

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

**Present : Shri. Preman Dinaraj, Chairman**  
**Adv. A.J Wilson, Member (Law)**

**OP No 63/2021**

In the matter of : Petition seeking redetermination of allowable employee strength since 31.03.2009

Petitioner : Kerala State Electricity Board Limited (KSEB Ltd)

Date of the hearing : 25.01.2022

**Order dated 14.07.2022**

1. M/s Kerala State Electricity Board Ltd (hereinafter referred to as the petitioner or KSEB Ltd), on 06.12.2021, filed a petition before the Commission with the following prayers:  
“
  - (1) *Hon’ble Commission may kindly consider the year wise details of the number of employees as detailed in the Table- 15 above for approving the employee cost for the relevant years considered.*
  - (2) *Hon’ble Commission may, fix the O&M norms of KSEB Ltd as per the Regulation 80 of the KSERC (Terms and Conditions of Tariff) Regulations, 2021 for the next control period starting from the Year 2022-23 to 2026-27, for employee cost for the 33296 Nos of employees in the year 2018-19.”*
2. The year wise details of the Manpower strength from the FY 2009-10 to 2017-18 submitted by KSEB Ltd is given below.

Table-1  
Year wise details of the increase in manpower since the year 2009-10

Year	Actuals	Increase in Manpower in the roll of KSEBL	Revival/ creation during the Year	Manpower for which employee cost may be allowed/ norms may be fixed	Remarks
	Actuals		May be considered for approval of Norms/ approving employee cost		
2008-09	27175			27175	Actuals
2009-10	28007	832	832	28007	Actuals
2010-11	29864	1857	2742	29864	

2011-12	31113	1249	243	30992	Limited to actuals for the year 2010-11, but balnce may be considered in the Year 2011-12 due to delay in recruitment by PSC
2012-13	31783	670	1248	31783	Limited to actuals for the year 2012-13, but balnce may be considered in the Year 2013-14 due to delay in recruitment by PSC
2013-14	31983	200		31983	
2014-15	33041	1058		32240	
2015-16	32440	-601	1056	32240	
2016-17	33264	824		33264	
2017-18	33542	278		33371	
Total addition during the period from 2009-10 to 2017-18				6196	

3. The summary of the issues raised in the petition before the Commission is given below.

- (i) KSEB Ltd had, assessed the need-based requirement of various categories of employees in its various functional units during the period from 2002 to 2006 at 30703 Nos. Its summary is given below.

**Table-2**  
**Need based employee strength approved during the period between 2002 to 2006**

SI No	Board Orders	Functional Unit/ Office	Number
1	BO dated 18.02.2002	O/o the CE (Trans.SO), KLSRY	323
2	BO dated 14.06.2002	O/o the Chairman & Members	52
3	BO dated 15.06.2002	Civil Division VB	12
4	BO dated 17.06.2002	O/o the FA	87
5	BO dated 18.06.2002	O/o the CIA	442
6	BO dated 18.06.2002	Law Section	41
7	BO dated 19.06.2002	MIS	24
8	BO dated 20.06.2002	Personnel Department	23
9	BO dated 22.06.2002	Corporate planning	58
10	BO dated 22.06.2002	Public Relations	22
11	BO dated 25.06.2002	O/o the Secretary	56
12	BO dated 26.06.2002	Commercial & Tariff	71
13	BO dated 05.07.2002	TCM	38
14	BO dated 11.07.2002, 21.12.2006 & 25.02.2006	O/o the IG (V&S), APTS & CGRF	139
15	BO dated 20.07.2002 & 07.03.2002	O/o the CE HRM & HRD	234
16	BO dated 19.09.2002	Distribution Profit Centre	23111
17	BO dated 29.12.2006	Civil Wing	1164
18	Working strength as on 31.03.2006	Gen Electrical	1133
19	Working strength as on 31.03.2006	Transmission profit centre	3673
	<b>Total</b>		<b>30703</b>

- (ii) KSEB Ltd further submitted that due to various reasons including reporting the vacancies to Kerala PSC, completing the recruiting process

by the PSC including written test, interview etc, actual employees on the rolls of KSEB Ltd as on 31.03.2009 was only 27175 numbers as against the need-based strength of 30703 numbers. KSEB Ltd further submitted that they had reported 1610 vacancies of the following categories prior to 31.03.2009, however persons in the reported vacancies joined in KSEB Ltd service only in the year 2009-10 or thereafter. The details are given below.

