               | 23.35                            | 0.09                        | 23.44           |
| <b>Total Revenue</b>             | <b>2,485.23</b>                     | <b>1363.86</b>                   | <b>287.33</b>               | <b>1,651.19</b> |
| Purchase of Power                | 2,125.22                            | 1098.66                          | 242.33                      | 1,340.99        |
| Repair & Maintenance             | 65.92                               | 18.92                            | 3.6                         | 22.52           |
| Employee costs                   | 33.55                               | 12.04                            | 5.88                        | 17.92           |
| A & G Expenses                   | 70.72                               | 29.87                            | 23.4                        | 53.27           |
| Depreciation                     | 88.76                               | 46.47                            | 7.05                        | 53.52           |
| Interest & Finance Charges       | 153.19                              | 37.26                            | 0.00                        | 37.26           |
| Revenue Return                   | -                                   | 87.10                            | 0.00                        | 87.10           |
| <b>Total Expenses</b>            | <b>2,537.36</b>                     | <b>1330.32</b>                   | <b>282.26</b>               | <b>1,612.58</b> |
| <b>Surplus (+) / Deficit (-)</b> | <b>-52.13</b>                       | <b>+33.54</b>                    | <b>+5.07</b>                | <b>+38.61</b>   |

### Hearing on the application

12. Hearing on the application for truing up of accounts of the licensee for the years 2009-10 to 2014-15 were taken up together and was held on 07-12-2016 at the Court Room, Office of the Commission, Thiruvananthapuram. M/s KPUPL was represented by Sri. S.N.Ashok Kumar (Finance Consultant), Sri.G.Radhakrishna Pilla (Senior Consultant) and other officers of the licensee. Sri. S.N.Ashok Kumar presented the details of the applications on the truing up of accounts and gave clarifications on the queries of the Commission.
13. KSEB Ltd. was represented by Sri.Bipin Sankar, Deputy Chief Engineer (TRAC), Smt. Mehrunisa, Executive Engineer (TRAC) and Sri.Manoj.G, Assistant Executive Engineer (TRAC). Sri.Manoj.G presented the comments of KSEB Ltd and submitted written remarks on the applications. The main issues raised by KSEB Ltd for the year 2009-10 are summarized below.

- (a) The licensee has deducted duty under Section 3 of the Kerala Electricity Duty Act 1963 from the revenue from sale of power, which amounts to passing the same as an expense item.
  - (b) The licensee has claimed a return on equity at the rate of 14% of the value of the net fixed assets employed at the beginning of the year. The Commission has allowed a return of Rs 10 lakh only from 2004-05 to 2008-09 on the reason that the amount of equity cannot be ascertained. The equity/rate base is still to be ascertained. Commission through the ARR orders directed the licensee to submit the documents of transfer of assets and liabilities for the approval of the Commission. The Commission may allow RoE after considering the same. It was further submitted that the tax liability claimed on the income is also to be reviewed.
  - (c) The licensee has claimed employee cost for the financial years higher than the approved levels. It may be noted that there are only two employees including CEO and the O&M activities in the area are outsourced. Hence the higher employee cost when compared to the low consumer base need to be examined.
  - (d) The licensee has claimed professional charges, travelling expenses, and conveyance higher than the approved levels. The advertisement expenses of Rs.5.30 lakh is also high, and hence the Commission examine the prudence of these expenses.
14. The Commission directed the licensee to:
- (1) reconcile the cost of power purchase claimed as per the application for trueing up and the same as claimed by KSEB Ltd.
  - (2) to submit the details on the objections raised by KSEB Ltd. The Commission also mentioned that KSEB Ltd shall present their views on the asset transfer of the licensee.

Neither the licensee nor KSEB Ltd has submitted their comments.

### **Analysis and Decision of the Commission**

15. The Commission considered the applications of the licensee, the clarifications and the additional details submitted by the licensee thereon along with the comments of KSEB Ltd. The analysis and decisions of the Commission on the application are detailed below:

16. **Sale of energy:** The details of the number of consumers and the actual sales to various categories of consumers (HT connections, DHT consumers, LT consumers and temporary connections) reported by the licensee in the application for truing up of accounts for the year 2009-10 are tabulated hereunder.

