

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri.Preman Dinaraj,
Chairman

OP.No.19/2020

In the matter of : Approval of reliefs extended to various categories of consumers in the State due to lock-down restrictions imposed by the Government to curb the spread of Covid-19 pandemic.

Petitioner : M/s Kerala State Electricity Board Ltd. (KSEB Ltd)
Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram

Petitioner represented by Shri. K.G.P. Namboothiri,
Exe. Engineer, TRAC, KSEB Ltd

Dates of Hearing : 30-06-2020, 19-08-2020

Order dated 31-12-2020

1. The Petitioner M/s KSEB Ltd has filed the instant petition vide letter dated 12-06-2020 for the approval of the various reliefs extended to the consumers for reducing the impact of the restrictions on account of the countrywide lockdown imposed by the Government to curb the spread of Covid-19 pandemic. The specific prayers made in the petition are given below:
 - a. Allow a rebate of 25% on the fixed charges applicable to industrial consumers, commercial consumers and private hospitals for the month of March, April and May-2020 and to defer the payment of balance fixed charge (75%) of these months to 15.12.2020
 - b. Exemption of surcharge applicable for the payment of balance fixed charge of industrial consumers, commercial consumers and private hospitals for the month of March, April and May 2020 up to 15.12.2020 by invoking the power of the Commission under Regulation 179 (power of relaxation and power to remove difficulties) of the Kerala Electricity Supply Code-2014
 - c. Allowing relaxation in Regulation 73(4) of the Kerala Electricity Supply Code-2014 for deferring the demand for additional security deposit in the 1st quarter of FY 2020-21.

- d. Allowing pass through of expenses incurred to provide 5% cash back facility given to first time users of online payment facility, during truing up process.
 - e. Exemption of application fee for new service connection applications submitted through online for a period of one year, as part of curtailing the visit of consumers to KSEB Ltd offices.
 - f. Allow to pass on the financial impact by way of additional interest and finance charges due to extension of due dates for all consumers during the lock down period and deferment of fixed charges for Industrial consumers, Commercial consumers and Private Hospitals during truing up of FY 2020-21.
2. After examining the petition, the Commission admitted the petition as OP No.19 of 2020 and issued notice for the hearing on 30.06.2020 at 11:00 A.M through video conference mode.
3. KSEB Ltd in its petition stated that as per the reliefs announced by the Hon'ble Chief Minister, Government of Kerala in the press conference held on 21.04.2020, industrial and commercial consumers of KSEB Ltd. have been provided with an option for the deferred payment of fixed charges for the months of March, April and May 2020 up to 15.12.2020 at an interest rate of 12% (instead of 18%) on deferred fixed charges. Later, KSEB Ltd has extended the options already granted to industrial and commercial consumers in the State to private hospitals also, as per the directions of the State Government.
4. Subsequently, Hon'ble Chief Minister, Government of Kerala during the daily press conference on 22.05.2020 announced that KSEB Ltd has been directed to provide relief in fixed charges for the period of lockdown and waiver of interest for the deferred fixed charges for industrial and commercial consumers including private hospitals. Accordingly, Government vide order G.O.(Rt) No. 67/2020/P.D. dated 01.06.2020 directed KSEB Ltd. to allow a rebate of 25% on fixed charge applicable to Industrial/Commercial consumers and Private Hospitals for the months of March, April and May 2020 (during lockdown period) and to defer the payment of balance fixed charge (75%) of these months, up to December-2020, without levying interest during the deferred period. It was also ordered to allow domestic consumers to remit half of their bill amount during lockdown period and to remit the balance amount in two equal instalments. KSEB Ltd further stated that the estimated amount forgone per month due to the waiver of fixed cost to above categories is Rs.27 Crore.
5. Prior to this, Government of India, announced certain concessions to the distribution companies for passing on to the end consumers for the lockdown period, through an advisory issued vide letter No.11/16/2020-Th-II dated 15-05-2020 to all Power Generation and Transmission CPSEs under the Ministry of Power and to all Subsidiaries/Joint Ventures of Power Generation and Transmission CPSEs under the Ministry of Power. In the said advisory,

Government of India allowed the deferment of capacity charges for power not scheduled, to be payable without interest after the end of lockdown period in three equal instalments and a rebate of about 20-25% on power supply billed (fixed cost) to Discoms and inter State Transmission charges levied by PGCIL. KSEB Ltd estimated that the rebate available from CGS under MoP and PGCIL to be in the range of Rs.25.75 Crore to Rs.29.02 Crore per month (anticipating a rebate of 25%). KSEB Ltd further stated in the petition that in case, the relief received from Central Generating Stations is more than the reliefs provided by the State Government, KSEB Ltd. will approach the Commission to pass on the residual amount also to the end consumers as desired by the Central/ State Government. Alternatively, in case the rebate from CGS is lower than the reliefs already declared by the State Government, the same may be allowed as pass through during Truing up.

6. KSEB Ltd in the petition stated that the various concessions were given to their consumers for mitigating the difficulties during Covid -19 Pandemic. According to KSEB Ltd, in order to regularise the extension of these relaxations to various categories of consumers of KSEB Ltd, appropriate Orders of the Commission and relaxation in the provisions of the Kerala Electricity Supply Code 2014 by invoking Regulation 179 of the Kerala Electricity Supply Code is required. The concessions/relaxations given by KSEB Ltd as per the petition is given below:
 - i. Rebate of 25% on fixed charge applicable to Industrial/Commercial consumers and Private Hospitals for the months of March, April and May 2020. The same may be approved based on the direction of Govt. of Kerala vide G.O. dated 01-06-2020.
 - ii. Deferring the payment up to 15.12.2020 of the balance fixed charge (75%) of the three months of these groups of consumers, without levying interest during the deferred period. As per item No.12 of Schedule-1 (Schedule of Miscellaneous charges.) of the Kerala Electricity Supply Code 2014, rate of interest for delayed payment shall be 12% per annum upto a period of 30 days and thereafter 18% per annum for the entire period of default. Hence, KSEB Ltd. in their petition requested for approval to be granted for the deferment of balance fixed charge up to 15.12.2020 without levying interest by invoking Regulation 179 (power of relaxation and power to remove difficulties) of the Kerala Electricity Supply Code, in public interest.
 - iii. As per regulation 122(10) of the Kerala Electricity Supply Code, 2014, the due date of payment is fixed as the 10th day of meter reading or any day thereafter. KSEB Ltd. extended the due date upto 16.05.2020 for bills issued during the lockdown period for all categories of consumers. Hence, relaxation for the extension is to be granted for the due date, by invoking Regulation 179 (power of relaxation and power to remove difficulties) of the Kerala Electricity Supply Code 2014, in public interest.

- iv. As per Schedule-1 of the Kerala Electricity Supply Code, 2014, the application fee for new service connection for LT is Rs.50/-, HT Supply- Rs.1000/- and EHT is Rs.5000/-. In view of the Covid-19 pandemic, in order to limit the visit of consumers to the field offices of KSEB Ltd, they decided to encourage online application for new service connection by exempting the application fee. Hence, KSEB Ltd. requested the Commission to allow exemption of application fee for a period of one year by invoking relaxation under Regulation 179 of the Kerala Electricity Supply Code, 2014. KSEB Ltd. justified this proposal stating the unprecedented situation arising out of the restrictions placed by the Central / State Governments on the movement of public.
- v. As per Regulation 73(4) of Kerala Electricity Supply Code, 2014 the licensee, based on review as per Regulation 73(1) of the Code, may demand for additional security deposit for making up the deficit, if any, in the security deposit of the consumers. In view of financial difficulties being faced by various sectors in the State, additional security deposit required, if any, based on the review of the Security Deposit was not demanded by KSEB Ltd for the present. Hence, the Commission may allow relaxation in Regulation 73(4) of the Kerala Electricity Supply Code, 2014, for not demanding the additional security deposit in the 1st quarter of FY 2020-21, by invoking Regulation 179 (power of relaxation and power to remove difficulties) of the Kerala Electricity Supply Code 2014 in public interest.
- vi. As part of encouraging online transactions, 5% cash back was allowed by KSEB Ltd to those using online facility for the first time for remitting their electricity bills, subject to a maximum of Rs.100/bill between 04.05.2020 and 31.05.2020. This facility has been availed by about 6.78 lakhs consumers and an amount of Rs.3.25 Crores is to be adjusted in the bills issued in June/July-2020 on account of the cash back relief offered for online payment. KSEB Ltd. therefore requested the Commission to allow this expenditure as a pass through over the normative expense during the truing up, considering the unprecedented situation arising out of the restrictions placed by the Central / State Governments on the movement of public and as part of a measure to contain the pandemic,

Public Hearing on the matter through Video Conference mode

- 7. The Commission conducted Public Hearings through video conference mode on 30-06-2020 and 19-08-2020. During the first hearing on 30.06.2020, the petitioner, KSEB Ltd represented by Shri. K.G.P. Namboothiri, Exe. Engineer submitted that both the State Government and Central Government had announced various reliefs in view of the Covid-19 pandemic lockdown. He also submitted that, for implementing the relief of 25% fixed charges to industrial and commercial consumers announced by Government of Kerala, there is an

additional financial burden of around Rs.27 Crore per month to KSEB Ltd. He also mentioned that KSEB Ltd is expected to receive about Rs. 28 Crore per month on an average from the reliefs announced to the DISCOMS by the Govt of India through Central Public Sector Power Generating and Transmission Companies. He also requested to allow the additional burden, if any after considering these savings as a pass through item at the time of truing up.

8. Shri. Namboothiri further added that as on date, an amount of Rs. 50.28 crore has been received from CGS, but an additional amount of around Rs.80 Crore is expected due to the relief. He also requested the Commission to consider favourably the request for allowing the additional financial burden due to the delay in realising the payment, in the truing up for the particular year.
9. Several consumers and representative of industrial associations have also participated in the hearing. M/s.United Film Exhibitors stated that 25% relief is insufficient as the actual consumption is only around 20% of the contract demand during the lock down period. Shri Narayanan representing M/s Indus Towers Ltd. requested to consider the telecom sector as a priority sector in the Covid-19 period and sought to extend all relaxations at par with IT enabled service company. He also pointed out the issue in the billing date and the fact that the consumer is not getting sufficient time to make the payment, as the due date is calculated from a date prior to the actual date of meter reading. M/s HIC-ABF Special Foods Pvt. Ltd also raised similar concern over the billing process of KSEB Ltd. during the lock down period.
10. The Southern India Mills Association, M/s. Apollo Tyres and Medical Laboratory Owners' Association submitted that the complete waiver of Fixed/Demand charges will be a big relief to the ailing industries like Textile industry and also requested to make suitable adjustments in the subsequent bills in case the bills were already paid. M/s Carborandum Universal Ltd and Medical Laboratory Owners' Association also requested the Commission to ensure that the reliefs announced are extended to all consumers in the State. M/s Tolins Tyres requested to extend all the present reliefs at least up to the end of the year. The Saw Mill Owners & Plywood Manufactures Associations submitted that maximum time and instalment payment may be allowed for the payment of bills.
11. The Kerala HT and EHT Consumers' Association represented by Shri A.R. Sathesh submitted that there is no clarity in the period up to which the concessions from CGS and PGCIL are available. Further, there is ambiguity in the number of CGS shown in the petition of KSEB Ltd. CGS like NLC and NPC are missing in the list. Hence, the accuracy of the benefit estimated from CGS is doubtful. He further submitted that the relief from nuclear power stations is not considered in the petition of KSEB Ltd. He also submitted that, the *force majeure* clause is required to be reintroduced in the Kerala Electricity Supply Code to

handle the situations like Covid-19. He further submitted that allowing 5% cash back to the first time online payments and claiming the expenses as pass through during truing up appears to be strange and since the same will affect all the other consumers and hence should not be allowed. The Association also raised concern over the KSEB Ltd's claim for pass through of expenses after allowing the reliefs. They requested the Commission not to allow any such pass through in the tariff and the cost of these reliefs should be a charge on the profit/ ROE and not as a cost to the consumer at a later date.