**Table-3**  
Details of the vacancies reported to KPSC

SL No	Category	Year in which vacancy reported	Vacancy reported and advised	Joined in the service of KSEBL
1	Asst. Engineer (Electrical)	2006-'07 to 2008-'09	302	2009-10
2	Junior Asst/ Cashier	2006-'07 to 2008-'09	398	2009-10
3	Junior Asst/ Cashier		29	2010-11
4	Electrical worker	2008-09	835	2009-10
5	Meter reader	2006-07	13	2010-11
6	Meter reader	2006-07	20	2011-12
7	Divisional Accounts Officer	2008-09	13	2013-14
			1610	

(iii) KSEB Ltd further submitted that, while approving the truing up accounts of the FY 2009-10, 2010-11 and also while approving ARR for the year 2012-13, the Commission had adopted the following methodology for approving the employee cost of KSEB Ltd.

- “
- (i) *The actual basic pay as per the orders on truing up for the year 2008-09 was taken as the base and allowed 3% increase in basic pay for the subsequent years.*
  - (ii) *For approving the DA, Pension and other allowances, the same as per the orders on truing up for 2008-09 is taken as the base. The DA, pension and other allowances for the subsequent years were indexed to the total amount for the year 2008-09 to the Whole Sale Price Index and Consumer Price Index (given 70% weightage for CPI and 30% for WPI).”*

KSEB Ltd further submitted that, the above methodology resulted in the under recovery of employee cost including pension, up to 25% on the actual cost as per the its accounts. KSEB Ltd also submitted that as a State Government owned power utility, the pay and allowance of the KSEB Ltd employees are governed by wage settlement agreements entered into between trade unions. KSEB Ltd cannot unilaterally curtail the pay and allowance of the employees as ordered by the Commission. Considering these reasons, KSEB Ltd filed appeal against the Orders of the Commission before the Hon'ble Appellate Tribunal for Electricity (APTEL).

- (iv) Hon'ble APTEL, vide the judgement dated 10.11.2014 in appeal petition No. 01/2019,19/2019 had issued the following judgements regarding the employee cost.

"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 man power 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 judgment of the High court dated 10.03.2003 as the Division bench of the High court had dismissed the Appeal filed against the 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 directions."

Hon'ble APTEL, in subsequent judgements also ordered to allow employee cost based on the above judgment dated 10.11.2014.

- (v) Based on the judgement of the Hon'ble APTEL dated 10.11.2014 referred above, the Hon'ble Commission had approved the employee cost in the truing up of accounts from the years 2009-10 to 2017-18, however allowed the employee cost only for 27175 number of employees. i.e., only for the employees in the roll of KSEB Ltd as on 31.03.2009, and this has resulted in substantial disallowance of employee cost to the extent of Rs 1041.13 Crores during the FY from 2009-10 to 2017-18.
- (vi) KSEB Ltd further submitted that during the period between 2008-09 to 2017-18, there was about 34% increase in consumer strength, 73% increase in energy sales, 29% increase in substations, 51% increase in HT lines, 72% increase in distribution transformers etc. In line with the business growth, there was an increase of manpower by about 23.4% during the years 2008-09 to 2017-18. KSEB Ltd given the year wise details of the increase in manpower from 2009-10 to 2017-18, as detailed below.

**Table-4**

Year	Manpower exists as on 31st of March	Yearly increase		Increase in manpower over the year 2008-09	
		Number	(%) over previous year	Number	Increase in (%) over 2008-09
2008-09	27175				
2009-10	28007	832		832	3.1%
2010-11	29864	1857		2689	9.9%
2011-12	31113	1249		3938	14.5%
2012-13	31783	670		4608	17.0%
2013-14	31983	200		4808	17.7%
2014-15	33041	1058		5866	21.6%
2015-16	32440	-601		5265	19.4%
2016-17	33264	824		6089	22.4%
2017-18	33542	278		6367	23.4%
<b>Total</b>		6367			

**Increase in manpower over 2008-09**

KSEB Ltd further submitted that the increase in manpower was mainly limited to the following categories.