**Table - 2**  
**KPUPL–Details of Sale of energy for the FY 2009-10**

| Category                         | ARR Approved     |              | Truing up Application |              |
|----------------------------------|------------------|--------------|-----------------------|--------------|
|                                  | No. of consumers | Sales (MU)   | No.of consumers       | Sales (MU)   |
| HT/DHT Consumers                 | 35               | 56.15        | 24                    | 36.14        |
| LT Consumers & Temp. Connections | 90               | 5.12         | 88                    | 3.93         |
| <b>Total</b>                     | <b>125</b>       | <b>61.27</b> | <b>112</b>            | <b>40.07</b> |

17. There is a considerable difference between the approved and actual energy sales and the actual sale of energy is lower when compared to the sale of energy approved by the Commission vide order dated 30.08.2008. The Commission approves the actual energy sales as submitted by the licensee for the purpose of truing up of accounts for the year 2009-10.
18. **Energy Input and Distribution Loss:** The details of the energy input and the actual distribution loss incurred by the licensee as submitted for 2009-10 are tabulated below.

**Table - 3**  
**KPUPL-Energy Requirement and Distribution Loss**

| Particulars                  | 2008-09      | 2009-10      |                                    |                             |              |
|------------------------------|--------------|--------------|------------------------------------|-----------------------------|--------------|
|                              | Actuals      | Approved     | Actuals as per true up application |                             |              |
|                              |              |              | KEPIP from 1-4-2009 to 31-1-2010   | KPUPL 1-2-2010 to 31-3-2010 | Total        |
| <b>Energy Purchased (MU)</b> | 33.53        | 62.86        | 33.12                              | 7.26                        | 40.38        |
| <b>Energy Sold (MU)</b>      | 33.49        | 61.27        | 32.89                              | 7.18                        | 40.07        |
| <b>Distribution loss(MU)</b> | 0.04         | 1.59         | 0.23                               | 0.07                        | 0.31         |
| <b>Distribution Loss %</b>   | <b>0.12%</b> | <b>2.60%</b> | <b>0.7%</b>                        | <b>1.0%</b>                 | <b>0.77%</b> |

19. Since, the distribution loss is a controllable factor and lower distribution loss is a measure for better performance of the licensee, the quantum of power purchase to be approved by the Commission in the process of truing up of accounts should be at the distribution loss of 0.77%. As per sub-regulation (2) of regulation 9 of the



Tariff Regulations, the Commission shall approve a loss target for the year under consideration based on the opening loss levels, licensee's filings, submissions and objections raised by stakeholders. The distribution loss as approved by the Commission in the order dated 30-08-2008 for approving the ARR&ERC for the year 2009-10 or the actuals, whichever is lower shall be used for computing power purchase/sale of power to consumers for that year. Therefore, the Commission approves the distribution loss at 0.77% for the purpose of truing up of accounts for the financial year 2009-10.

20. **Cost of Power Purchase:** The details of cost of power purchase as per the order dated 30-08-2008 and the truing up of application submitted by the licensee for the financial year 2009-10 are tabulated below.

**Table - 4**  
**KPUPL-Power Purchase Cost**

| Particulars      | Unit    | Approved | Actuals                                |                                   |          |
|------------------|---------|----------|--|-----------------------------------|----------|
|                  |         |          | KEPIP from<br>1-4-2009 to<br>31-1-2010 | KPUPL<br>1-2-2010 to<br>31-3-2010 | Total    |
| Units purchased  | MU      | 62.86    | 33.12                                  | 7.26                              | 40.38    |
| Fixed Charges    | Rs.lakh | 396.57   | 187.75                                 | 42.68                             | 230.43   |
| Variable Charges | Rs.lakh | 1,728.64 | 910.91                                 | 199.65                            | 1,110.56 |
| Total charges    | Rs.lakh | 2,125.22 | 1,098.66                               | 242.33                            | 1,340.99 |
| Average rate     | Rs./kWh | 3.38     | 3.32                                   | 3.34                              | 3.32     |

21. The licensee vide letter dated 30-11-2016 submitted the reasons for the variation in power purchase cost against the approved level. According to the licensee, the difference in cost was mainly on account of reduction in the volume of purchase from the approved quantity of 62.86 MU to 40.38 MU. The Commission also examined the details of monthly invoices provided by licensee. As per sub-regulation (2) of regulation 10 of Tariff Regulations, the Commission shall not consider the additional power purchase beyond the approved level of power purchases. Sub-regulation (3) of regulation 10 of Tariff Regulations further states that the loss on account of additional power purchase shall not be passed on to the consumers. Thus the excess purchase of energy consequent to the excess distribution loss over the approved level shall be disallowed and corresponding reduction in the cost of power purchase shall be effected. However, the excess demand charge actually paid by the licensee to KSEB Ltd shall be allowed. Therefore, the cost of excess power purchase shall be reduced from the actual

power purchase as per truing up accounts. The details of demand charges and energy charges reported by the licensee are shown below:

**Table - 5**  
**KPUPL-Details of Power Purchase billed for 2009-10**

| Particulars                                   | 2009-10        |
|---|----------------|
| Energy purchase (MU)                          | 40.38          |
| Maximum Demand (kVA)                          | 8600           |
| Contract Demand (kVA)                         | 9000           |
| Excess Demand (kVA)                           | 0              |
| Demand Charges (Rs./kVA)                      | 245            |
| <b>Total Demand charges (Rs in lakh) (A)</b>  | <b>230.43</b>  |
| Energy Charges (Rs./kWh)                      | 2.75           |
| <b>Total Energy Charges (Rs. in lakh) (B)</b> | <b>1110.56</b> |
| <b>Cost of power purchase (Rs.lakh) (A+B)</b> | <b>1340.99</b> |

22. As per computation given in the above Table, the total cost of power purchase for procuring 40.38 MU for the year 2009-10 is Rs.1340.99 lakh.

**Table - 6**  
**KPUPL- Details of power purchase cost approved for the FY 2009-10**

| Particulars | ARR           |                    | Truing up     |                    |
|-------------|---------------|--------------------|---------------|--------------------|
|             | Quantity (MU) | Cost (Rs. in lakh) | Quantity (MU) | Cost (Rs. in lakh) |
| Claimed     | 62.86         | 2125.17            | 40.38         | 1340.99            |
| Approved    | 62.86         | 2125.17            | 40.38         | 1340.99            |

23. **Interest and finance charge:** Comparison on the approved interest and finance charges and the actual claim for the year is tabulated below.

**Table - 7**  
**Interest and finance charges reported by KPUPL for 2009-10**

|                              | 2008-09<br>(As per accounts)<br>(Rs.lakh) | Approved<br>for 2009-10<br>(Rs.lakh) | Actuals for 2009-10 (Rs.lakh)          |                                   |       |
|------------------------------|---|--------------------------------------|--|-----------------------------------|-------|
|                              |   |                                      | KEPIP from<br>1-4-2009 to<br>31-1-2010 | KPUPL<br>1-2-2010 to<br>31-3-2010 | Total |
| Interest & Financing Charges | 68.00                                     | 153.19                               | 37.26                                  | -                                 | 37.26 |

24. The licensee has booked Rs.37.26 lakh as interest charges for the year. The same was stated to be incurred by M/s KEPIP for the period prior to 1-2-2010. In the balance sheet of KEPIP at the end of 31-1-2010, an amount of Rs.224.12 lakh was shown as loans whereas no such amount is reported in the balance sheet of KPUPL. The Commission in the previous truing up orders had examined the consolidated balance sheet of M/s KEPIP as well as the balance sheet of distribution business in detail. As per the information given by the licensee, the loan component comprises of loan notionally taken/availed from Govt. / KINFRA and assigned to distribution business. Accordingly interest charges were booked and shown as contingent liabilities since the terms and conditions including the interest and repayment for loan advanced by Kinfra were not ascertained. Further, interest was booked on a notional basis in the distribution business of M/s KEPIP. However, the Commission found that as per the consolidated balance sheet of M/s KEPIP, the complete distribution assets were shown as funded from Grants from Govt. of India/ASIDE. Though in the distribution business of KEPIP, notional loan and interest thereon was shown as the loan from KINFRA/Govt for financing the assets, no interest was actually paid. Further, M/s KEPIP had booked depreciation for the consolidated business as per the provisions of Companies Act following written down value method whereas for the distribution business depreciation rates notified by CERC were used. The difference in depreciation charges was adjusted and booked as loan in the books of accounts of distribution business. Considering these issues, the Commission did not allow interest booked by then licensee to M/s KEPIP in the truing up of accounts for the year 2004-05 to 2008-09.
25. In 2009-10, the period up to 31-1-2010, KEPUP had booked interest to the tune of Rs.37.26 lakhs in the accounts against the outstanding loan (loan taken from others) of Rs.224.12 lakh, whereas no interest was booked by M/s.KPUPL for the balance period of the financial year. Since licensee could not conclusively prove that the interest booked is for the purpose of distribution business and is actually incurred, the Commission is not in a position to approve the same. Interest and finance charge, if any, claimed can be approved only on production of documentary evidences. Therefore, the claims of interest and finance charges, which are not supported by documentary evidences, cannot is not approved.