12. M/s. Cochin Port Trust submitted that they are now in a poor financial condition and any additional financial burden due to the reliefs/benefits extended to the consumers as per the direction of the Government may be allowed to be adjusted in the payables to KSEB Ltd and KSEB Ltd may be directed to adjust these reliefs in the subsequent bills.
13. Regarding the request of KSEB Ltd. to allow the additional financial liability as a pass through during the truing up, the Commission observed that such a treatment will result only in the deferment of the consumer's payment and will not be a relief as announced by the Hon'ble Chief Minister of the State. According to the Commission, the real intent of the Government was to provide relief to the suffering public and not to defer the recovery during the True up as a pass through. Further, allowing such an additional financial liability as a pass through would lead to the distribution of the burden on all consumers of the State, while benefitting only a few category of consumers. The Commission further enquired as to whether the reliefs announced by the Government in the wake of Covid-19 lockdown is required to be made applicable to all consumers in the State, irrespective of the distribution licensees. The Commission noted that these aspects required to be clarified, keeping in mind the spirit of the Hon'ble Chief Minister's announcement and the G.O thereafter.
14. The Commission further pointed out that since KSEB Ltd had sought 25% rebate only for fixed charges, the benefit will be applicable only for those consumers who are billed as per their connected load. The Commission also drew the attention of KSEB Ltd. to the fact that the terms Fixed Charge and Demand Charge are separate and defined separately in the Kerala Electricity Supply Code, 2014. Accordingly, the Commission directed KSEB Ltd to file suitable modifications, if considered appropriate in their petition, clearly specifying the tariff categories and components of tariff in which the concessions/reliefs are proposed so as to avoid any ambiguity. The Commission also directed KSEB Ltd to file modifications, if any, required with supporting calculations to accommodate the reliefs announced by the Government of Kerala to be allowed under Section 65 of the Act as per G.O dated 26-06-2020. The Commission vide Daily Order dated 02-07-2020, directed KSEB Ltd to furnish the details sought by the Commission by 13th of July 2020. The Commission also directed that a copy of the Daily Order is to be given to all

other distribution licensees in the State, so that these licensees may also furnish their estimate/actual financial commitment, if available, on account of relaxations to be allowed to consumers and the estimate of relief required for the Commission's consideration.

15. As per the directions contained in the Order dated 02-07-2020, the following licensees have furnished their estimate of the financial impact, if the same reliefs announced by the Government is allowed to their consumers :

a. **Thrissur Corporation Electricity Department** : In their reply dated 12-07-2020, TCED stated that they have announced that the concessions/relief would be made available to the consumers only after getting appropriate orders from the Government and the Commission. The licensee also stated that HT consumers were allowed to remit their electricity bills for the month of March and April 2020 upto 16-05-2020 without interest. Similarly, LT consumers were allowed to remit the bills upto 16-05-2020 without interest for the bills from the date of commencement of lockdown to 05-05-2020. The licensee mentioned that relaxation in the provisions of the Kerala Electricity Supply Code is required for the above measures.

The financial impact of the rebate of 25% on the demand charges of HT consumers is worked out to be Rs.52.18 lakh and that of the LT consumers is Rs.54.64 lakh. The interest cost is estimated at Rs.44.26 lakh. In the case of domestic consumers, the licensee worked out the reduction in revenue/subsidy commitment at Rs.72.98 lakh and the interest loss on account of extension of due date at Rs.32 lakh. Thus, according to the licensee, the total rebate on fixed/demand charges is estimated at Rs. 106.84 lakh and the total interest loss on account of deferment of charges at Rs.94.06 lakh.

b. **Cochin Port Trust**: The licensee vide letter dated 20-07-2020 stated that the majority of their consumers had already remitted their bills. The actual financial commitment on account of relief of 25% of fixed/demand charges is worked out to be Rs.37 lakhs and the deferment cost of the balance amount is worked out to be Rs.6197 only. The actual financial commitment for extending the relaxation to the domestic consumers is being worked out.

c. **Infopark**: In the letter dated 16-07-2020, the licensee communicated that they have estimated Rs.10.27 lakh as the financial commitment for extending the 25% rebate on fixed/demand charges and Rs.one lakh as the interest cost for deferring the payment by consumers for Infopark Phase II and Chertala. The 25% rebate on demand charges of bulk supply would be Rs.6.79 lakh for the

three months. The licensee requested that the balance amount of Rs.4.46 lakh be allowed during the truing up process.

- d. **Kinesco Power and Utilities Private Limited:** In their letter dated 17-07-2020, the licensee stated that till date no relief had been allowed to the consumers, since there were no specific orders to this effect. KSEB Ltd. has also not extended the benefits to the licensee. However, some of the consumers are not remitting the fixed charges in view of the Government/KSEB Ltd. order. The estimate of deferment of 25% fixed /demand charges for three months is Rs.70.76 lakh and the carrying cost for deferment is Rs.10.40 lakh. They had also estimated the 25% rebate on the demand charge on BST for the three months as Rs. 44.08 lakh.
- e. **Cochin Special Economic Zone Authority:** In their letter dated 15-07-2020, M/s CSEZA estimated the revenue reduction for allowing 25% rebate on fixed /demand charges at Rs.34.81 lakh and the cost of deferment at Rs.4.53 lakh. If an equal rebate of 25% on the demand charges of bulk supply is given for the said three months, the same would be Rs. 25.72 lakh. The licensee requested that the difference on this account be allowed during the truing up process. The licensee further stated that the return in the form of 3% of NFA is not even sufficient to cover the Section 3 Duty and hence the rebate cannot even be adjusted in their RONFA.
- f. **Rubberpark India Limited:** Vide letter dated 09-07-2020, the licensee stated that the deferment of the payment of fixed /demand charges for March, April and May 2020 upto 01-12-2020 had been implemented, whereas the 25% rebate on fixed /demand charges has not been implemented. According to their calculations based on the actuals, the 25% fixed /demand charges works out to Rs.19.13 lakh and the carrying cost for the deferred payment would be Rs.2.34 lakh. The licensee requested for 25% rebate on the demand charges on the bulk supply to be allowed to compensate the cost of rebate.
- g. **Technopark:** In their letter dated 14-07-2020, M/s Technopark stated that the concessions have not been extended to their consumers so far. The estimate of 25% rebate on fixed /demand charges would be Rs.74.71 lakh. Further, the cost of deferment of payment of balance 75% of the fixed /demand charges is worked out to be Rs.5.98 lakh. If a corresponding reduction in demand charges of BST is effected, it would amount to Rs.44.34 lakh. The licensee requested to adjust the reliefs to consumers through reduction in BST bills or through the truing up process.
- h. **Smart City Kochi:** In their letter dated 13-07-2020, the licensee gave their estimate of financial burden for implementing the 25% reduction in fixed /demand charges for three months (March, April and May) at Rs.5.74 lakh.

Since the licensee is not getting any financial assistance, they requested to provide relief by way of 25% reduction in demand charges from KSEB Ltd. bills for bulk supply, which is worked out at Rs.5.74 lakh. As per the details furnished, it appears that the licensee has not implemented the relaxations.

- i. **KDHPCL** : The licensee in their letter dated 30-07-2020 has stated that 25% rebate in demand charges for HT Industrial and Commercial consumers would be Rs.22.66 lakhs and that of LT Industrial/Commercial and private hospitals would be Rs.3.52 lakhs.

16.The summary of the financial implication for extending the reduction in fixed/demand charges and the deferment of the balance amount as worked out by the licensees is as shown below:

Table.1
Summary of the financial commitment to licensees

	25% relief in Fixed/Demand charges for the month of March, April and May 2020 (Rs. Lakh)	interest foregone for Deferment of 75% of Fixed charges upto 15/12/2020 (Rs. Lakh)
TCED*	106.80	94.06
Cochin Port Trust	37.00	0.06
Infopark,	10.27	0.99
KPUPL	70.76	10.40
CSEZA	34.81	4.53
RPL	19.13	2.34
Technopark	74.71	5.98
Smartcity	5.74	
KDHPCL	26.18	
Total	385.40	

*Additional commitment of Rs.72.98 lakh is required for allowing concessions to domestic consumers of TCED

17.The licensees in general stated that since the bills for the power purchase from KSEB Ltd for the three months of March to May has already been paid, the reduction, if any, on the demand charges for Bulk Supply is to be allowed as adjustment in the future bills of KSEB Ltd.

Additional submission by KSEB Ltd as per Daily Order dated 2-07-2020.

18.KSEB Ltd. in its letter dated 24-07-2020 had furnished the details sought by the Commission vide its Order dated 02-7-2020. In the said letter, KSEB Ltd. stated that Government vide Government Order G.O. (Rt) No. 67/2020/P.D. dated 01.06.2020 had directed KSEB Ltd as per Article 55 of Article of Association of the

Company, in Public Interest to allow a rebate of 25% on fixed charge applicable to Industrial/Commercial consumers and Private Hospitals for the months of March, April and May-2020 and to defer the payment of the balance fixed charge (75%) of these months, up to December-2020, without levying interest during the deferred period. KSEB Ltd. has accordingly complied with the said direction.

Rebates allowed by Central Generating Stations and PGCIL.

