# BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION

In the Matter of: **Review Petition against KSERC order dated 14th September 2018 in Petition OA No 12/2018 in the matter of Truing Up of accounts of KSEBL for the year 2016-17.**

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

THE PETITIONER HUMBLY STATES THAT:

1. Hon'ble Commission as per order dated **14th September 2018** in Petition **OA No 12/2018** in the matter of Truing Up of accounts of KSEBL for the year 2016-17 has approved the revenue gap for the year at Rs 1031.06 Cr as against the revenue gap of Rs 2104.59 Cr sought to be trued up for the year. A comparison of the various expenses as per the C&AG audited accounts and the order on Truing Up for the year is detailed below.

**Appendix 1 SBU wise break up of Truing up 2016-17**

| | | As per True up Petition 2016-17 | | | | Trued up by KSERC | | | | Variation-Petition vs TU | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| No | Particulars | SBU G | SBU T | SBU D | Total | SBU G | SBU T | SBU D | Total | SBU G | SBU T | SBU D | Total |
| 1 | Cost of Gen(SBUG | | | 695.23 | | | | 646.26 | | 0.00 | 0.00 | -48.97 | |
| 2 | Power Purchase | | | 7047.79 | 7047.79 | | | 7040.66 | 7040.66 | 0.00 | 0.00 | -7.13 | -7.13 |
| 3 | InterState Tranmn | | | 503.62 | 503.62 | | | 503.62 | 503.62 | 0.00 | 0.00 | 0.00 | |
| 4 | Transmn (SBU-T) | | | 991.11 | | | | 763.05 | | 0.00 | 0.00 | -228.06 | |
| 5 | Cost of generation | 23.45 | | | 23.45 | 23.45 | | | 23.45 | 0.00 | 0.00 | 0.00 | 0.00 |
| 6 | Interest & FC | | | | 0.00 | | | | | 0.00 | 0.00 | 0.00 | 0.00 |
| | Interest on loans | 57.47 | 64.63 | 313.69 | 435.79 | 71.38 | 70.54 | 422.16 | 564.08 | 13.91 | 5.91 | 108.47 | 128.29 |
| 7 | Less: Capitalized | 7.42 | 8.35 | 48.86 | 64.63 | 0.00 | 0.00 | 0.00 | 0.00 | -7.42 | -8.35 | -48.86 | -64.63 |
| | Net interest | 50.05 | 56.28 | 264.83 | 371.16 | 71.38 | 70.54 | 422.16 | 564.08 | 21.33 | 14.26 | 157.33 | 192.92 |
| | Interest on GPF | | | 143.45 | 143.45 | | | | | 0.00 | 0.00 | -143.45 | -143.45 |
| | Other interest | | | 19.10 | 19.10 | | | | | 0.00 | 0.00 | -19.10 | -19.10 |
| | Int on SD | | | 163.56 | 163.56 | | | | | 0.00 | 0.00 | -163.56 | -163.56 |
| | OD interest | | | 248.94 | 248.94 | | | | | 0.00 | 0.00 | -248.94 | -248.94 |
| | Total I&F | 50.05 | 56.28 | 839.88 | 946.21 | 71.38 | 70.54 | 422.16 | 564.08 | 21.33 | 14.26 | -417.72 | -382.13 |