- (i) Lineman - 2141 numbers
- (ii) Electricity Worker - 1437 numbers
- (iii) Overseer - 2544 numbers
- (iv) Sub Engineer - 1196 numbers
- (v) AE (Electrical) - 248 numbers

KSEB Ltd has also submitted that, during the said period from 2008-09 to 2017-18, the staff strength of meter readers has reduced from 1458 to 410 numbers (reduction of 1048 numbers) and cashiers from 914 to 803 numbers (reduction of 111 numbers).

- (vii) KSEB Ltd further submitted that, since the Commission had been continuously disallowing the employee cost for the increase in manpower from the year 2009-10, it had filed the following appeal petitions against the orders of the Commission before the Hon'ble APTEL. The details are given under Table-9 of the petition, which is extracted below.

**Table 5**  
**Details of appeal petitions pending before APTEL**

Year	True up order date	Appeal no.	Amount involved (employee cost) (Rs. Cr)
2011-12	16.03.2017	109/2018	80.90
2012-13	20.03.2017	110/2018	72.28
2013-14	20.06.2017	209/2018	161.15
2014-15	Not issued	NA	
2015-16	21.08.2018	27/2021	202.37
2016-17	14.09.2019	31/2021	217.35
<b>Total</b>			<b>734.05</b>

- (viii) KSEB Ltd further submitted that they had been repeatedly praying before the Commission to kindly consider the increase in manpower since the year 2008-09 while approving the employee cost of KSEB Ltd in the subsequent years of Truing up and ARR petitions. The Commission during the deliberations of the truing up of the accounts of KSEB Ltd for the FY 2017-18 informed KSEB Ltd that, the Commission may relook in the increasing manpower since the year 2008-09, which was created/revived with the approval of State Government/Full Board of KSEB Ltd. Accordingly, the Commission vide letter dated 10.08.2020 has directed KSEB Ltd to submit the following details to facilitate this process.
- (i) *Copy of all Kerala Government orders sanctioning posts in Kerala State Electricity Board from 1.4.2009 to 31.10.2013 i.e., for the prior period to re vesting of the Board under section 131 of the Electricity Act.*
  - (ii) *Full Board resolutions of KSEB Ltd sanctioning posts in KSEB Ltd from 1.11.2013 to 31.03.2018.”*
- (ix) In compliance of the direction of the Commission, KSEB Ltd on 20.10.2020 has submitted the available details before the Commission.

Subsequently during the deliberations of the draft Tariff Regulations 2021, KSEB Ltd and various other interested stake holders prayed before the Commission regarding the difficulties faced by KSEB Ltd due to the under recovery of the employee cost on account of the increase in employees since the year 2009-10. The Commission during the deliberations of the draft Tariff Regulations, clarified that “the matter is sub judice before the Hon’ble APTEL” in view of the various appeal petitions filed by KSEB Ltd against the Orders of the Commission. The Commission may relook in the matter once KSEB Ltd approaches the Commission with all details and also withdrawing the appeal petitions before the APTEL.

The Commission in the 38<sup>th</sup> State Advisory Committee meeting held on 18.10.2021 also clarified that, the pending of appeal petition filed by KSEB Ltd before the APTEL as an impediment for redetermination of allowable staff strength after the year 2008-09.

- (x) The Commission vide the notification dated 16.11.2021 had notified the Tariff Regulation 2021, which is applicable for the 5-year Control Period from 2022-23 to 2026-27. However, the Commission had not modified the provisional O&M Norms Tariff including the norms for employee cost of KSEB Ltd specified in the draft Tariff Regulations 2021. The Commission further clarified while issuing the final Tariff Regulations, 2021, as follows.