19. KSEB Ltd. in the letter dated 24-07-2020 stated that while submitting the petition for allowing the rebates, they had anticipated that a rebate to the tune of Rs.29.02 crore for March 2020 and Rs.25.75 crore for the month of April will be available from the power utilities under MoP. The estimate was made without considering the fixed charges of RGCCPP, Kayamkulam and of Maithon. Considering these stations also, the revised rebate is estimated by KSEB Ltd. as shown below:

Table 2
Estimate of the Amount relief to be available from Utilities under the control of MoP

Station	Fixed charges			Total
	March	April	May	
<u>NTPC stations</u>				
RSTPS I & II	2.65	10.218	9.50	22.37
RSTPS III	0.70	0.000	0	0.70
Simhadri II	1.95	7.054	6.70	15.70
Talcher II	5.25	17.735	17.72	40.70
Kudgi	2.81	10.841	10.84	24.50
RGCCPP, Kayamkulam	6.400	24.8	24.8	56.00
NTECL, Vallur (Joint venture of NTPC)	1.325	5.157	5.131	11.61
DVC-Mejia	1.509	8.493	8.493	18.50
DVC-Raghunathpur	2.367	4.846	4.846	12.06
Maithon (Joint venture of Tata power and DVC)	3.419	13.249	13.249	29.92
ISTS charges				
PGCIL	15.698	58.17	57.41	131.28
Total amount	44.08	160.56	158.69	363.33

20. According to KSEB Ltd, based on the above calculations, they are entitled to a rebate of Rs. 90.84 Crore for three months. (Rs. 11.02 crore for March (from 24 to 31), Rs.40.14 crore in April and Rs. 39.67 crore in May 2020.)
21. KSEB Ltd further stated that as per the letter from the Ministry of Power (No.11/16/2020-Th-II dated 10th June 2020) to the Government of Kerala, the rebate offered by various Central Public Sector generation & transmission companies under MoP is as shown below:

Table 3

Amount of Relief available from CPSUs under Ministry of Power

SI No	CPSU under Ministry of Power	Rebate by CPSU (in crores)
1	NTPC Limited (includes JV of NTPC)	30.60
2	PGCIL	20.26
Total		50.86

22. KSEB Ltd also stated that M/s. NTPC vide letter dated 12.06.2020 (Ref No.: 01 :CD:356) has intimated that they had decided to defer the capacity charge amounting to Rs. 56.68 Cr and to allow three equal monthly instalments for the deferred payment without interest. Also NTPC Tamilnadu Energy Company Ltd. vide letter No. NTECL /CEO/26/41735 dated 15.06.2020 intimated that, they had decided to defer the capacity charge amounting to Rs. 6.70 Crore and to allow three equal monthly instalments for the deferred payment without interest. In the clarification, KSEB Ltd also stated that rebate offered to Kerala State by M/s. NTPC Ltd. and M/s. PGCIL Ltd. is coming only to 17.83% and 15.43% respectively of the fixed charge claimed during lockdown period from 24.03.2020 to 31.05.2020. Moreover, the rebate offered by M/s. NTPC Ltd. has been arrived at by considering the fixed charge for unutilised RGCCPP, Kayamkulam at Rs.297.65 crore against the provisionally admitted figure of Rs.62.35 crore/year. According to KSEB Ltd, in view of the difference in view on the fixed charges applicable, the rebate now proposed for Kayamkulam Station is not expected to fructify immediately. Also, no rebate has been offered so far by stations owned by Damodar Valley Corporation (DVC) and their joint ventures.
23. KSEB Ltd further submitted that they have already taken up the matter on the variance of rebate offered by MoP and that offered by the companies to the State Government with the prayer to pursue with the Ministry of Power, Govt. of India to offer the entitled rebate from CGS, PGCIL and DVC at the earliest.
24. KSEB Ltd in the reply dated 24-07-2020 further stated that the amount allowed as rebate to consumers as ordered by the Government is being adjusted in the bills

issued from 1st July 2020 onwards. The amount to be allowed towards rebate is about Rs.76.62 Crore and amount deferred is about Rs.229.86 Crore. Considering the rebate offered by the Central Public Sector Generation Companies and Transmission Companies under the Ministry of Power, GoI, there is short fall of about Rs.25.76 Crore towards the rebate allowed and the differential amount in deferred charges is about Rs.166.48 Crore.

25. KSEB Ltd. in the reply dated 24-7-2020 provided clarification to the observation of the Commission that allowing this additional financial liability as a pass through during truing up will not serve the real intention of the Government Order as follows:

- The Commission vide letter dated 04.05.2020, in reply to Govt. letter No. PWR-A1/123/2020 dated 30.04.2020 from Secretary, Power Department, Govt. of Kerala, had conveyed the following:

The Commission has agreed to the proposal of the Government for relaxation up to six months for payment in fixed charge and reduction in penal charges for non-payment from 18% to 12%, beyond a period of 30 days for private hospitals.

The Commission will issue separate orders to this effect, once KSEB Ltd. approach the Commission for such relaxations. It is also pointed out that though Hon'ble Chief Minister had in his daily media interaction announced these concessions to Industrial and Commercial establishments of the State, no such request /correspondence have been received either from the Government or from KSEB Ltd. A specific request, if considered appropriate may please be given to the Commission.

The Commission also desired to convey that the financial impact if any due to the above will be considered during the truing up exercise, unless KSEB Ltd. submits an alternate proposal. Later, vide letter 19.05.2020, Hon'ble Commission has instructed KSEB to formally file a petition to consider the relaxations announced by the Government to private hospitals.

- According to KSEB Ltd, the Government, after having considered the agreement on the issue, has issued direction to the Commission under Section 108 of the Act and to KSEB Ltd. under Article 55 of Article of Association of the Company. According to KSEB Ltd, the real intention of the direction to the Commission invoking Section 108 of the Act can only be to pass on the financial burden to the end consumers at a later date through the truing up process; otherwise a direction to KSEB Ltd alone would be sufficient to cater the financial burden from its CSR funds or to absorb it by providing Government subsidy.

- KSEB Ltd. had, in anticipation of a favourable rebate from the Central Public Sector Generation Companies (including its Joint Ventures) and Transmission Companies under the Ministry of Power, while allowing rebates and deferment in fixed charge/demand charges for the categories prescribed by the State Government had appealed before the Commission to allow only the differential amount, after accounting for the rebates receivable from CGS & PGCIL during true up exercise.
- The amount to be allowed towards rebate is about Rs.76.62 crore and amount deferred is about Rs.229.86 crore, whereas the rebate offered by Central Public Sector Generation Companies and Transmission Companies to the State of Kerala is only Rs.50.86 crore and the capacity charges deferred is Rs.63.38 crore. Hence there is a short fall of about Rs.25.76 crore towards rebate allowed and the differential amount in deferred charges is about Rs.166.48 crore.
- Though KSEB Ltd. had allowed industrial/commercial establishment/private hospitals to remit their deferred charges up to 15.12.2020 without interest, KSEB Ltd. however was allowed only three instalments by NTPC on deferred capacity charges, commencing from 31.07.2020 (subsequent instalment on 31.08.2020 & 31.09.2020).
- According to KSEB Ltd, Govt. of Kerala issued direction to the Commission after considering all aspects including the revenue shortage by considering the matter of allowing reliefs as a matter of policy involving public interest under Section 108 of the Act.
- Also, Govt. order is meant to provide rebate on fixed charge/demand charge applicable to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT & IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) and also to the consumers categorised under aforementioned tariff categories, availing supply at HT & EHT voltage level for the months of March, April and May 2020 and to defer the payment of balance fixed charge (75%) of these months, up to 15.12.2020, without levying interest during the deferred period. KSEB Ltd. further submitted that any further ambiguity on the selection of deserved categories, passing on of additional burden through true up exercise etc. may please be got clarified from the Government.
- The unbridged regulatory gap of KSEB Ltd. comes to Rs.8894.58 crore including the pending true up amounts. KSEB Ltd. does not have any other revenue stream other than the tariff approved by the Commission, to absorb the financial impact of the reliefs. In case the Commission does not allow the

financial impact due to the grant of reliefs through true up, KSEB Ltd is left with no other option than clawing back the reliefs in subsequent bills of the consumers, by approaching the Government.

26. Regarding extending the rebates to consumers of other licensees, KSEB Ltd stated that Government direction was issued to KSEB Ltd for allowing the rebate to its consumers. Hence, the same is not applicable to other licensees. The licensees may approach the Government for allowing rebate to their consumers. KSEB Ltd further stated that the Commission may ensure that the rebates, if any, allowed may not be adjusted through the power bills issued by KSEB Ltd. to the other licensees.

27. Regarding the issue of modification of the petition to include the 'demand charges' KSEB Ltd as stated as follows:

"...it is requested before the Hon'ble Commission to grant formal approval to allow 25% rebate on fixed charge in the case of connected load billed consumers and 25% rebate on demand charges in the case of demand based billed consumers for the specified categories in the Government order. Also rebate may be allowed on fixed charge/ demand charge applicable to the consumers categorised under tariff categories LT IV(A) Industry, LT IV(B) IT & IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) and to consumers categorised under aforementioned tariff categories, availing supply at HT & EHT voltage level for the months March, April & May-2020. It is also requested to allow deferment of the payment of balance fixed charge (75%) of these months, up to 15.12.2020, without levying interest during the deferred period.

28. Thus, KSEB Ltd has clarified that the rebate is to be allowed on the demand/fixed charges to specified group of industrial/commercial consumers including private hospitals only.

Subsidy allowed to Domestic consumers

29. KSEB Ltd in the reply dated 24-07-2020 stated that considering the difficulty in paying the huge bills received by the domestic consumers, Hon'ble Chief Minister, during the daily Covid-19 briefing had on 18.06.2020, announced the following relief measures for all domestic consumers in the State, in order to alleviate the burden on domestic consumers during lockdown period:

- a. Non-paying group of consumers (having bimonthly consumption of and below 40 units and connected load of and below 500 watts) are exempted from the payment of electricity charges by providing subsidy from the Government of Kerala. This exemption shall be continued

irrespective of their consumption for the bills issued from 20th April 2020 to 19th June 2020.

- b. BPL consumers having bimonthly consumption of and below 80 units and connected load of and below 1000 watts are now being billed at a rate of Rs.1.50 per unit. These consumers shall be billed at the prevailing rate of Rs.1.50/unit irrespective of their consumption for the bills issued from 20th April 2020 to 19th June 2020.
- c. Domestic consumers having their average monthly consumption upto 50 units will be provided with a subsidy of 50% of their additional amount in the bills due to excess consumption for the bills issued from 20th April 2020 to 19th June 2020.
- d. Domestic consumers having their monthly average monthly consumption upto 100 units will be provided with a subsidy of 30% of their additional amount in the bills due to excess consumption for the bills issued from 20th April 2020 to 19th June 2020.
- e. Domestic consumers having their monthly average monthly consumption upto 150 units will be provided with a subsidy of 25 % of their additional amount in the bills due to excess consumption for the bills issued from 20th April 2020 to 19th June 2020.
- f. Domestic consumers having their monthly average monthly consumption above 150 units will be provided with a subsidy of 20 % of their additional amount in the bills due to excess consumption for the bills issued from 20th April 2020 to 19th June 2020.
- g. Three instalments for remitting the electricity bills of domestic consumers is allowed during the lockdown period. This shall be extended to 5 instalments for remitting the bills issued from 20th April 2020 to 19th June 2020.