| 9 | Depreciation | 188.79 | 183.20 | 245.51 | 617.50 | 124.59 | 147.71 | 97.57 | 369.87 | -64.20 | -35.49 | -147.94 | -247.63 |
| | Carrying cost | | | | | | | 407.49 | 407.49 | 0.00 | 0.00 | 407.49 | 407.49 |
| | O&M Expenses | | | | | | | | | 0.00 | 0.00 | 0.00 | 0.00 |
| 10 | Employee cost | 167.44 | 296.60 | 1918.60 | 2382.64 | 81.89 | 233.76 | 1606.72 | 1922.37 | -85.55 | -62.84 | -311.88 | -460.27 |
| 11 | Less: Capitalized | 76.28 | 36.31 | 130.33 | 242.92 | 0.00 | 0.00 | 0.00 | 0.00 | -76.28 | -36.31 | -130.33 | -242.92 |
| 12 | Balance | 91.16 | 260.29 | 1788.27 | 2139.72 | 81.89 | 233.76 | 1606.72 | 1922.37 | -9.27 | -26.53 | -181.55 | -217.35 |
| 13 | R&M expenses | 27.70 | 47.21 | 190.21 | 265.12 | 19.83 | 70.20 | 198.22 | 288.24 | -7.87 | 22.99 | 8.01 | 23.13 |
| 14 | A&G expenses | 22.70 | 70.66 | 306.77 | 400.13 | 4.59 | 16.53 | 90.82 | 111.94 | -18.11 | -54.13 | -215.95 | -288.19 |
| 15 | Less: Capitalized | 13.01 | 5.67 | 6.66 | 25.34 | 0.00 | 0.00 | 0.00 | 0.00 | -13.01 | -5.67 | -6.66 | -25.34 |
| 16 | Balance | 9.69 | 64.99 | 300.11 | 374.79 | 4.59 | 16.53 | 90.82 | 111.94 | -5.10 | -48.46 | -209.29 | -262.85 |
| | O&M New stations | | | | | 6.30 | | | 6.30 | 6.30 | 0.00 | 0.00 | 6.30 |
| 17 | Total O&M Expenses | 128.55 | 372.49 | 2278.59 | 2779.63 | 112.61 | 320.48 | 1895.76 | 2328.85 | -15.94 | -52.01 | -382.83 | -450.78 |
| 18 | Return on equity | 203.63 | 217.59 | 68.64 | 489.86 | 240.72 | 105.10 | 144.04 | 489.86 | 37.09 | -112.49 | 75.40 | 0.00 |
| 19 | Other Expenses | 41.16 | 69.94 | -61.35 | 49.75 | 41.16 | 69.94 | -71.61 | 39.49 | 0.00 | 0.00 | -10.26 | -10.26 |
| | Terminal benefits | 81.83 | 127.07 | 1012.16 | 1221.06 | 54.58 | 84.75 | 675.07 | 814.40 | -27.25 | -42.32 | -337.09 | -406.66 |
| 20 | Total ARR | 717.46 | 1026.57 | 13621.18 | 13678.87 | 668.49 | 798.52 | 12524.07 | 12581.76 | -48.97 | -228.05 | -1097.11 | -1097.10 |
| 21 | Less Tariff Income | 0.00 | 0.00 | 11036.77 | 11036.77 | | | 11036.78 | 11036.78 | 0.00 | 0.00 | 0.01 | 0.01 |
| 22 | Less Non-Tariff Income | 22.23 | 35.46 | 479.82 | 537.51 | 22.23 | 35.46 | 456.23 | 513.92 | 0.00 | 0.00 | -23.59 | -23.59 |
| 23 | Transfer price | 695.23 | 991.11 | 11516.59 | 11574.28 | 646.26 | 763.05 | 11493.01 | 11550.70 | -48.97 | -228.06 | -23.58 | -23.58 |
| 24 | Net Revenue Gap | | | 2104.59 | 2104.59 | | | 1031.06 | 1031.06 | | | -1073.53 | -1073.52 |