**Table - 8**  
**KPUPL- Interest and Finance Charge approved for the FY 2009-10 (Rs. Lakh)**

| Particulars | ARR<br>(Rs.lakh) | Truing up<br>(Rs.lakh) |
|-------------|------------------|------------------------|
| Claimed     | 153.19           | 224.12                 |
| Approved    | 153.19           | -                      |

26. **Depreciation:** The Commission had directed the licensee to submit statements regarding transfer deed, position of the assets, settlement of purchase consideration and other necessary details on the transfer of the assets and liabilities immediately. Since the licensee did not comply with directions issued by the Commission and the provisions of the licensing conditions, the Commission initiated *suo motu* action under section 19(3) of the Electricity Act 2003 for revocation of licence and the matter was heard in the public hearing held on 03-06-2014. In the order dated 5-6-2014, the Commission directed the licensee to submit an affidavit containing timelines for the compliance of directions. In compliance of the directions issued by the Commission, M/s KINFRA, the holding company of KPUPL on 7-7-2014, has filed an affidavit containing the road map with time lines for the compliance on the licensing conditions and other directions of the Commission issued by the Commission. The timeline committed was not adhered to by the licensee and after repeated directives and several reminders from the Commission, the licensee filed the details of asset transfer deed and position of assets only on 7-9-2016 and that too did not have the details of settlement of purchase consideration.
27. In the application for truing up of accounts for 2009-10, the licensee has claimed depreciation as shown below

**Table - 9**  
**KPUPL-Depreciation reported by KPUPL for 2009-10**

|              | 2008-09<br>(As per<br>accounts)<br>(Rs.lakh) | Approved<br>in 2009-10<br>(Rs.lakh) | Actuals for 2009-10 (Rs.lakh)          |                                   |       |
|--------------|--|-------------------------------------|--|-----------------------------------|-------|
|              |  |                                     | KEPIP from<br>1-4-2009 to<br>31-1-2010 | KPUPL<br>1-2-2010 to<br>31-3-2010 | Total |
| Depreciation | 28.50  | 88.77                               | 46.47                                  | 7.05                              | 53.52 |

The details of assets provided by the licensee are shown below:

**Table - 10**  
**KPUPL-Details of Gross fixed assets and its addition in 2009-10**

| Particulars         | GFA at the beginning of the year as on 01-04-2009 (Rs.lakh) | Asset additions made during 2009-10 (Rs.lakh) | Assets taken away after completion of full life period (Rs.lakh) | GFA at the end of the year 31-03-2010 (Rs.lakh) |
|---------------------|---|---|--|---|
| Land & Rights       | 61.20   | -   | 61.20  | -   |
| Sub-stations        | 649.04  | -   | -  | 649.04  |
| 11kV Works          | 1,352.26  | 2.05  | -  | 1,354.31  |
| Metering equipments | 32.18   | 27.00   | -  | 59.18   |
| Others              | 199.49  | 1.66  | 199.49   | 1.66  |
| <b>Total</b>        | <b>2,294.17</b>   | <b>30.71</b>                                  | <b>260.69</b>  | <b>2,064.19</b>                                 |

28. The licensee had, in the truing up of accounts for 2004-05 to 2008-09, reported that they had taken over the assets of consumers/ assets funded by consumers in 2007-08 and 2008-09 as shown in the Table below: These details were not properly reflected in the accounts of the licensee or shown in the details filed by the licensee.

**Table - 11**  
**Details of assets funded by consumers taken over by KEPIP**

|                    | 2007-08 (Rs.lakh) | 2008-09 (Rs.lakh) | Total (Rs.lakh) |
|--------------------|-------------------|-------------------|-----------------|
| Infopark           | 383.41            | 100.00            | 483.41          |
| Koyenco            | 6.03              |                   | 6.03            |
| L&T infotech       | 11.63             |                   | 11.63           |
| Leela soft         | 21.33             | 96.38             | 117.71          |
| Wipro technologies | 12.63             | 76.03             | 88.66           |
| <b>Total</b>       | <b>435.03</b>     | <b>272.41</b>     | <b>707.44</b>   |

29. The Commission has examined the details furnished by the licensee. Though the Commission had directed to furnish the details of asset transfer agreement and the value of assets transferred, the licensee could provide the details only on 7-9-2016. The licensee could not produce any materials to substantiate the investment made or asset additions during the year nor details of settlement of purchase consideration. Further, as per the details given by the licensee, it is understood that agreement of operations with Kinfra for the management of the distribution business.