30. Based on the above, KSEB Ltd. has issued compliance orders on 25.06.2020 and the formal Order has been issued by the Government on 26.06.2020 vide G.O.(Rt) No.80/2020/PD dated 26.06.2020. The total financial commitment in providing subsidy as above is estimated at Rs.200 Crore The subsidy is being directly adjusted in the electricity bills issued from 07.07.2020 and for those whose bills were issued between 28.06.2020 and 06.07.2020. About 90 lakh domestic consumers of the KSEB Ltd. are estimated to be benefited on account of this.

31. KSEB Ltd stated that the exact amount of subsidy released to consumers on this account would be known only after issuing of bills in the coming bimonthly cycle (July-August 2020) and will be submitted to the Commission promptly.

32. Based on the directions issued by the Commission in the Order dated 02-07-2020, KSEB Ltd has modified the prayers in the original petition and requested to approve the following reliefs to consumers, in view of the restrictions due to lockdown and based on the directions of the State Government:

- a) allow a rebate of 25% on fixed charge/ demand charge applicable to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT &IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under aforementioned tariff categories, availing supply at HT &EHT voltage level for the months of March, April and May 2020 and to defer the payment of balance fixed charge (75%) of these months, up to 15.12.2020.
- b) exempt the surcharge applicable for the deferred payment of balance fixed charge(75%) /demand charge (75%) to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT &IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under aforementioned tariff categories, availing supply at HT &EHT voltage level for the months of March, April and May-2020 upto 15.12.2020 by invoking regulation 179 (power of relaxation and power to remove difficulties) of Kerala Electricity Supply Code, 2014.
- c) allow pass through of additional burden on account of rebate/ reliefs granted, to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT &IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under aforementioned tariff categories, availing supply at HT &EHT voltage level, over and above rebate allowed by Central Public Sector Generation companies and Transmission Companies, during truing up process.
- d) allow pass on the financial impact by way of additional interest and finance charges due to extension of due dates for all consumers during the lockdown period and deferment of fixed charge/ demand charge applicable to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT &IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) and also to the consumers categorised under aforementioned tariff categories, availing supply at HT &EHT voltage level for the months of March, April and May-2020, during truing up of FY 2020-21.

- e) allow relaxation in regulation 73(4) of Kerala Electricity Supply Code,2014, for deferring the demand for additional security deposit in the 1st quarter of FY 2020-21.
- f) Allow pass through of expenses incurred to provide cash back (5% of total bill amount subject to a maximum of Rs.100/- per bill) to first time users of online payment facility up to 31.12.2020, over normative expenses during truing up process ,considering the force majeure nature of the pandemic.
- g) Exempt the application fee for new service connection applications submitted through online for a period of one year ie up to 31.03.2021, as part of a measure to contain the Covid-19 pandemic.

Second hearing dated 19-8-2020 on the matter

33. The Commission notes that vide their reply dated 24.07.2020 KSEB Ltd. had made substantial revision in their prayers compared to the original petition dated 12.06.2020. Therefore the second hearing was held on 19-08-2020 through video conference mode for which the Commission had issued a press release for information of the public. The Commission vide letter dated 13.08.2020 also requested the Power Department, Government of Kerala to nominate a suitable person for the hearing.
34. In the hearing held on 19-08-2020, Shri.Namboothiri, Executive Engineer, KSEB Ltd mentioned that the prayers in the petition stands revised so as to include the Industrial, Commercial and Private hospitals billed under both demand and fixed charges. The rebate from the Central Government was Rs.50.86 crore. The Government direction to allow rebate to Industrial and Commercial consumers initially was in accordance with the announcement of the Hon. Chief Minister in the daily media briefing on 22.05.2020, based on the grievances received by the Government from the respective groups of consumers for a relief in electricity charges during the lock down period. In continuation to the announcement, Hon. Minister for Electricity had convened a meeting and the modalities for finalising these reliefs were worked out. Based on this, Government issued the G.O. dated 01-06-2020 giving directions under Section 108 of the Electricity Act to the Commission and Section 55 of the Companies Act to KSEB Ltd. for smooth implementation of the concessions announced by the Government. In the case of private hospitals, the Commission had already given a favourable response vide letter dated 04.05.2020. On the Commission's intervention, KSEB Ltd. agreed that the said letter of the Commission pertained only to extension of payment due date and reduction of penal interest from 12% to 18% and did not deal with the issue of rebate on fixed charges.
35. Regarding the concessions extended to consumers of other licensees, KSEB Ltd stated that Government order pertained only to the consumers of KSEB Ltd and

does not apply to consumers of other distribution licensees. The concessions to consumers of other licensees, if any ordered may not be adjusted through a reduction in BST, but may be adjusted from their surplus funds, since all licensees other than KSEB Ltd are having accumulated surplus funds.

36. According to KSEB Ltd, their net loss is about Rs.26 crore per month for giving the concessions, excluding the cost of deferred bills till December, 2020. KSEB Ltd. also stated that the Government has already announced Rs.200 crore for allowing subsidy to the domestic consumers and any savings out of this subsidy can be set off against the loss for other consumers. However, the Commission opined that for doing so, specific orders from the Government are required, since the present subsidy is specifically targeted towards domestic consumers only. Regarding the concessions for telecom operators, KSEB Ltd stated that basically concessions were allowed to consumers who faced difficulties during the lockdown period due to business loss. Telecom companies did not face any such difficulty as the shutdown did not affect them. In the case of Railways, KSEB Ltd. opined that they may approach the Central Government for concessions.
37. Shri. Dijo Kappen, Democratic Human Rights and Environment Protection Forum stated that by KSEB Ltd's request to adjust the loss through true-up process amounts to giving concessions with one hand and taking it back with the other hand, which cannot be allowed. Further, all consumers in Kerala are eligible for concessions and should be allowed accordingly. KSEB Ltd. should be transparent in reporting the figures on the concession extended to their consumers.
38. Smt. Latha Menon, representing M/s.CPT stated that a total of Rs.37 lakh is required for giving rebates as announced by KSEB Ltd to their consumers and Rs.40 lakhs is required for providing concessions including the concessions announced for domestic consumers. According to M/s CPT, the same can be allowed through a reduction in BST.
39. Shri. Anfel, Technopark stated that discrimination should be avoided between the consumers of different distribution licensees of the State and all consumers should be extended these concessions. The consumers of Technopark are also demanding rebates and relaxations as applicable to consumers of KSEB Ltd. The total cost of concessions would be about Rs.50 lakh out of which, Rs.40 lakhs can be allowed through a reduction in BST. The balance amount may be allowed to be passed on during the true-up process.
40. Shri. Jose, TCED also requested that similar concessions should be allowed to their consumers also and the amount received by KSEB Ltd should be shared with other licensees, since the other distribution licensees of the State were exclusively buying power from KSEB and for which the Central Government had already extended concessions to KSEB Ltd. Shri. Krishna Varma, CSEZ also stated that concessions to be allowed to CSEZ consumers. M/s KPUPL also mentioned that concessions are to be given to all consumers in the State.

41. Shri. A.R. Satheesh, HT-EHT Association stated that the rebate from the Central Government is for all consumers in Kerala and hence, the concessions should be allowed to the consumers of all distribution licensees in the State. Allowing KSEB Ltd. to recover the cost during truing up is not correct, as it would be a backdoor recovery of these concessions. The concessions offered by the Government is based on the KSEB Ltd.'s proposal only and KSEB Ltd. should not discriminate among the consumers. The concessions given for online payment have to be exclusively borne by KSEB Ltd. on their account.
42. Shri. Saji Mathew, MRF Limited stated that the deferment of charges could not be availed by many consumers as they had already paid their bills. He demanded that the cost should not be allowed in the truing up. Shri. Jacob Cherian, of Manorama Ltd., Shri. Nanda Kumar/Rajesh Kuruvila, Carborandum and Shri. Renjith Jacob, Apollo Tyres also shared similar views. Shri. Viswanathan, BPCL and Shri. Prini Peter, CUMI also echoed similar arguments.
43. The Commission after hearing the parties have commented on the remarks of KSEB Ltd. Firstly, the context of the letter dated 04.05.2020 of the Commission is different and does not address the issue of giving rebate on fixed charges. Instead, it deals with the deferment of fixed charges and reduction of penal interest charges from 18% to 12% for non-payment beyond a period of 30 days for private hospitals. The stand of KSEB Ltd. that the balance amount of Rs.200 crore allowed for giving concession to domestic consumers can be taken for meeting the deficit on account of concessions to other consumers, is not correct. The said subsidy is meant for providing concessions to domestic consumers and if the same is to allowed to other consumers, specific government order to this effect is necessary. Further, KSEB Ltd. is required to furnish details of subsidy allowed to domestic consumers and its receipt of subsidy to the Commission.
44. Regarding the fixed charges of RGCCPP, Kayamkulam, NTPC has claimed an amount of Rs. 297.65 crores per year. However, the Commission has not accepted this amount (except for the year 2018-19 for which an amount of Rs.200 crore has been approved), for the rest of the control period 2019-20 to 2021-22. In this situation, the inclusion of fixed charges of RGCCPP, Kayamkulam in the calculation of rebate amounts to de-facto acceptance of NTPC's claim of fixed charges of RGCCPP. The inclusion of rebate from the fixed charges of RGCCPP in KSEB Ltd. calculations is in itself against the spirit of the Commission's Orders dated 08.07.2019.
45. The argument of KSEB Ltd. that the concessions announced by the Government cannot be passed on to the consumers of other licensees is also not correct. The stand of KSEB Ltd that the benefits obtained from the Central Government cannot be passed on to the other distribution licensees of the State cannot be accepted since KSEB Ltd. is claiming fuel surcharge from the other distribution licensees of the State. Further, all other distribution licensees purchase power exclusively from KSEB Ltd. In such a situation, logically any power purchase rebate received by

KSEB Ltd. from central stations is also required to be shared by KSEB Ltd. with the other licensees who purchase power from KSEB Ltd for its passing on to their ultimate consumers.

46. The basis of concessions given to the consumers is the announcement of the Hon'ble Chief Minister. In the said announcement of the Hon'ble Chief Minister and subsequent G.O it has clearly desired reduction of 25% on fixed charge during the lockdown periods in the months of March, April and May 2020 as a rebate. Hence, the proposal of KSEB Ltd. to recover the difference between the funds received from the Central Stations vis-a-vis the concessions to their consumers will amount to violation of the spirit of the GO.
47. Smt. Sreeja, Joint Secretary to Government also agreed that intention of the Government is to provide concessions all consumers. However, she mentioned that the stand of the Government will be communicated to the Commission within one week.
48. In order to expedite the reply, the Commission vide letter dated 20-08-2020, formally sought the views of the Government on the following two issues:
 - a. Whether the benefits extended to the consumers of KSEB Ltd be extended to consumers of other licensees.
 - b. Whether 25% rebate of fixed charges and interest waiver for remitting the balance amount is to be allowed to other consumers including agriculture, government hospitals, government educational institutions, offices of central and state Governments, offices of central and state PSUs, banks and insurance companies, old age hokes, private educational institutions etc., who are left out in the GO dated 01-06-2020.