2. KSEBL submits that, while approving the truing up petition based on the audited accounts, Hon'ble Commission was pleased to approve most of the claims made by KSEBL. However, Hon'ble Commission has not considered the actual expenditure furnished by KSEBL in certain instances and apparent errors has crept in while approving certain expense components. Hence, KSEBL submits this petition before the Hon'ble Commission for the kind review of the order dated 14th September 2018.

## I. Disallowance under interest & finance charges (Rs.382.13 Cr)

3. Item wise details of disallowance is furnished below:

| Table -3 : SUMMARY OF I&F FY 2016-17 | | | | |
|---|---|---|---|---|
| **No** | **Particulars** | **Trued up claimed** | **Trued up by KSERC** | **Disallowance** |
| 1 | Net interest (before fair valuation) | 371.16 | 223.26 | -147.90 |
| 2 | Interest on GPF | 143.45 | 143.45 | 0.00 |
| 3 | Other interest | 19.10 | 19.62 | 0.52 |
| 4 | Interest on SD | 163.56 | 163.56 | 0.00 |
| **5** | OD interest | 248.94 | 0.00 | -248.94 |
| 6 | Interest on Working Capital | 0.00 | 14.19 | 14.19 |
| 7 | Total I&F | 946.21 | 564.08 | -382.13 |

4. It may be kindly seen that the disallowances were made under interest on loan and overdraft. The approval of interest on loans were made on normative basis, the methodology as spelt out in the order (page 61) is reproduced below:

*2.123. Concurrent reading of the provisions in Regulation 27 and 30 shows that the interest charges applicable to the assets created up to 1.4.2015 and after 1.4.2015 (ie., assets addition during the year 2015-16) shall be provided. Proviso to Regulation 27(1) provides that funds received in the form of grants and contributions are to be reduced from the fund requirements. Regulation 30(1)(b) specifies that, interest charges for capital works in progress are not allowable. Further, in the case of assets during construction, the same is to be treated as part of fixed assets only when the assets are put to use.*

*2.124. Hence, Regulation provides for treatment of loans and interest charges thereon on a normative basis. The normative loan amount required to meet the value of fixed assets as on 1-4-2015 (ie., the date of effect of control period) in the books of the licensee is taken as the funding requirement….*

*2.125. Rate of interest for the loan is specified in Regulation 30 (4) As per this the rate of interest shall be the weighted average rate of interest* *calculated on the basis of actual loan portfolio of each financial year applicable to the Generating business, Transmission business or Distribution business as the case may be….*

5. Accordingly, Hon'ble Commission, as per Table 36 has computed normative loan as on 01.04.2015 and 01.04.2016 at Rs.2276.17 Cr and Rs, 2321.38 Cr respectively and approved Rs.223.26 Cr towards interest for 2016-17 on opening loan. The detailed explanation with regard to the computation of normative loan as on 01.04.2015 has been given in Truing up order for 2015-16 (OA 06/2018 dated 21.08.2018) which are briefly summarized as follows:

(i) GFA less enhanced value as on 1-4-2015 at Rs. 14619.07 Cr.
(ii) Total depreciation allowed till 1-4-2015 at Rs.6135.25 Cr (works out to 42% of the value of GFA) after excluding Rs.664.79 Cr from the cumulative depreciation as per accounts amounting to Rs.6800.04 Cr.(Rs.6800.04 Cr-Rs.664.79 Cr) and worked out Net Fixed Assets at Rs.8483.82 Cr. (Rs.14619.07Cr-Rs.6135.25 Cr)
(iii) Considered Equity at Rs.3499.05 Cr as per Regulation 35 (a)
(iv) Actual Grants and contribution amounting to Rs.4670 Cr as on 1-4-2015 has been reduced to the extent of depreciation ie. 42% to arrive at Grants and Contribution to be considered for the determination of normative loan at Rs. 2708.60 Cr (Rs.4670 Cr-Rs.1961.40Cr)
(v) The normative loan as on 1-4-2015 has been determined at Rs.2276.17 Cr after deducting equity and grants as described in (iv) and (v) above from the NFA as per (iii) above {Rs.8483.82 Cr-(Rs.3499.05 Cr+ Rs. 2708.60Cr)}
(vi) Closing balance of normative loan as on 31.03.2016 (except additional borrowings for 2015-16) was determined at Rs.1941.13 Cr after deducting approved depreciation for 2015-16 amounting to Rs.334.87 Cr towards repayment (Rs.2276.17-Rs.334.87 Cr)

6. It is respectfully submitted that **there has been an error apparent in the computation of net fixed assets as on 1-4-2015 (Rs.8483.82 Cr) on account of omission of depreciation clawed back in earlier years in the computation.** Total depreciation allowed till 1-4-2015 has been determined at Rs.6135.25 Cr and considered the same to work out NFA as on 1-4-2015. The relevant portion of the order (page 59 of order dated 21.08.2018) is extracted below for ready reference:

*134. As per the accounts the cumulative depreciation as on 1-4-2015 is Rs.6800.04 crore. It may be noted that the Commission has not approved the entire depreciation as per the accounts in the previous years mainly on account of the fact that KSEB Ltd has accounted the depreciation as per the rates notified by Government of India, whereas the commission* *has allowed depreciation as per the rates notified by CERC, as provided in Electricity Act and as well as Tariff Policy. Accordingly, from 2006-07 onwards, the Commission has disallowed the depreciation on account of difference between the rates. The total depreciation disallowed by the Commission from 2006-07 to 2013-14 is 664.79 Cr. Thus the depreciation approved by the Commission is Rs. 6135.25 crore (Rs.6800.04-Rs.664.79 crore). Based on this, the net fixed assets as on 1-4-2015 is Rs.8483.82 crore (Rs.14619.07 crore-Rs.6135.25 crore).*

It may be kindly noted that Hon'ble Commission rightly excluded disallowed depreciation due to change in rates but omitted to exclude the extent of depreciation disallowed (Rs.689.40 Cr) as attributable to the assets created out of consumer contribution and grants. Details are furnished below:

**Table 4 Computation of depreciation for the determination of normative loan as on 01.04.2015.**

| Year | As per accounts | Approved by KSERC | Disallowance | | |
|---|---|---|---|---|---|
| | | | Due to Rate/methodology difference | Due to Claw back | Total |
| Till 31.03.2003 | 1502.57 | 1502.57 | | | |
| 2003-04 | 394.29 | 394.29 | | | |
| 2004-05 | 374.77 | 374.77 | | | |
| 2005-06 | 392.65 | 392.65 | | | |
| 2006-07 | 405.98 | 230.67 | 175.31 | 0 | 175.31 |
| 2007-08 | 419.09 | 274.51 | 144.58 | 0 | 144.58 |
| 2008-09 | 434.74 | 291.96 | 142.78 | 0 | 142.78 |
| 2009-10 | 451.22 | 399.65 | 51.57 | 0 | 51.57 |
| 2010-11 | 473.43 | 286.33 | 70.13 | 116.97 | 187.10 |
| 2011-12 | 466.00 | 330.6 | -3.14 | 138.54 | 135.40 |
| 2012-13 | 509.31 | 346.18 | 14.97 | 148.16 | 163.13 |
| 2013-14 | 516.28 | 306.68 | 68.59 | 141.01 | 209.60 |
| 2014-15* | 459.70 | 314.99 | 0.00 | 144.71 | 144.71 |
| Total | 6800.04 | 5445.85 | 664.80 | 689.40 | 1354.18 |

**True up order for 2014-15 is yet to be issued and therefore claw back for the year is provisional. The depreciation as per accounts has been worked out on the basis of rates and methodology prescribed by the Hon'ble Commission. Therefore, the extent of claw back based on the methodology adopted in 2013-14 has been reduced to arrive at the approved depreciation (provisional) for 2014-15.*

7. Therefore, the approved depreciation till 1-4-2015 has to be Rs.5445.85 Cr (Rs. 6135.25 Cr-Rs.689.40Cr). This works out to 37.25 % of GFA (Rs.5445.85 Cr/14617.07*100). Further, NFA as on 1-4-2015 would be Rs. 9171.22 Cr (Rs.14617.07-5445.85 Cr).

8. Based on the methodology followed by the Hon'ble Commission, Consumer contribution, capital subsidy and grants for the purpose of normative loan computation has been determined as per table below:

| Table 5: Computation of depreciated Contribution & Grants | | | |
|---|---|---|---|
| No | Particulars | Rs. Cr | Rs. Cr |
| 1 | Contribution & Grants till 31.10.2014 | 4169.87 | |
| 2 | Addition from 01.11.14 to 31.03.15 | 500.14 | 4670.01 |
| | | | |
| 7 | Depreciation available for repayment of loan | 5445.85 | |
| 8 | GFA | 14617.07 | |
| 9 | Dep % | 37.25 | |
| 10 | Depreciated contribution @ 37.25% | | 1739.58 |
| 11 | Balance contribution available | | 2930.43 |