30. In the distribution business, distribution assets are financed by sourcing loans availed from financial institutions, equity contribution of the shareholders or from the grants received from Government or any other institution or consumers. Depreciation cannot be allowed for the assets acquired by way of grants or for the assets created out of grants or contributions received from the Government or any other institution or consumers. In the present context, the crucial question is, whether or not the licensee had actually incurred any expenditure towards creation or acquisition of the capital asset in the financial year under consideration by sourcing funds from third parties which involved a cost to the licensee. Only if the licensee has actually incurred any expenditure for acquisition or creation of assets in the corresponding financial year, depreciation can be allowed. An asset transfer agreement with retrospective effect cannot confer any right on the licensee to claim depreciation, unless the licensee had actually incurred expenditure for acquisition or creation of asset in the corresponding years. Since the licensee could not furnish any details or documents to substantiate the expenditure incurred in acquisition of assets, depreciation cannot be allowed at present.

**Table - 12**  
**KPUPL- Depreciation approved for the FY 2009-10**

| Particulars | ARR<br>(Rs.lakh) | Truing up<br>(Rs.lakh) |
|-------------|------------------|------------------------|
| Claimed     | 99.72            | 53.52                  |
| Approved    | 88.76            | ---                    |

31. **Employee Cost:** The licensee has claimed Rs.17.92 lakh towards employee costs for the year 2009-10 as against the approved employee cost of Rs.33.55 lakh for the year as shown below:

**Table – 13**  
**KPUPL-Employee cost claimed for 2009-10**

|                   | 2008-09<br>(Rs.lakh) | Approved for<br>2009-10<br>(Rs.lakh) | Actuals for 2009-10 (Rs.lakh)          |                                   |       |
|-------------------|----------------------|--------------------------------------|--|-----------------------------------|-------|
|                   |                      |                                      | KEPIP from<br>1-4-2009 to<br>31-1-2010 | KPUPL<br>1-2-2010 to<br>31-3-2010 | Total |
| Employee expenses | 14.80                | 33.55                                | 12.04                                  | 5.88                              | 17.92 |

32. As shown above, the actual expenses are much lower than the approved level. But actual expenses are about 21% more than the approved expenses for 2008-09. In previous years, M/s KEPIP used to allocate/apportion about 80% of the total

employee costs of the consolidated business towards distribution business. In the case of KPUPL entire expenses booked under this head is assigned for the distribution business.

33. As per clause 15(3) of Tariff Regulations, the O&M Expenditure i.e., employee cost, administration and general expenses, repairs and maintenance expenses and other miscellaneous expenses may be indexed to predetermined indices such as Consumer Price Index, Wholesale Price Index or a combination of both indices to 70% of CPI and 30% of WPI. The WPI and CPI for the period is as given below:

**Table – 14**  
**CPI:WPI recorded for various years**

| Year    | WPI    |                 | CPI    |                 | CPI:WPI at 70:30 Basis |
|---------|--------|-----------------|--------|-----------------|------------------------|
|         | Index  | Yearly increase | Index  | Yearly increase |                        |
| 2006-07 | 111.40 |                 | 125.00 |                 |                        |
| 2007-08 | 116.60 | 4.67%           | 132.75 | 6.20%           | 5.74%                  |
| 2008-09 | 126.00 | 8.06%           | 144.83 | 9.10%           | 8.79%                  |
| 2009-10 | 130.80 | 3.81%           | 162.75 | 12.37%          | 9.80%                  |

34. As shown above, the index of CPI:WPI at 70:30 basis for 2009-10 will be 9.80%. Accordingly, as per the provisions of regulations, the employee cost for 2009-10 is shown below:

|                                  | 2008-09 | 2010-11      |
|----------------------------------|---------|--------------|
|                                  | Rs.lakh | Rs.lakh      |
| Yearly increase at CPI:WPI basis |         | 9.8%         |
| Employee cost                    | 14.80   | <b>16.25</b> |

35. As shown in the above Table, the total employee costs approved for the year 2009-10 is Rs.16.25 lakh.

**Table- 15**  
**KPUPL – Employee Cost Approved for the FY 2009-10(Rs. lakh)**

| Particulars | ARR (Rs.lakh) | Truing up (Rs.lakh) |
|-------------|---------------|---------------------|
| Claimed     | 34.55         | 17.92               |
| Approved    | 34.55         | 16.25               |

36. **Repairs and Maintenance Charges:** A comparison on the approved repair and maintenance expenses and the actual claim for 2009-10 is tabulated below