The Government has sought certain clarifications vide letter dated 29-09-2020 and the Commission has furnished the available details vide letter dated 8-10-2020.

Analysis and decision of the Commission

49. The Commission has carefully considered the petition of KSEB Ltd., the additional submissions furnished by KSEB Ltd vide their letter dated 24-07-2020 and the comments of the consumers and other stakeholders during the hearing held on 30-06-2020 and 19-08-2020. In order to understand better the views of KSEB Ltd and the other licensees, it is necessary to trace the chronology of events leading to the announcement of various concessions by the Central and State Government, which is as shown below:
 - i. Ministry of Finance, Government of India vide Office Memorandum No.F.18/4/2020-PPD dated 19.02.2020 had clarified that disruption of supply chains due to spread of Novel Corona Virus in China and any other country

will be considered as a natural calamity and *force majeure* clause may be invoked wherever considered appropriate following the due procedure.

- ii. Ministry of Power, Government of India vide Order No.23/22/2019-R&R dated 27-3-2020, relaxed the provision for payment security ordered vide Order No.23/22/2019-R&R dated 28-6-2019, whereby load dispatch centres were to ensure the availability of adequate payment security mechanism as per the contract, before despatch of power. As per the relaxation, it was decided that considering the unprecedented and *force majeure* situation, power may be scheduled, even if payment security mechanism is established for 50% of the amount for which payment security is to be otherwise established contractually till 30-6-2020.
- iii. Ministry of Power, Government of India as per letter No.23/22/2019-R&R Part-4, dated 28-3-2020 had issued Directions under Section 107 of the Electricity Act to Central Electricity Regulatory Commission in public interest to specify a reduced Late Payment Surcharge (LPS) for payments which become delayed beyond a period of 45 days from the date of presentation of bill during the period from 24.03.2020 to 30.06.2020 to generating companies and licensees treating the restrictions placed by the Central Government as *force majeure* event. The reduced LPS is applicable for the period till 30.06.2020. Further, the LPS should not be more than the cost that the generating companies and transmission licensee would have to bear because of the delayed payment. In the case of generating companies and transmission licensees, whose tariff was determined under Section 63, Discoms may claim the relief from its obligations regarding the rate at which LPS is to be paid as per the *force majeure* provisions in the PPA.

The said directions were communicated to all State Governments with a request to issue similar directions under Section 108 of the Act to respective SERCs and the distribution companies to ***pass on similar or more benefits to the consumers with regard to LPS.***

- iv. Further to this, Central Government vide letter No.11/16/2020-Th-II dated 15-05-2020 issued the following advisory to all Power Generation and Transmission CPSEs under the Ministry of Power and all Subsidiaries/Joint Ventures of Power Generation and Transmission CPSEs under the Ministry of Power:
 - a. Deferment of capacity charges for power not scheduled, to be payable without interest after the end of lockdown period in three equal instalments.
 - b. Rebate of about 20-25% on power supply billed (fixed cost) to Discoms and inter State Transmission charges levied by PGCIL.

The above advisory was issued for **allowing the rebate to the distribution companies for “passing on to the end consumers”** for the lockdown period on account of COVID-19 pandemic. The advisory was communicated vide letter No.11/16/2020-Th-II (C No. 252648) dated 16th May 2020 to the Government of Kerala for passing on to the **end consumers in their electricity bill** for the lockdown period on account of COVID-19 Pandemic.

Further to this, Ministry of Power vide letter dated No.11/16/2020-Th-II dated 10-06-2020 communicated the amount of rebate as Rs.50.86 crore to State of Kerala.

Executive Director (Commercial) of NTPC Limited vide letter dated 12.06.2020 and the CEO, NTPC Tamil Nadu Energy Limited vide letter dated 15.06.2020 communicated that the rebates extended by the Ministry of Power is on the condition that KSEB Ltd ‘agrees not to pursue or invoke any *force majeure* related claims in any form at any forum’ **and the rebate shall be passed on to the end consumers**

- v. Hon’ble Chief Minister, Government of Kerala in the press conference held on 21.04.2020, announced that for Industrial and Commercial Consumers of KSEB Ltd, the payment of fixed charges is being deferred for the months of March, April and May 2020 up to 15.12.2020 and at an interest rate of 12% (instead of 18%) on the deferred fixed charges.
- vi. Government of Kerala vide letter No.PWR-A1/123/2020-POWER dated 30-04-2020 sought the opinion of the Commission on the proposed recommendation of the CMD, KSEB Ltd that relaxation upto 6 months for payment of fixed charges and for reduction of late payment surcharge from 18% to 12% applicable to Industrial and Commercial consumers as announced by the Chief Minister is to be made applicable to the LT/HT hospitals in private sector. The Commission in its reply dated 04-05-2020, conveyed its agreement to the Government for the said proposal. The Commission also intimated that no proposal either from the Government or from KSEB Ltd was received on the concessions announced by the Chief Minister for the industrial and commercial consumers.
- vii. In view of the direction of the Government of India vide letter dated 15-05-2020 referred to in para 49(iv) ante, the Commission vide letter dated 19-05-2020 communicated the same to the Government of Kerala and CMD, KSEB Ltd to take up the matter with the Central Power Generating Companies and Transmission Company for availing the rebate. The

Commission also directed KSEB Ltd to file a formal petition for transferring the benefit to the end consumers of the electricity in the State.

- viii. KSEB Ltd. in their Order dated 11-05-2020 and 12-05-2020 intimated that necessary changes had been made in the billing software for LT and HT/EHT industrial, Commercial and private hospitals to provide an option to the industrial and commercial consumers for deferred payment of fixed/demand charges for the month of March, April and May, 2020 upto 15-12-2020, by levying an interest of 12% instead of 18% on the deferred fixed /demand charges till 15-12-2020.
 - ix. Hon'ble Chief Minister in the Daily Press briefings on 22-05-2020 reiterated the reliefs extended to industrial and commercial consumers including private hospitals in fixed charges. Subsequent to this, in a meeting chaired by the Hon. Minister for Electricity on 28-05-2020, the modalities for implementing the announcements of the Hon'ble Chief Minister was worked out. On 30-05-2020, KSEB Ltd. issued a Board Order based on the decision taken in the meeting on 28-05-2020, granting the authority to make appropriate changes in the billing software.
 - x. Government of Kerala vide G.O.No.67/2020/PD dated 01-06-2020 issued directions to the Commission in public interest under Section 108 of the Electricity Act, 2003 for allowing 25% rebate on the fixed charges for the lockdown period during the months March, April and May 2020 and for remitting the balance amount without interest till December 2020. In addition, this GO gave directions as per Article 55 of the Articles of Association and under the Companies Act 2013, to KSEB Ltd for implementing the above rebates and concessions.
 - xi. Subsequently, based on the proposal of the CMD, KSEB Ltd dated 25-06-2020, Government of Kerala vide Order No.80/2020/PD dated 26-06-2020 ordered subsidy under Section 65 of the Act towards concessions for the Domestic consumers.
50. The Commission notes that the Ministry of Power's orders mentioned that the rebates and concessions extended to the State of Kerala should be passed on to the end consumers in the State through their electricity bills. However, the concessions announced vide G.O dated 01-06-2020 is only for KSEB Ltd and does not include the end consumers of the other nine distribution licensees in the State. Further, the G.O. dated 26-06-2020 extending the concessions for the domestic consumers under Section 65 of the Act is also directed towards KSEB Ltd only.

51. The Commission had during the hearing held on 30.06.2020 specifically brought to the notice of KSEB Ltd. that their petition for extension of relief mentioned above was limited to a few categories of consumers as mentioned in Para 6 above and did not reflect the true intent of the Ministry of Power's Order i.e. to extend it to all end consumers of the State. Pointing this out, the Commission vide Daily Order dated 02-07-2020, directed KSEB Ltd.

“to file suitable modifications if considered appropriate in the petition clearly specifying the tariff categories to which the relief is proposed to be extended. Also, the components of tariff in which the concessions/relief is proposed to be allowed to avoid ambiguity. KSEB Ltd shall also clearly mention the relaxation of the provisions of the Supply Code or other relevant statutes required against which such reliefs are sought.”

52. However, KSEB Ltd. in their additional submissions dated 24.07.2020, proposed to extend the rebate and concessions on fixed charge/demand charge to the same categories of consumers as mentioned in the original petition. The Commission had in the hearing held on 30.06.2020 also pointed out that since the proposed relief and concessions were limited only to certain categories of consumers, it will not be correct to allow its financial impact as a “pass through” during the truing up of accounts. Instead, any such action would only amount to deferment of the recovery and not amount to a rebate, adversely impact the tariff of even those non-benefitting consumers and not reflect the true intent of the Hon'ble Chief Minister's announcement.

53. The Commission also noted that KSEB Ltd in their petition dated 12-06-2020 and in their additional submissions dated 24-07-2020 had calculated the rebate receivable from M/s NTPC Ltd by including the fixed charge of RGCCPP, Kayamkulam as “Rs.297.65 crore as against the provisionally admitted figure of Rs.62.35 crore per year”. The Commission also noted that KSEB Ltd in its letter No. CE(C&P)/CML-EE1-AEEVI/2020-21/115 dated 06.07.2020 from CMD, KSEB Ltd and addressed to the Secretary, Power Department, Govt. of Kerala had requested the intervention of the Kerala Government with the Ministry of Power, Govt. of India. In this letter also, KSEB Ltd. had considered the annual fixed cost of RGCCPP as Rs. 297.65 crore/year, thereby tacitly accepting M/s NTPC Ltd claim. In this context, it is pertinent to point out that the Commission in the ARR, ERC and Tariff Order of KSEB Ltd. dated 08-07-2019 specifically mentioned that

“The Commission has been consistently insisting that the fixed cost commitments from this plant has to be reduced. The Commission had approved the fixed cost of Rs.200 crore as part of the truing up of accounts for 2015-16 and 2016-17, as NTPC and KSEB Ltd has renegotiated the fixed cost as per the directions of the Commission. Based on the negotiations the fixed cost has been reduced to Rs.200

crore per year with a provision in the agreement for reviewing this cost in 2018-19. Accordingly, the Government Kerala also consented to this and in its letter no..185/B1/17/PD dated 10-5-2018 has conveyed to KSEB Ltd that:

“However, the CMD, NTPC agreed to settle AFC payable by KSEBL to NTPC for Kayamkulam plant for entire control period 2014-19 at Rs.200 crore per annum with the liberty to review in 2018-19. NTPC has consented to provide Rs.207.13-Rs.200 crore =7.13 crore directly in the adjustment of this current year payment or reimburse the amount by way of CSR funding to KSEB Ltd. Hence, I am to request you to take necessary steps to get the excess amount paid to NTPC in prior years reimbursed rather than taking CSR funding”

The provision for review of fixed charge available in the Agreement was required to be done in 2018-19. However, KSEB Ltd is yet to inform the Commission on efforts made to renegotiate the Agreement. Therefore, the Commission hereby directs KSEB Ltd to take up the matter on priority with NTPC and renegotiate this AFC. This is further justified by the fact that KSEB Ltd themselves has mentioned in the petition that no power is proposed to be drawn from this plant and it shall be used only during extreme exigencies. Hence, the Commission hereby approves the fixed cost commitment of Rs.200 crore for 2018-19 only. No amount is approved for the rest of years in the control period till such time KSEB Ltd renegotiates the Agreement and submits its results for the Commission’s consideration”.