*Details provided in para 2 and figures provided in Tables 2 to 7 above are provisional. The issue of employee strength of KSEB Ltd as mentioned above is sub judice. Hence the employee strength adopted in the order on the Truing up of accounts for the year 2017-18 is retained....*

Many stake holders and Associations have raised their serious concern with regard to the number of employees actually available in KSEB Ltd vis-à-vis those numbers considered by the Commission while truing up of accounts of the previous years. During February, 2021, KSEB Ltd has implemented the pay revision with effect from July/ August 2018 for its officers and staff. As per Hon'ble APTEL decision in OP 1/2013 and 19/2013 in the order dated 10.11.2014, the effect of pay revision have to be allowed as part of employee cost. The final norms of KSEBL can be arrived at only after the truing up of the figures from the financial year 2018-19 is over and after the sub judice matter is resolved. The norms will be reworked accordingly.

- (xi) KSEB Ltd further submitted that, it had filed application before the Hon'ble APTEL to withdraw the appeal petition filed against the Orders of the Commission before Hon'ble APTEL regarding the dis-allowance of employee cost and related issues.
- (xii) The summary of the additional manpower claimed by KSEB Ltd over and above the employees in the rolls of KSEB Ltd as on 31.03.2009 at 27175 number is given below.
- (1) Vacancies reported prior to 31.03.2009 but joined from the year 2009-10 – 1610 numbers.
  - (2) The summary of the additional manpower revived/ created after the year 2008-19 as provided by KSEB Ltd is given below.

**Table-6**  
**Summary of the additional places revived/ created in the Distribution Wing**

SI No	Particulars	Asst: Eng	Senior Supt	Sub Eng	Cashi-er	Over-seer	Line-man	worker	Total
<b>I</b>	<b>Revival of Posts in the year 2010-11</b>	Nos	Nos	Nos	Nos	Nos	Nos	Nos	Nos
1	BO No.1460/2009 dated 04.06.2009 & BO No.2544/2010 dated 29.09.2010	153	152				602	784	1691
2	BO No.1460/2009 dated 04.06.2009 & BO No.2584/2010 dated 03.11.2010					460			460
3	BO No.1460/2009 dated 04.06.2009 & BO No.3170/2010 dated 04.12.2010			591					591
	Sub total	153	152	591	0	460	602	784	2742
<b>II</b>	<b>Revival of Posts in the year 2011-12</b>								
	BO No.1460/2009 dated 04.06.2009 & BO No 85/2011 dated 06.01.2011						243		243
<b>III.</b>	<b>Revival of manpower positions in 2015-16</b>								
	BO dated 583/2016 dated 22.02.2016	30	30	246	30	180	360	180	1056
	<b>Total revival of manpower after 2008-09</b>	<b>183</b>	<b>182</b>	<b>837</b>	<b>30</b>	<b>640</b>	<b>1205</b>	<b>964</b>	<b>4041</b>
<b>IV</b>	<b>Creation of Posts</b>								
	GO (Ms) No. 14/12/PD dated 16.07.2012					312	624	312	1248
<b>V</b>	<b>Grand Total (Revival + creation)</b>	<b>183</b>	<b>182</b>	<b>837</b>	<b>30</b>	<b>952</b>	<b>1829</b>	<b>1276</b>	<b>5289</b>

- (xiii) The summary of the total additional man power claimed by KSEB Ltd after the year 2008-09 is 6899 numbers as given below.

**Table-7**  
**Year wise details of the manpower revived/created since the year 2009-10**

Year	Additional manpower revived/ created (Nos)	Remarks
2009-10	1535	Vacancies reported prior to 2008-09, but recruited by PSC in the year 2009-10. The net increase in the FY 2009-10 after retirements during the year is 832 Nos only.
2010-11	2742	Revival of places for the implementation of Model Sections vide the BO FB No. 1460/2009 dated 04.06.2009
	42	Vacancies reported prior to 2008-09, but recruited by PSC in the year 2010-11.
2011-12	243	Revival of places for the implementation of Model Sections vide the BO FB No. 1460/2009 dated 04.06.2009
	20	Vacancies reported prior to 2008-09, but recruited by PSC in the year 2011-12.
2012-13	1248	GO (Ms) No.20/2015/PD dated 08.06.2015
2013-14	13	Vacancies reported prior to 2008-09, but recruited by PSC in the year 2013-14.
2015-16	1056	BO 583/2016 dated 22.02.2016
Total	6899	