**Table – 16**  
**KPUPL-R&M Expenses Approved & actual claimed for 2009-10**

|                               | Approved for 2008-09 (Rs.lakh) | Approved in 2009-10 (Rs.lakh) | Actuals for 2009-10 (Rs.lakh)    |                             |       |
|-------------------------------|--------------------------------|-------------------------------|----------------------------------|-----------------------------|-------|
|                               |                                |                               | KEPIP from 1-4-2009 to 31-1-2010 | KPUPL 1-2-2010 to 31-3-2010 | Total |
| Repair & Maintenance expenses | 20.58                          | 65.92                         | 18.92                            | 3.60                        | 22.52 |

37. It may be seen that the licensee has claimed lower amount towards R&M cost when compared to the approved R&M expenses for the year 2009-10. The R&M expense is mainly the cost for the outsourced agency engaged in the operation and management of the distribution system. The R&M expense is about 1% of the total GFA at the beginning of the financial year. It is about 9.4% more than the approved level in 2008-09 and is comparable with the increase in indexed CPI:WPI at 70:30 basis i.e., 9.8%. Hence, R&M expense for the 2009-10 reported by the licensee is reasonable. The Commission, therefore, approves the total R&M expenses of Rs.22.52 lakh or the year 2009-10.

**Table – 17**  
**KPUPL –R&M Expenses approved for 2009-10**

| Particulars | ARR (Rs.lakh) | Truing up (Rs.lakh) |
|-------------|---------------|---------------------|
| Claimed     | 65.92         | 22.52               |
| Approved    | 65.92         | 22.52               |

38. **Administration and General Expenses:** The actual amount booked under A&G expense is Rs.53.27 lakh for 2009-10 as against the approved expenses of Rs.70.72 lakh as shown below:

**Table – 18**  
**KPUPL-A&G Expenses claimed for 2009-10**

|              | 2008-09 (Rs.lakh) | Approved for 2009-10 (Rs.lakh) | Actuals for 2009-10 (Rs.lakh)    |                             |       |
|--------------|-------------------|--------------------------------|----------------------------------|-----------------------------|-------|
|              |                   |                                | KEPIP from 1-4-2009 to 31-1-2010 | KPUPL 1-2-2010 to 31-3-2010 | Total |
| A&G expenses | 40.28             | 70.72                          | 29.87                            | 23.40                       | 53.27 |



39. A&G expenses include security arrangements (Rs.7.15 lakh), other professional charges (Rs.10.14 lakh), advertisements (Rs.5.30 lakh), other statutory fees (Rs.7.11 lakh) etc. The expense towards security arrangements is charged by KEPIP by apportioning from the total expenses of the business. The A&G expense is about 32% higher than the previous year (2008-09). The Commission has noted that about 44% of the A&G expenses (Rs.23.40 lakh) is incurred in the months of February and March i.e., after the takeover by KPUPL, such increase is abnormal. The security charges booked by the licensee is also not reasonable as it does not form part of the distribution business, but it is the duty of the park business to provide security. Accordingly, the Commission is in a position to approve only Rs.46.12 lakh towards A&G expenses for the financial year 2009-10 after excluding security charge from the actual incurred expense of Rs.53.27 lakh.

**Table – 19**  
**KPUPL-A&G Expenses computed for 2009-10**

|                                      |          |       |
|--------------------------------------|----------|-------|
| A&G expenses as per books of account | Rs. Lakh | 53.27 |
| <b>Less:</b> Security charge         | Rs.Lakh  | 7.51  |
| A&G expenses                         | Rs. Lakh | 46.12 |

40. As estimated in the above table, the total A&G expense approved by the Commission for the year 2009-10 is shown below:

**Table – 20**  
**KPUPL –A&G Expenses approved for 2009-10**

| Particulars | ARR<br>(Rs.lakh) | Truing up<br>(Rs.lakh) |
|-------------|------------------|------------------------|
| Claimed     | 70.72            | 53.27                  |
| Approved    | 65.92            | 46.12                  |

41. **Return on Equity:** As per the application for truing up of accounts submitted by the licensee, the return on equity claimed for the year 2009-10 is Rs.87.10 lakh.

**Table – 21**  
**KPUPL-Reasonable return claimed for 2009-10**

|                   | 2008-09<br>(Rs.lakh) | Approved<br>for 2009-10<br>(Rs.lakh) | Actuals for 2009-10 (Rs.lakh)          |                                   |       |
|-------------------|----------------------|--------------------------------------|--|-----------------------------------|-------|
|                   |                      |                                      | KEPIP from<br>1-4-2009 to<br>31-1-2010 | KPUPL<br>1-2-2010 to<br>31-3-2010 | Total |
| Reasonable return | 10.00                | -                                    | 87.10                                  | -                                 | 87.10 |