54. From the above facts, it is clear that the Commission has not approved any fixed charges beyond 2018-19. Hence, the Commission cannot agree to KSEB Ltd. including the 25% rebate from RGCCPP, Kayamkulam at Rs. 74.40 crore as indicated in Annexure Table 1 of the above-mentioned letter. The Commission is of the firm view that this “rebate” comes with the additional liability of Rs. 297.65 crore to KSEB Ltd. and any such unauthorised commitments will augur adversely against the interest of the consumers of Kerala. This would also seriously weaken the position of KSEB Ltd vis-à-vis NTPC Ltd in this issue. ***In this context, the Commission would like to reiterate that in the Tariff Order dated 08.07.2019, the Commission has not approved any fixed cost for RGCCPP from 2019-20 onwards.***

55. The Commission also notes that in Para 6 (vi) of KSEB Ltd.’s additional submission dated 24.07.2020, that they had stated *“any further ambiguity on the selection of deserved categories, passing on the additional burden through true up exercise etc. may please be got clarified from the Government.”* In this context, KSEB Ltd is to note that as the distribution licensee implementing the concessions

offered by Central Government, they are required to provide all the necessary details and rationale for selection of the consumer categories and its impact on the distribution licensees finances. This is especially important considering the fact that Government had taken the decision on the implementation of concessions in consultation with KSEB Ltd. During the hearing on 30.06.2020, Smt. Sreeja, Joint Secretary, Power Dept. had also mentioned that the categories and extent of concessions mentioned vide GO dated 01.06.2020 were decided based on a meeting with KSEB Ltd.

56. Regarding the issue of extending these relief and concessions to other distribution licensees of the State, KSEB Ltd vide Para 7 of their additional submissions dated 24.07.2020 had stated

“In the Government Order, it is clearly specified that Govt. has examined the measures to be taken in respect of matters related to KSEB Ltd. as part of relief measures being undertaken by the Govt. to alleviate the hardship faced by the public due to the spread of Covid-19 pandemic. Also, the direction was issued to KSEB Ltd. as per its Articles of Association. Hence the same will not be applicable to other licensees. However, they are having the liberty to approach Govt. to allow rebate to their end consumers. Considering the financial difficulties being faced by KSEB Ltd. Hon’ble Commission may please ensure that the rebate if any allowed will not be adjusted through the power bills issued by KSEB Ltd. to the Licensees. It is further submitted that KSEB shall not stand against a claim on additional burden through their truing up process, if they wish so.”

57. In this context the Commission noted that all the other distribution licensees of the State purchase “bulk power” from KSEB Ltd only. These distribution licensees thereafter provide this power to their end consumers. Hence, the power purchased by KSEB Ltd. from NTPC Ltd and other generators include a percentage of power for these distribution licensees also. Since the Ministry of Power’s notification has specifically mentioned that the reliefs and concessions extended by CPSUs are to be passed on the end consumers of the State, the Commission is of the view that these concessions will also have to be passed on to all end consumers irrespective of their distribution licensee. During the hearing held on 30.06.2020, Shri Sateesh of HT/EHT Association had pointed out that KSEB Ltd is passing on the additional burden of fuel surcharge to all bulk power purchasers of the State. Hence it is not fair to deny this benefit to the consumers of other distribution licensees.

58. In the light of the above facts and the views of the Government sought by the Commission as mentioned in para 48 above, the Commission proceeded to

examine each of the modified prayers of KSEB Ltd furnished vide letter dated 24-07-2020.

a) Rebate of 25% on the fixed/demand charges for Industrial, Commercial and Private Hospitals for the lock down period

59. As mentioned earlier, KSEB Ltd vide their additional submissions dated 24.07.2020 clarified that the proposed rebate of 25% on the fixed charges and demand charges is to be given only to the consumers under the tariff categories LT IV(A) Industry, LT IV(B) IT & IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under the aforementioned tariff categories, availing supply at HT & EHT voltage level. The rebate is applicable for the period of three months i.e., March, April and May 2020. The payment of balance fixed/demand charge (75%) of these months, is deferred up to 15.12.2020, without levying interest. KSEB Ltd. during the Commission's hearing held on 19-08-2020 has also clarified that other than the above mentioned categories, they do not propose any rebate or concessions to any other categories of consumers, except the domestic consumers, who are being extended the benefit of subsidy as per GO dated 26.06.2020.

60. The Commission also noted that vide Order dated 01.06.2020, Government of Kerala has issued directions under Section 108 of the Electricity Act 2003, to the Commission regarding the implementation of these rebates. The provisions under Section 108 of the Act are as shown below:

Section 108. (Directions by State Government): - (1) *In the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.*

(2) *If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.*

61. It is a fact that the Commission in its letter dated 30-04-2020 had communicated a favourable opinion to the Government, for extending the benefit of reducing the delayed payment surcharge from 12% to 18% to private hospitals. This proposal was in line with the direction of the Central Government relaxing the payment security requirement and reduction in late payment surcharge for the overdue bills issued during the lockdown period (24.03.2020 to 30.06.2020). The Central Government had also directed CERC to specify that the late payment surcharge for the period shall not be more than the cost that the generating and transmission licensees would have to bear because of late payment. In this light, the Commission had conveyed that financial implication if any on this account can be

considered during the truing up process, unless KSEB Ltd submits alternate proposal.

62. However, this scheme was thereafter modified and enhanced by allowing rebate of 25% on the fixed/demand charges to the above-mentioned categories and payment of the balance amount was also permitted by December 2020 without penal interest. The Government also issued direction to the Commission under Section 108 of the Electricity Act, 2003 for smooth implementation of the same. Accordingly, KSEB Ltd also modified their proposal vide letter dated 24-07-2020.

63. The Commission has carefully considered the above prayer of KSEB Ltd. As mentioned above, the rebate and relaxations were ordered by the Govt. of Kerala to surmount the difficult situation that arose due to the spread of the Covid-19 pandemic and subsequent lockdowns. The Commission also noted that the GO was issued in public interest and direction to the Commission under Section 108 of the Electricity Act was also given. However, since the rebate/relaxations were extended on account of the lockdown imposed and the lockdown began only on 24.03.2020, KSEB Ltd should have limited these concessions to the lockdown period only. Further, the G.O dated 01-06-2020 clearly mentions that 25% rebate to be given to commercial and industrial establishments and private hospitals on the fixed charges during lockdown period (2020 March, April, May months) and the balance fixed charges to be paid by 2020 December without interest.

64. ***Hence, the Commission hereby grants KSEB Ltd's prayer to allow rebate of 25% on the demand/fixed charges to the above said categories of consumers and to defer the payment of balance demand/fixed charges (75%) of these months up to 15.12.2020. However, since these concessions were extended on account of the Covid-19 lockdowns and subsequent slowdown of the economy, these concessions shall commence from 24.03.2020 instead of from 01.03.2020 as proposed by KSEB Ltd. in their petition. However, if KSEB Ltd desires to allow the rebate from 01-03-2020, the additional commitment on this account shall be at the expense of KSEB Ltd.***

b) **Exemption of Surcharge applicable for the delayed payment of the balance 75% of the fixed/demand charges:**

65. KSEB Ltd in their petition has requested for the exemption of surcharge applicable on the deferred payment of the balance fixed charge/demand charge (75%) to the consumers under tariff categories LT IV(A) Industry, LT IV(B) IT &IT Enabled Services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under aforementioned tariff categories, availing supply at HT &EHT voltage level for the months of March, April and May-2020 up to 15.12.2020. The

said relaxation is to be allowed by invoking Regulation 179 (power of relaxation and power to remove difficulties) of the Kerala Electricity Supply Code, 2014

66. The Commission has carefully examined the matter. As per the relaxations ordered by the Government of Kerala, the balance 75% of fixed charge payable is deferred upto 15-12-2020, waiving the penal interest. Relevant Regulations regarding the payment of bills and penal interest charges are given below:

122. General provisions relating to billing. -

.....
(10) of the Kerala Electricity Supply Code, 2014, provides for the due date of payment as the 10th day of reading or any day thereafter.

Regulation 131 of the Kerala Electricity Supply Code deals with billing and payment of bills.

131. Payment of bills and penal interest for belated payments. - (1) The Consumer shall pay to the licensee the full amount of the bill on or before the due date indicated therein for which the licensee shall issue a receipt.

(2) If the consumer fails to remit the bill amount on or before the due date, the licensee is entitled to recover interest on the amount of the bill at the rates specified in the Schedule of Miscellaneous Charges as per Schedule 1 of the Code.

(3) The Consumer shall be permitted to remit the amount of the bill with interest as specified in the sub regulation (2) above, within the extended period of fifteen days from the due date specified in the bill.

(4) If the consumer fails to remit the amount even within such extended period, the licensee may disconnect the supply in accordance with the procedure specified in Chapter VIII of the Code.

Schedule of Miscellaneous charges (Schedule-1) of Kerala Electricity Supply Code, 2014, provides that rate of interest for delayed payment shall be 12% per annum upto a period of 30 days and thereafter 18% per annum for the entire period of default.

67. In order to implement the Government direction pertaining to interest, relaxation is required on the above provisions of the Kerala Electricity Supply Code, 2014. As per Regulation 179 of the Kerala Electricity Supply Code 2014, the Commission may relax any provisions of the Code in public interest. The provision is reproduced below:

179. Power of relaxation and power to remove difficulties. - (1) The Commission may in public interest and for reasons to be recorded in writing, relax any of the provisions of the Code

68. The Commission noted that the rebates and relaxations were provided to reduce the difficulties experienced by the consumers during the lock down imposed by the State and Central Government. As such there is a public interest involved the matter. **Accordingly, the Commission as per the provisions contained under Section 179, hereby relax the above said Regulations for implementing the extension of due date and payment of bills without interest charges for the period for the categories of consumers as mentioned in Para 65 above and as proposed by KSEB Ltd till 15.12.2020.**

c) Pass through of additional burden on account of rebate/reliefs granted during the truing up process:

69. KSEB Ltd. in their petition had submitted that the rebate amount extended to consumers as per Government direction is being adjusted in the bills issued from 01.07.2020. As per KSEB Ltd's estimate, the total rebate is Rs.76.62 crore and the amount deferred is about Rs.229.89 crore. However, the rebate offered by Central Public Generating and Transmission Companies to the State of Kerala is only Rs.50.86 crore and the deferment of capacity charges is Rs.63.38 crore. Of this, the rebate extended by NTPC of Rs. 30.60 crores include the rebate on the annual fixed charges of Rs.297.65 crores of RGCCPP, from which power is not proposed to be scheduled and whose fixed charges have not been approved by the Commission beyond 2018-19. Hence, KSEB Ltd. submitted that there will be a shortfall in the revenue due to the less amount being received as rebate vis-à-vis the rebate allowed.