9. Accordingly, normative loan as on 01.04.2015, 01.04.2016 and 01.04.2017 (excluding additional borrowings for 2016-17) is worked out as follows:

| Table 6 Normative loan and interest - As per KSEBL based on KSERC methodology | | | | | |
|---|---|---|---|---|---|
| | Particulars | SBU G | SBU T | SBU D | Total |
| 1 | GFA as on 01.04.2015 | 16395.04 | 4097.22 | 6115.79 | 26608.05 |
| 2 | Less: revalued portion | 11988.98 | | | 11988.98 |
| 3 | Balance GFA as on 01.04.2015 | 4406.06 | 4097.22 | 6115.79 | 14619.07 |
| 4 | Less: Approved depreciation till 01.04.2015 | | | | 5445.85 |
| 5 | Net Fixed Assets (3-4) | | | | 9173.22 |
| 6 | Less: Equity Capital | | | | 3499.05 |
| 7 | Less: pro rata Contribution & grants | | | | 2930.35 |
| 8 | Normative loan 01.04.2015 (5-6-7) | | | | 2743.82 |
| 9 | Less: Depreciation for 2015-16 | | | | 334.87 |
| 10 | Add: Additional loan 2015-16 | | | | 380.06 |
| 11 | Normative loan 31.03.2016 (8-9+10) | | | | 2789.01 |
| 12 | Less: Depreciation for 2016-17 | | | | 369.87 |
| 13 | Normative loan 31.03.2016 (10-11) | | | | 2419.14 |
| 14 | Average loan for 2016-17 (11+13/2) | | | | 2604.08 |
| 15 | Weighted average rate of interest | | | | 10.45% |
| 16 | Normative interest on loan till 01.04.2016 | | | | 272.13 |
| 17 | GFA ratio | 28.92 | 28.06 | 43.02 | 100.00 |
| 18 | SBU wise Interest apportionment | 78.70 | 76.36 | 117.07 | 272.13 |

10. In view of the above, eligible interest on normative loan for 2016-17 (excluding addition for 2016-17) will be Rs.272.13 Cr against Rs. 223.26 Cr approved in TU order.

11. Hon'ble Commission may please review the order and approve interest on loans as above.

### II. Disallowance of Employee cost by Rs.217.35 Cr.

(a) Employee expenses for the increased working strength in 2016-17 over the corresponding number in 2008-09 has been disallowed in full. In other words, basic pay, DA and all other allowances disbursed to 6089 nos of employees amounting to Rs. 217.35 Cr has been disallowed.

(b) It is humbly submitted that the Hon'ble High Court of Kerala, in the judgment dated 28.02.2018 directed Hon'ble Commission to pass Truing up orders from 2015-16 to 2017-18 with due regard to the findings of the orders of Hon'ble APTEL in Appeal no.1 & 19 of 2013 and also consequential orders passed for the years 2010-11 onwards.

(c) Hon Tribunal, in the Common judgment dated 10.11.2014, in the Appeal Petition 01 of 2013 and 19 of 2013, has directed in para 8.4 to 8.6 of the order, the manner in which employee cost to be approved. These paragraphs are reproduced below:

*"8.4 The State Commission has rightly shown concern about the high employees cost but we are not able to appreciate magnitude in the absence of a specific finding about the excess manpower and non-availability of Regulations. We feel that DA increase which is effected as per the Government orders have to be accounted for and allowed in the ARR as it compensates the employees for the inflation.* ***The pay revision as per the agreements reached between the management and the unions have also to be honored.*** *The terminal benefits have also to be provided for.*

*8.5 We find that the State Commission has taken the actual expenses trued-up for FY 2008-09 as the base.* ***The State Commission should have at least allowed the actual basic pay and DA increase, pay revision and terminal benefits over the actual base year expenses without accounting for increase in manpower from 2008-09 to 2012-13.*** *The gratuity directed to be paid as per the judgments of the High court dated 10.03.2003 as the Division bench of the High Court had dismissed the Appeal filed against this judgment, and which were disallowed by the State Commission by order in Appeal no. 1 of 2013 should also be allowed.*

*8.6 Accordingly, we direct the State Commission to true-up the employees cost from FY 2010-11 to FY 2012-13, as per the above direction"*

(d) Hon'ble Commission, however, limited the employee cost corresponding to number of employees in 2008-09. That is pay and allowances disbursed to 6089 employees amounting to **Rs. 217.35 Cr** have been disallowed.