42. The return on equity claimed by the licensee as per the truing up application for the year 2009-10 is Rs.87.10 lakh. No asset was transferred by the then licensee KEPIP to KPUPL during the financial year 2009-10 though KPUPL has taken over the function of supply of electricity within the licensed area with effect from 01.02.2010. As mentioned earlier, the licensee was functioning in terms of the operating agreement with KEPIP, without owning any distribution assets. If the licensee had actually invested any amount as equity, return on such amount of equity can be approved subject to a maximum limit of 30% of the capital expenditure. The Commission is, therefore, of the considered view to allow Rs.10 lakh as return on equity for the financial year 2009-10 for the purpose of truing up of accounts.
43. **Total Expenses:** - Based on the submissions made by the licensee in the application for truing up of accounts, responses during the hearing, comments made by KSEB Ltd, the analysis and the decision of the Commission the total expenses approved for the purpose of truing up of accounts for the financial year 2009-10 including the return on equity are tabulated hereunder.

**Table - 22**

**KPUPL – Aggregate Revenue Requirement approved for the year 2009-10**

| Particulars                | ARR Approved (Rs.lakh) | Truing up         |                    |
|----------------------------|------------------------|-------------------|--------------------|
|                            |                        | Claimed (Rs.lakh) | Approved (Rs.lakh) |
| Purchase of Power          | 2125.22                | 1,340.99          | 1340.99            |
| Interest & Finance Charges | 153.19                 | 37.26             | -                  |
| Depreciation               | 88.76                  | 53.52             |                    |
| Employee costs             | 33.55                  | 17.92             | 16.25              |
| Repair & Maintenance       | 65.92                  | 22.52             | 22.52              |
| A & G Expenses             | 70.72                  | 53.27             | 46.12              |
| Revenue Return             | -                      | 87.10             | 10.00              |
| <b>Total Expenses</b>      | <b>2537.36</b>         | <b>1612.58</b>    | <b>1435.88</b>     |

44. **Revenue from Sale of power:** The licensee has reported the revenue from sale of power for the year 2009-10 as shown below

**Table – 23**

**KPUPL-Revenue reported by the licensee for 2009-10**

|                     | 2008-09 (Rs.lakh) | Approved for 2009-10 (Rs.lakh) | Actuals for 2009-10 (Rs.lakh)    |                             |          |
|---------------------|-------------------|--------------------------------|----------------------------------|-----------------------------|----------|
|                     |                   |                                | KEPIP from 1-4-2009 to 31-1-2010 | KPUPL 1-2-2010 to 31-3-2010 | Total    |
| Revenue from Tariff | 1,741.95          | 2,465.22                       | 1,340.52                         | 287.24                      | 1,627.76 |

45. The consumer category wise revenue realized in 2009-10 is as follows.

**Table – 24**  
**KPUPL-Consumer category wise revenue for 2009-10**

|   | <b>2009-10<br/>(Rs.lakh)</b> |
|---|------------------------------|
| HT/DHT Consumers                                    | 1,504.45                     |
| LT Consumers  | 162.52                       |
| Temp. Connections                                   | 20.65                        |
| <b>Total</b>  | <b>1,687.62</b>              |
| Recovery of electricity duty and other State levies | 0.00                         |
| Misc. charges from consumers                        | 6.38                         |
| Fuel Surcharge                                      |                              |
| Other Receipts                                      |                              |
| Gross Revenue from sale of Power                    | 1694.00                      |
| <b>Less</b>   |                              |
| Electricity duty payable                            | 66.24                        |
| Other State levies payable                          |                              |
| Revenue from sale of Power                          | 1627.76                      |

46. The licensee has reported an amount of Rs.1694.00 lakh towards gross revenue from sale of power for the financial year 2009-10. In the ARR & ERC order, the revenue from sale of power approved by the Commission was Rs.2465.23 lakh.
47. The amount of Gross revenue from sale of energy reported by the licensee includes the Electricity Duty under Section 4 of the Kerala Electricity Duty Act, 1963, which has to be remitted to the Government. However, the licensee has not furnished any documentary evidence to substantiate the claim towards the payment of Electricity Duty under Section 4 of the Kerala Electricity Duty Act, 1963. Therefore, such claim cannot be considered for working out revenue gap / revenue surplus. The Commission, therefore, approves an amount of Rs.1694.00 lakh towards revenue from sale of power for the purpose of truing up of accounts for the financial year 2009-10 as shown below.