70. To overcome this revenue shortfall, KSEB Ltd. in their petition proposed that the difference in the rebate received and paid be adjusted during the truing up process. KSEB Ltd. further pointed out that the Commission in the letter dated 30-04-2020 had conveyed to the Government that the financial impact, if any, will be considered during the truing up exercise, unless KSEB Ltd has alternate proposal.

71. The Commission has examined these issues in detail and noted that the rebate receivable from the CGS/CTU as per Ministry of Power Order dated 15.05.2020 clearly mentions that the rebate etc. is for the lockdown period on account of Covid-19 pandemic. Hence, strictly speaking, Min. of Power is required to commence these concessions w.e.f. 25.03.2020 and not from 01.04.2020. From the calculations done by the CPSUs, it appears that they have allowed the rebate and other concessions only with effect from 01.04.2020 and not from the day of commencement of the lockdown. Since these calculations do not truly reflect the

Min. of Power Orders and its intent, the Commission hereby directs KSEB Ltd. to actively pursue this anomaly with the Min. of Power to get the benefit for the lockdown period in March also.

72. The Commission further noticed that the lockdown in Kerala started from 24.03.2020 and the national lockdown extended from 25.03.2020 till 14.04.2020 (phase-1 – 21 days), 15.04.2020 to 03.05.2020 (Phase 2 - 19 days), 04.05.2020 to 17.05.2020 (Phase 3 – 14 days) and from 18.05.2020 to 31.05.2020 (Phase 4 -14 days). The Government Order dated 01-06-2020, reads as follows:

“rebate of 25% of the fixed charges is allowed for the industrial, commercial and private hospitals for the months of March, April and May 2020 (for the lockdown period).” (approximate English translation)

73. The Commission also noted that the Government Order dated 01.06.2020 clearly mentioned that the rebate of 25% in fixed charges and deferment of the balance amount without interest till December 2020 to the aforesaid categories of consumers were to be given for the lockdown period. However, KSEB Ltd is seen to have extended the 25% rebate and concessions to the aforesaid category of consumers for the three full calendar months (March, April & May). This action by KSEB Ltd.’s has also contributed in exceeding KSEB Ltd.’s rebate commitment to that extent vis-à-vis the receipts from the Central Stations.

74. The Commission is of the considered opinion that since this rebate is on account of the Covid-19 lockdown, which commenced only from 24.03.2020, this rebate too should have been extended by KSEB Ltd. only from the date of commencement of the lockdown i.e., from 24.03.2020 and not from 01.03.2020. The Commission also noted that the GO dated 01.06.2020 extending the Covid-19 lockdown benefit mentions only the lockdown period during the March, April and May. Hence, KSEB Ltd. did have the opportunity to limit it to the lockdown period instead of extending it to the whole month of March. This extension, in turn has led to an additional burden on KSEB Ltd.’s revenue. Had KSEB Ltd. restricted the concessions to the lockdown period, the gap in the revenue would have been narrower.

75. KSEB Ltd. has requested the Commission to allow the differential amount to be passed on to the consumers during the truing up process. Regarding this request, the Commission is of the view that such an action will result only in the deferment of the consumer’s payment and not provide the relief as intended by the GO. Further, allowing this additional financial liability as a pass through during truing up would result in the additional burden for the categories of consumers who did not get any rebate.

76. Hence, after considering the matter in detail and since the detailed clarification from the Power Dept. is still awaited, the Commission is of the view that the matter can, if required, be taken up by KSEB Ltd with the Commission at an appropriate time, based on the final decision of Government of Kerala in this matter.

d) Pass through the financial impact by way of additional interest and finance charges due to extension of due dates for all consumers during the lockdown period and deferment of fixed charge/ demand charge during truing up of FY 2020-21

77. KSEB Ltd has requested to pass on to the consumers the interest cost on the deferment of the payment of bills. As mentioned in the foregoing paras, the intent of the Govt. was to provide relief to the suffering consumers due to the Covid-19 pandemic. It is also seen that while the Min. of Power clearly mentioned that the benefits of the concessions being extended by the CPSUs have to be passed on to the end consumers, KSEB Ltd.'s proposal does not reflect this intent. Further, allowing as a pass through the financial impact by way of additional interest and finance charges due to the extension of due dates for all consumers would only amount to the deferment of the burden.

78. The Commission was also informed during the hearings that there were many consumers who could not avail the benefits of deferred payment, since the orders in this regard were issued by KSEB Ltd. subsequently. Hence it will be a miscarriage of justice if such consumers are also made to bear the additional burden of interest and finance charges for a facility that they did not or could not avail. **However as mentioned earlier, this issue too can be considered if taken up by KSEB Ltd. after the views of the Government is received in the Commission. KSEB Ltd shall however have to report the actual interest burden incurred on such relaxations.**

e) Allow relaxation in Regulation 73(4) of Kerala Electricity Supply Code, 2014, for deferring the demand for additional security deposit in the 1st quarter of FY 2020-21.

79. KSEB Ltd in their petition has submitted that they have deferred the collection of Additional Security Deposit, based on the annual review of adequacy of security deposit of the consumers during the first quarter of 2020-21, as required under the Regulation 73(4) of Kerala Electricity Supply Code 2014. According to KSEB Ltd, the said deferment was done to reduce the financial difficulties faced by the consumers. KSEB Ltd requested to relax Regulation 73(4), by invoking Regulation 179 of the Kerala Electricity Supply Code.

80. The Commission has examined the matter in detail and noted that KSEB Ltd had *suo-motu* decided to relax the provision of the Kerala Electricity Supply Code

2014, without the prior approval of the Commission. This is not at all a desirable trend and can neither be appreciated nor allowed. The power to relax the provisions of the Kerala Electricity Supply Code, 2014 is vested solely with the Commission and any such unauthorised relaxation by any licensee cannot be retrospectively approved by the Commission. ***KSEB Ltd. is hereby directed to take note of this, strictly adhere to the provisions of the Kerala Electricity Supply Code 2014 and informed that no such relaxation shall be given by the Commission in future. However, considering the present situation, the Commission agrees to relax the provisions of Regulation 73(4) for the first quarter of 2020-21 as a onetime measure, by exercising the powers under Regulation 179 of the Kerala Electricity Supply Code, 2014.***

f) ***Allow pass through of rebate of 5% of the total bill subject to a maximum of Rs.100/- for promotion of online payment facility for first time users as a force majeure measure.***

81. KSEB Ltd. in their petition has submitted that in order to encourage on-line transactions during the lockdown period, they had allowed a 5% cash back (subject to a maximum of Rs.100/bill) for first time users of online bill payment facility. This allowance was extended to those consumers who availed this facility between 04.05.2020 and 31.05.2020. KSEB Ltd. further submitted that this facility was availed by 6.78 lakh consumers and an amount of Rs.3.25 crores was adjusted in the bills issued in June/July-2020 on account of cash back relief for online payment. KSEB Ltd. justified this action as due to the unprecedented situation that arose out of the restrictions on the movement of public placed by the Central/State Governments to contain the Covid-19 pandemic. KSEB Ltd. requested the Commission to allow the said relief in the truing up process.

82. The Commission notes that KSEB Ltd. provided the said facility during the lock down period for encouraging consumers to make payment through online mode when the KSEB Ltd. offices were closed. KSEB Ltd., has submitted that substantial number of consumers have used this facility resulting in receipt of revenue even during the lockdown period. This, in turn has contributed to KSEB Ltd. cash flow requirements and improved the collection efficiency during this period. This is a very positive action by KSEB Ltd. and the Commission places on record its appreciation. ***Hence, the Commission hereby agrees to consider allowing as a pass through the rebate of 5% of the total bill subject to a maximum of Rs.100/- for promotion of online payment facility for first time users during the truing up process, as a special case. For the same, KSEB Ltd may provide to the Commission, the complete details of actual rebate extended to the consumers.***

- g) ***Exemption of the application fee for new service connection applications submitted through online for a period of one-year i.e. up to 31.03.2021, as part of a measure to contain the Covid-19 pandemic.***

83. KSEB Ltd. in their petition have submitted that they have decided to allow waiver of application fee for new service connections submitted online up to 31.03.2021. As per Schedule-1 of the Kerala Electricity Supply Code, 2014 the application fee for new service connection for LT is Rs.50/-, HT and EHT supply is Rs.1000/- and Rs.5000/- respectively. According to KSEB Ltd, the said measure is to limit the number of visitors in their field offices in view of the Covid-19 pandemic.

84. The Commission examined the matter. Since this facility is valid till 31.03.2021, KSEB Ltd. is not in a position to estimate its financial implication. The Commission notes that in the Covid-19 situation, there is a requirement to reduce personal visits by consumers to KSEB Ltd.'s office and to encourage them to move towards digital payment mode. It is also necessary that alternate method of application submission be made available to the consumers. Already, the trend is towards digitalization and many Government Departments have switched to digital mode. However, the necessity of extending this facility for nearly one year especially when the country is going through an unlocking phase and the restrictions are being eased in a phased manner, may be reviewed by KSEB Ltd. ***In the absence of the details such as the number of new applicants, their categories, etc. the Commission is not able to properly evaluate the financial implications of this Scheme. However, the Commission taking into consideration the severe impact of the Covid-19 pandemic on the State's economy approves KSEB Ltd.'s proposal in public interest.***

- h) **Rebates to domestic consumers offered by Government of Kerala as per Section 65 of the Act:**

85. The Commission noted that based on CMD, KSEB Ltd.'s letter KSEBL/TRAC-D/Covid Pandemic-tariff concession/2020-21 dated 25.06.2020, KSEB Ltd in their additional submissions dated 24.07.2020 had stated that Power Dept. vide GO dated 26.06.2020 had issued orders extending subsidy to domestic consumers. KSEB Ltd further submitted that the total financial commitment in providing subsidy to this category of consumers is estimated at Rs.200 Crore. Based on this GO, KSEB Ltd. is directly adjusting the subsidy in the electricity bills issued to domestic consumers from 07.07.2020, and for those whose bills were issued between 28.06.2020 and 06.07.2020, separate SMS has been sent to intimate the subsidy amount. About 90 Lakh domestic consumers of KSEB Ltd. is estimated to be benefited on account of this. KSEB Ltd reported that the exact amount of subsidy released to consumers on this account would be known only after issuing of bills in the coming bimonthly cycle (July-August-2020) and will be submitted to the Commission promptly.