(e) The reasons for increase in staff strength between 2008-09 and 2015-16 have been explained in the truing up petition. The substantial portion of the increased staff belonged to the essential categories like Line man, Mazdoor etc required to maintain quality supply to increasing consumer strength and business growth. The table given below illustrates this fact. It is humbly submitted that KSEBL has the statutory obligation to provide supply to all the consumers and the corresponding increase in employee count cannot be eliminated.

**Table 7 Growth of business activity since 2008-09**

| Year | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 | % growth over 2008-09 |
|---|---|---|---|---|---|---|---|---|---|---|
| Consumer strength(Lakhs) | 94 | 98 | 102 | 105 | 108 | 112 | 114 | 117 | 120 | 27.66 |
| Annual energy sale (MU) | 12414 | 13971 | 14548 | 19521 | 16779 | 17454 | 18426 | 19325 | 20064 | 61.62 |
| Connected load (MW) | 15267 | 15866 | 16682 | 17518 | 18523 | 19684 | 20391 | 20981 | 22041 | 44.37 |
| Substations (Nos) | 314 | 336 | 349 | 359 | 370 | 377 | 378 | 387 | 402 | 28.03 |
| EHT lines (Km) | 10056 | 10403 | 10500 | 10582 | 10706 | 10947 | 11065 | 11195 | 11320 | 12.57 |
| HT Lines (Km) | 41440 | 44839 | 48503 | 51489 | 53068 | 53740 | 55547 | 57650 | 59496 | 43.57 |
| LT lines (Km) | 241849 | 249687 | 256449 | 260554 | 263620 | 264117 | 268753 | 285970 | 291328 | 20.46 |
| Dist. Transformers (Nos) | 46359 | 52149 | 57954 | 62329 | 64972 | 67546 | 71195 | 73460 | 75580 | 63.03 |
| No. Of employees | 27175 | 28007 | 29864 | 31113 | 31783 | 31983 | 33041 | 32440 | 33264 | 22.41 |

(f) The order of Hon Tribunal was to approve employee cost <u>at least</u> at the 2008-09 level. Hon Tribunal has not fixed an upper ceiling in the order, but a lower one. It is necessary that the growth in employee strength and payment of wages and allowances as per agreement has also to be considered in approving employee cost. These grave factors may kindly be seriously considered by the Hon'ble commission.

(g) The following table depicts the category wise growth in consumers.

**Table 8 Growth under various categories of employees**

| Sl No | Category | 31.03.2009 | 31.03.2017 | Increase | Increase % |
|---|---|---|---|---|---|
| 1 | Lineman | 7389 | 9498 | 2109 | 28.54 |
| 2 | Electricity Worker | 3692 | 4857 | 1165 | 31.55 |
| 3 | Overseer (Ele) | 2900 | 5413 | 2513 | 86.66 |
| 4 | Sub Engineer (Ele) | 2133 | 3461 | 1328 | 62.26 |
| 5 | Asst Engineer (Ele) | 1555 | 1952 | 397 | 25.53 |
| 6 | Meter Reader | 1458 | 665 | -793 | -54.39 |
| 7 | Sub total | 19127 | 25846 | 6719 | 35.13 |
| 8 | Other categories | 8048 | 7418 | -630 | -7.83 |
| 9 | Working strength | 27175 | 33264 | 6089 | 22.41 |
| 10 | 7 as a % of 9 | 70 | 78 | | |

(h) It may kindly be seen that increase under other categories is negligible and strength of meter readers were almost halved. This amply proves that the recruitments are made only under essential categories.

(i) Therefore, it is humbly pleaded the Hon'ble Commission may consider the following and allow the employee cost in full.

a. ceiling limits are not fixed by the Hon'ble Tribunal and the curtailment in staff strength at 2009 level while approving employee cost may kindly be reviewed.

b. to consider the business growth since a growing utility cannot maintain its staff strength in a stagnant manner.
c. Increase in staff is under essential categories only on where mechanization has very limited role.