**Table - 25**  
**KPUPL – Revenue from sale of energy approved for the year 2009-10**

| Particulars | ARR<br>(Rs.lakh) | Truing up<br>(Rs.lakh) |
|-------------|------------------|------------------------|
| Claimed     | 2465.23          | 1627.76                |
| Approved    | 2465.23          | 1694.00                |

48. **Non-tariff income :-** Non-tariff income as per the truing up application for 2009-10 is Rs.23.44 lakh against the approved amount of Rs.20.00 lakh. The increase in non-tariff income is mainly due to the interest received from bank fixed deposits. However, the interest on the accumulated surplus of Rs.1413.01 lakh for the years from 2004-05 to 2008-09 is not accounted by the licensee under this head. Therefore, the interest at the rate of 9% on the accumulated surplus of Rs.1413.01 lakh is to be added after deducting the interest on bank fixed deposits booked by the licensee amounting to Rs.19.84 lakh. The Commission, therefore, approves an amount of Rs.351.87 lakh towards non-tariff income for the purpose of truing up of accounts for the financial year 2009-10 as detailed below.

**Table - 26**  
**KPUPL – Details of Non-Tariff income reported by the KPUPL for the year 2009-10 (Rs.Lakh)**

| Particulars   | Claimed<br>(Rs.lakh) | Approved<br>(Rs.lakh) |
|---|----------------------|-----------------------|
| Interest on Bank Fixed Deposits   | 19.84                | 19.84                 |
| Profit on sale/hire etc. of apparatus / transfer of assets                                    | 2.02                 | 2.02                  |
| Other miscellaneous receipts  | 1.49                 | 1.49                  |
| Interest on accumulated surplus (Less interest on Bank deposit: Rs.127.17 lakh-Rs.19.84 lakh) |                      | 107.33                |
| <b>Total</b>  | <b>23.44</b>         | <b>130.68</b>         |

49. **Revenue Surplus/(gap):** The Commission after duly considering the application of the licensee for truing up of account for the year 2009-10, clarifications and the additional details submitted by the licensee thereon along with the comments/objections of KSEB Ltd, the revenue surplus/gap approved for truing up of accounts for the financial year 2009-10 is tabulated below:

**Table - 27**  
**KPUPL- Revenue Surplus/ Gap for the year 2009-10 after truing up**

| Particulars                              | ARR                   | Truing Up            |                       |
|--|-----------------------|----------------------|-----------------------|
|  | Approved<br>(Rs.lakh) | Claimed<br>(Rs.lakh) | Approved<br>(Rs.lakh) |
| Revenue from Sale of Power               | 2465.23               | 1627.75              | 1694.00               |
| Non – Tariff Income                      | 20                    | 23.44                | 130.68                |
| <b>Total Revenue</b>                     | <b>2485.23</b>        | <b>1651.19</b>       | <b>1824.68</b>        |
| Power Purchase cost                      | 2125.22               | 1340.99              | 1340.99               |
| Repair & Maintenance                     | 65.92                 | 22.52                | 22.52                 |
| Employee costs                           | 33.55                 | 17.92                | 16.25                 |
| A & G Expenses                           | 70.72                 | 53.52                | 46.12                 |
| Depreciation                             | 88.76                 | 53.52                |                       |
| Interest & Finance Charges               | 153.19                | 37.26                | -                     |
| Return on Equity                         | -                     | 87.1                 | 10                    |
| <b>Total Expenses</b>                    | <b>2537.36</b>        | <b>1612.58</b>       | <b>1435.88</b>        |
| <b>Revenue Surplus (+) / Deficit (-)</b> | <b>-52.13</b>         | <b>+38.61</b>        | <b>+388.80</b>        |

50. The revenue surplus for the year 2009-10 after truing up of accounts is Rs.388.80 lakh as against a revenue surplus of Rs.38.61 lakh presented by the licensee as per the truing up application. The accumulated revenue surplus including Rs.388.80 lakh after this truing up of accounts for the financial year 2009-10 will be Rs.1801.81 lakh.

#### **Orders of the Commission**

51. After considering the application for approval of truing up of accounts of M/s KPUPL, the clarifications thereon, comments of the KSEB and the explanations thereon submitted by the M/s KPUPL, the Commission hereby arrives at a revenue surplus of Rs.388.80 lakh for the year 2009-10 after the truing up of accounts. The accumulated surplus relating to the distribution business of the licensee at the end of the financial year 2009-10 is Rs.1801.81 lakh.

52. The application is disposed of. Ordered accordingly.

Sd/-  
**K. Vikraman Nair**  
Member

Sd/-  
**S. Venugopal**  
Member

Sd/-  
**T.M. Manoharan**  
Chairman

Approved for issue  
Sd/-  
**Santhosh Kumar.K.B**  
Secretary