86. The Commission has examined the submission furnished by KSEB Ltd. The Government vide letter dated 29.06.2020 has forwarded G.O. No.80/2020 dated 26.06.2020 on allowing subsidy under Section 65 of the Electricity Act, 2003. The said provision is quoted below:

Section 65. (Provision of subsidy by State Government): *If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:*

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.

87. As per the above provision, if the State Government desires to provide subsidy to any class of consumers on the tariff determined by the Commission, the amount required to compensate the person affected by the grant of subsidy is to be paid in advance and in the manner specified by the Commission. The Commission has sought the details of the subsidy amount necessary for allowing the concessions offered by Government. KSEB Ltd. in their reply dated 24.07.2020 has stated that the actual amount of subsidy will be known only after the issue of bills in the forthcoming bimonthly billing cycle from July to August 2020. Their initial estimate of the subsidy requirement is Rs.200 Crore.

88. ***Since the above GO has been issued as per Section 65 of the Electricity Act, the Commission accepts this prayer of KSEB Ltd. Further, the State Government may provide the subsidy as per the actual figures furnished by KSEB Ltd in the months of January and February, 2021, but not later than the end of the financial year 2020-21 either as a lumpsum or in such other manner as decided by the State Government. KSEB Ltd. is directed to furnish to the Commission, after completing the disbursement of subsidy to consumers, the details of the actual amount of subsidy paid to the consumers and the actual subsidy received from the State Government. The final settlement of accounts of the subsidy with the Government will be ordered, once the details are furnished by KSEB Ltd.***

i) **Extending the relaxations ordered by the Government to consumers of other licensees:**

89. The Commission noted that the Min. of Power vide GO dated 15.05.2020 had stated “to offer the following rebate to the distribution companies (Discoms) **for passing on to the end consumers for the lockdown period** on account of Covid-19 pandemic:

- a. Deferment of capacity charges for power not scheduled, to be payable without interest after the end of lockdown period in three equal instalments.
- b. Rebate of about 20-25% on power supply billed (fixed cost) to Discoms and inter State Transmission charges levied by PGCIL.”

90. This advisory from the Min. of Power was communicated vide letter No.11/16/2020-Th-II (CNo. 252648) dated 16.05.2020 to the Government of Kerala and to Discoms. In line with this communication, the Commission in its Daily Order dated 02.07.2020 directed that a copy of the Order is to be given to all other distribution licensees in the State. This was to facilitate the other distribution licensees to furnish their detailed estimate/actual financial commitment, if available, on account of relaxations proposed to be allowed to consumers. Accordingly, the licensees have furnished their estimates and short fall in revenue for providing the rebate of 25% on the fixed/demand charges for industrial, commercial and private hospitals for the three months i.e., March, April and May. As per the details furnished by the other distribution licensees, the total financial commitment is about Rs.3.85 crore.

91. However, KSEB Ltd in their additional submissions dated 24.07.2020 regarding this issue stated that

“in the Government order, it is clearly specified that Govt. had examined the measures to be taken in respect of matters related to KSEB Ltd as part of relief measures being undertaken by the Govt. to alleviate the hardship faced by the public due to spread of Covid-19 pandemic. Also, the direction was issued to KSEB Ltd as per its Articles of Association. Hence, the same will not be applicable to other licensees”.

92. KSEB Ltd further submitted that considering the financial difficulties being faced by KSEB Ltd., the rebates, if any allowed to the other distribution licensees in the State may not be adjusted through the power bills issued by KSEB Ltd. to the Licensees. KSEB will not stand against a claim on additional burden through their truing up process, if they wish so.

93. The Commission has carefully examined the matter in detail and noted that the rebate/concessions extended by the Min. of Power to the State of Kerala as per their GO dated 15.05.2020 had intended these financial benefits to be passed on to the end consumers of electricity in the State. In this context the Commission noted that all the other distribution licensees of the State purchase “bulk power” from KSEB Ltd only. These distribution licensees thereafter provide this power to their end consumers. Hence, the power purchased by KSEB Ltd. from NTPC Ltd and other generators and the transmission charges paid by KSEB Ltd for this power purchased include a percentage of power for these distribution licensees also.
94. Since the Ministry of Power’s notification has specifically mentioned that the reliefs and concessions extended by CPSUs are to be passed on the end consumers of the State, the Commission is of the view that these concessions will also have to be passed on to all end consumers in the State irrespective of their distribution licensee. During the hearing held on 30.06.2020, Shri Sateesh of HT/EHT Association had brought to the notice of the Commission that KSEB Ltd is passing on the additional burden of fuel surcharge to all bulk power purchasers of the State, which in turn is being collected from the end consumers. Hence, denying this benefit will be unfair and discriminatory to the consumers of other distribution licensees.
95. The Commission has duly considered both the submissions. It is an undeniable fact that all the other distribution licensees of the State are procuring power from KSEB Ltd. in bulk. Hence, the rebate/concessions extended to KSEB Ltd by the CPSUs included rebate and other concessions on this purchase also, though KSEB Ltd has objected to passing on the benefits to the consumers of other licensees. It is also true that the Government directions and orders are for KSEB Ltd. However, this relief is extended to the State of Kerala by the Govt. of India and is required to be transferred to the end consumers in State, which include all power consumers in the State.
96. However, since the GO dated 01.06.2020 is addressed only to KSEB Ltd. and not to the other distribution licensees of the State, the Commission desired to seek the views of the Government regarding this issue. Hence, the Commission vide letter dated 20-08-2020 requested the Power Department in this regard. However, the reply from the Government is still awaited.
97. The Commission also noted that except for Thrissur Corporation Electricity Department (TCED), all other distribution licensees in the State are yet to file any petition in this regard. **Hence, at this point, the Commission is of the view that the current Order shall specifically be for KSEB Ltd consumers only. In so far as the consumers of other distribution licensees are concerned, the Commission hereby directs that they shall, if considered appropriate file the**

relevant petition for extending similar benefits to their consumers. The issue regarding adjusting the financial impact of these reliefs to the consumers of other distribution licensees shall be considered by the Commission thereafter taking into consideration the views of the Government.

Orders of the Commission

98. Considering the fact that the views of the Government are awaited on the important issues raised by the Commission, the following orders are issued on the prayers of KSEB Ltd.

- a) Regarding the rebate of 25% on the fixed/demand charges to consumers under the tariff categories LT IV(A) Industry, LT IV(B) IT & IT Enabled services, LT VII(A) Commercial, LT VII(B) Commercial, LT VII(C) Commercial, private hospitals categorised under LT VI (G) General and also to the consumers categorised under the aforementioned tariff categories availing supply at HT & EHT voltage level for the lock down period, the Commission grants KSEB Ltd.'s prayer to allow a rebate of 25% to the above said categories of consumers. However, since these concessions were extended on account of the Covid-19 lockdowns and subsequent slowdown of the economy, these concessions shall commence from 24.03.2020 instead of from 01.03.2020 as proposed by KSEB Ltd. in their petition. In case KSEB Ltd. decides to allow the rebate from 01.03.2020, the additional commitment on this account has to be borne by KSEB Ltd

Further, the rebate in fixed/demand charges shall be shown separately as a reduction in bill, in the same way as subsidy under section 65 of the Electricity Act is shown. The actual amount of rebate offered to each consumer class and the actual amount of relief received from the generating companies and transmission licensees are to be furnished to the Commission, once the rebate is disbursed and not later than the close of the financial year 2020-21.

KSEB Ltd. is also directed to peruse the issue of short credit of relief amount by the Central PSU based on their billing and ensure that the eligible amount as per the Min. of Power letter is obtained from the Central PSUs.

- b) The prayer to defer the payment of balance 75% fixed charges of three months up to 15.12.2020 and exemption of Surcharge applicable for the delayed payment of the balance 75% of the fixed/demand charges, is also allowed. Accordingly, exercising the powers under Regulation 179 of the Kerala Electricity Supply Code 2014, the Commission hereby relax the relevant Regulations for implementing the extension of due date and payment of bills without interest charges for the period for the different categories of consumers as proposed by KSEB Ltd. till 15th December 2020.

- c) On the request of KSEB Ltd. to permit as a pass through the additional burden on account of rebate/reliefs granted during the truing up process, the Commission directs that KSEB Ltd. can if considered necessary take up the matter with the Commission after the decision of Government of Kerala is received in this matter.
 - d) Regarding the proposal for pass through of additional interest and finance charges due to extension of due dates for all consumers during the lockdown period and deferment of fixed charge/demand charge during the truing up of FY 2020-21, the Commission hereby directs that this issue too can be taken up by KSEB Ltd. with the Commission once the decision of the Government is received in the Commission.
 - e) The prayer of allowing relaxation in Regulation 73(4) of Kerala Electricity Supply Code, 2014, for deferring the demand for additional security deposit in the 1st quarter of FY 2020-21 is also allowed as a one-time measure by exercising the powers conferred under Regulation 179 of the Kerala Electricity Supply Code, 2014.
 - f) The request for allowing the pass through of rebate of 5% of the total bill subject to a maximum of Rs.100/- for promotion of online payment facility for first time users as a force majeure measure is also allowed as a special case. For the same, KSEB Ltd may provide the complete details of actual rebate extended to the consumers.
 - g) The prayer for exemption of the application fee for new service connection applications submitted online for a period of one-year i.e. up to 31.03.2021, as part of a measure to contain the Covid-19 pandemic is also allowed in public interest, taking into consideration the severe impact of the Covid-19 pandemic on the State's economy.
 - h) Rebates to domestic consumers offered by Government of Kerala as per Section 65 of the Act is also allowed considering the G.O. dated 26.06.2020. The State Government may provide the subsidy based on the actual figures furnished by KSEB Ltd in the months of January and February, 2021 but not later than the end of the financial year 2020-21 either as a lumpsum or in such other manner as decided by the State Government considering the provisions of Section 65 on advance payment of subsidy.
 - i) KSEB Ltd. is directed to furnish to the Commission, after completing the disbursement of subsidy to the domestic consumers, the details of the actual amount of subsidy paid to the consumers and the actual subsidy received from the State Govt. The final settlement of accounts of the subsidy with the Government will be ordered once the details are furnished by KSEB Ltd.
99. Regarding extending the relaxations ordered by the Government to consumers of other licensees, at this point, the Commission is of the view that the current Order shall specifically be for KSEB Ltd. consumers only. In so far as the consumers of

other distribution licensees are concerned, the Commission hereby directs that they shall, if considered appropriate file the relevant petition for extending similar benefits to their consumers. The issue regarding adjusting the financial impact of these reliefs to the consumers of other distribution licensees shall be considered by the Commission thereafter, taking into consideration the views of the Government.

100. Petition disposed of. Ordered accordingly.

**Sd/-
Preman Dinaraj
Chairman**

Approved for issue

**Sd/-
Secretary(i/c)**