**III. Disallowed depreciation Rs.247.63 Cr**

12. Hon'ble Commission disallowed Rs. 147.94 Cr under ARR of SBU D towards depreciation attributable to consumer contribution and capital grants. In this connection, the following submission are made:

(i) Hon'ble Commission, in line with the provisions contained in Tariff Regulation, 2014 has excluded depreciation applicable to consumer contribution and grants till 31.10.2013, extent to which was not re vested in KSEBL by the Government. KSEBL as a new entity formed vide the Government notification G.O (p) No. 46/2013/PD dated 31st October-2013, KSEBL has to follow the balance sheet as per the above Government notification on re-vesting. Hence, for the purpose of calculation of depreciation on consumer contribution and grants, KSEBL has relied upon consumer contribution and grants as per audited accounts.

(ii) It is respectfully submitted that Government, as per re vesting order dated 31.10.2013, had notified the opening balance sheet of KSEBL after carefully examining all aspects including un funded terminal liabilities and made suitable re structuring in accounts with a view to ensure sustainability of the newly formed entity. Government had duly considered all relevant facts and then only decided to eliminate contribution and grants till 31.03.2013 while notifying opening balance sheet.

(iii) Being a Regulated entity, KSEBL can raise any amount only with the approval of the Hon'ble Commission. Such approval is granted after meticulously examining the accounts/ petition of KSEBL in line with the provisions contained in Tariff Regulations. It is humbly submitted that approval for expenses are ordered for each purpose and to the barest minimum level.

(iv) It is respectfully submitted that through the restructuring process, the Government envisaged a financially strong KSEBL capable of meeting various statutory functions entrusted on it. Further, the Transfer scheme has a statutory force and is binding to all. Therefore, Hon'ble Commission may kindly review the matter and pleased to restrict claw back of depreciation to the extent of consumer contribution and grants as per audited accounts.

### IV. Disallowed section 3(1) duty Rs. 115.27 Cr

13. One of the major expense items booked under A&G expense is the section 3(1) duty payable by KSEB to the Government. The section 3(1) duty is a statutory levy. Hon'ble Commission has not been admitting section 3(1) duty as a revenue expenditure quoting the provisions in the "Kerala Electricity Duty Act- 1963" that "(3) The duty under this section on the sales of energy should be borne by the Licensee and shall not be passed on to the consumers". Accordingly, since the year 2003-04, Hon'ble Commission has not admitted duty as pass through in tariff. It is humbly submitted that KSEB had already taken up the matter with the Government and also filed a second appeal before the Hon'ble Supreme Court of India in the matter.

14. In view of the above, Hon'ble Commission may be kind enough to consider the issue on the basis of Government decision/ Hon'ble Supreme Court verdict.

### V. <u>Other debits, Prior period expenses and changes on account of fair valuation (Rs.33.90 Cr)</u>

15. As per audited accounts, the total expenditure under the three heads amount to Rs.17.98 Cr. After excluding claw back depreciation Rs.31.77 Cr included under changes in FV account, net claim was made for Rs.49.75 Cr against which Hon'ble Commission approved Rs. 39.49 Cr as summarized below:

| Particulars | SBU G | SBU T | SBU D | Total |
|---|---|---|---|---|
| Other debits | 0.35 | -2.93 | 91.21 | 88.63 |
| Prior period exp/income | 41.76 | 74.83 | -121.58 | -4.99 |
| Changes due to fair valuation | -0.95 | -1.96 | -30.98 | -33.89 |
| Total | 41.16 | 69.94 | -61.35 | 49.75 |
| Approved by KSERC | 41.16 | 69.94 | -71.61 | 39.49 |

16. Kind attention of the Hon'ble Commission is invited to para 5.5 of the petition wherein details of FV adjustments are furnished. It may kindly be seen that out of Rs.33.90 Cr, a sum of Rs.33.73 Cr has been made against interest account (Appendix 5.1). In other words, interest on loans as per audited accounts (Rs.435.79 Cr) is inclusive of Rs.33.90Cr towards changes in fair valuation. It was also clarified in the petition as follows:

*"Hon'ble Commission may kindly note that adjustments totaling to Rs.33.73 Cr has been made against interest account and Fair value adjustment account. Since both these heads are charged off to P&L account, there is no impact on the profit or loss for the year 2016-17. But a net income of Rs.0.17 Cr resulted from transactions relating to grants*

*with corresponding debit (net) to grant account. In short, actual impact on P&L account is only to the extent of Rs.0.17 Cr on account of fair valuation."*

17. The above submission was made with a disclosure of Rs.33.90 Cr as income due to fair valuation in anticipation of approval of interest on loans to the tune of Rs.435.79 Cr. However, Hon'ble Commission decided to approve interest on loans under normative basis and therefore, the fair valuation change amounting to Rs.33.73 Cr was not approved. This amount was also not considered while determining weighted average interest rate for 2016-17 as per Table 35 of the True up order, wherein actual interest has been considered as Rs. 402.06 Cr (Rs.435.79 Cr-Rs.33.73 Cr).

18. In view of the above, it may kindly be seen that the approval made under other expenses is understated to the extent of fair valuation ie, Rs.33.90 Cr. Therefore, Hon'ble Commission may be pleased to review the order to rectify the error and approve Rs.73.39 Cr under this head (Rs.39.49 Cr+Rs.33.90Cr).

## VI. Arrears of interest on GPF Rs.14.26 Cr

19. Hon'ble Commission may kindly note that there was a shortfall under interest on GPF to the extent of Rs. 14.26 Cr in 2015-16. This amount has duly been accounted in 2016-17 (I GAAP) accounts. But on account of audit objection this amount was reversed in 2016-17 and included under restatement account for 2015-16 by virtue of enabling provision under IND AS. This fact has duly been brought to the notice of the Hon'ble Commission as part of additional details / clarifications (letter KSEB/TRAC/FO/TU 17/4761 dated 03.09.2018). Item no. 7 of Table 12 contained the above details, which are reproduced below:

**Table 12 Details of adjustment entries for year 2016-17 towards finance charges from I GAAP to Ind As (Rs Cr)**

| NO | PARTICULARS | AMOUNT |
|---|---|---|
| 1 | **FINANCE COST AS PER I GAPP** | 922.93 |
| | **Add:** | |
| 2 | Fair value amount is higher than the actual interest rate, so the difference is debited to the profit and loss account through FVA A/c | 33.35 |
| 3 | Difference between the fair value of interest (on the loans discounted @ IRR) and actual interest is adjusted in the profit and loss account. | 0.37 |
| 4 | Fair value amount is higher than the actual interest rate, so the difference is debited to the profit and loss account through FVA A/c (for Loan Advanced by KSEB) | 0.01 |
| 5 | Interest on CERC revision claims payable on power purchase provided as per draft audit qualification | 0.77 |
| 6 | Finance cost on CERC revision claims paid included in the power purchase separately disclosed as per the auditors direction | 16.76 |
| | **Less:** | |
| **7** | **Arrears of interest on GPF provided for 2016-17 as per IGAPP objected by the auditors reversed. The same has been taken in the restated financials for the year 2015-16 as an item expenses relating to past year.** | **14.26** |
| 8 | **FINANCE COST AS PER Ind As Accounts** | **959.92** |

20. It is respectfully submitted that arrear interest on GPF has not been claimed while seeking truing up for 2015-16 as the entry was passed as part of IND AS compliance for 2016-17. Therefore GPF interest to the tune of Rs.14.26 Cr has not been trued up for 2015-16 and 2016-17.

21. Hon'ble Commission may kindly note that the entire GPF balance has duly been considered as source of funds while determining the carrying cost on approved and un bridged revenue gap (Para 6.37 of the order). Therefore Hon'ble Commission may kindly approve Rs.14.26 Cr under GPF interest for 2016-17.

## Prayer

Considering the reasons, facts and circumstances on the matters as detailed in the paragraphs above, KSEBL requests before the Hon'ble Commission to kindly review the order dated 14th September 2018 in Petition OA No. 12 of 2018 in the matter of 'Truing Up of accounts of KSEB for the year 2016-17 on the items as detailed above in the petition.

Deputy Chief Engineer (Commercial & Planning)
With full powers of Chief Engineer