- (xiv) KSEB Ltd further submitted that the actual employees existing in the rolls of KSEB Ltd is slightly different from the arithmetic addition of year wise revival or creation of man power since the year 2009-10 due to the following.
- (1) All the recruitments in KSEB/ KSEB Ltd are through Kerala Public Service Commission except compassionate appointments and sport quota appointments.
  - (2) Once the vacancy arises due to retirement, or creation/ revival of additional manpower places, all such vacancies at input level are reported to PSC for filling the vacancies. The Public Service Commission may take one to three years for completing the selection process.
4. The Commission admitted the petition as OP 63/2021. The hearing of the petition was held through video conference on 25.01.2022. Sri Siji Jose, Director (Finance) and in charge of Director (Generation – Electrical), along with other officials presented the matter before the Commission. The summary of the deliberations during hearing is given in the succeeding paragraphs.
5. KSEB Ltd during the submitted that,
- (1) The Commission had allowed the actual employee cost till 2008-09. From 2009-10, the Commission adopted a new methodology for approving the Employee Cost, limited the same to Actual Basic Pay as on 2008-09 &



3% increase for the subsequent years. Further, DA, Pension & other allowances also indexed to the total amount for the year 2008-09 with Weightage of CPI: WPI in the ratio 70:30. Thus the State Commission has not considered the DA effected as per Government orders or the pay revision as per the agreements reached between the management and the unions. Thus, there was under recovery as follows’;

**Table-8  
ARR & EMPLOYEES COST**

Year	Actual/ Estimate	Approved	Under Recovery	(%) of under recovery	Remarks
	(Rs.Cr)	(Rs.Cr)	(Rs.Cr)		
2009-10	1451.53	1352.45	99.08	7%	True-up
2010-11	1712.8	1462	250.8	15%	True-up
2012-13	2231.46	1663.66	567.8	25%	ARR

- (2) Based on the directions of the Hon’ble APTEL, KSERC again trued up the employee cost of KSEB for the years from 2009-10 to 2016-17. However, the Commission had allowed the employee cost only for the man power existed in the roll of KSEB as on 31.03.2009 (27175 Nos) only. No provision of employee cost was allowed for the increase in manpower thereafter. KSEB Ltd filed appeal before Hon. APTEL for true up orders from 2011-12 to 2016-17 involving a total cost of 734.05 Cr.
- (3) In order to avoid prolonged litigations with Hon’ble KSERC, KSEB Ltd requested to reconsider the dispute in the matter of Employee Strength on various occasions. Hon’ble Commission expressed its concern in the pendency of the appeals in APTEL, as the matter was sub judice. KSEB Ltd thereafter withdrew the prayer before Hon. APTEL to the extent of Employees Cost.
- (4) Wage rate in Kerala is more than double the National rate due to factors such as High literacy rate, Awareness of labour law, High unemployment rate compared to other states compelling to fill vacancies as required.
- (5) Report published by the RBI in the “*Handbook on Statistics on Indian Economy 2020-21*” is summarised below:

**Table-9**  
**Wage Level in the State**

TABLE 96 State-WISE AVERAGE DAILY WAGE RATES IN RURAL INDIA							
(MEN- CONSRUCTION WORKERS)							
State/Union Territory	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Kerala	787.9	777.3	787.5	814.5	836.2	839.1	829.7
ALL KERALA	275	288.1	303.9	319	328.7	341.2	362.2
Kerala to ALL India	2.87	2.7	2.59	2.55	2.54	2.46	2.29

- (6) As per *All India Electricity Statistics – General Review 2018 of CEA*, Employees for every 1000 consumers in Kerala is 2.8 whereas the National average is 3.17. In Kerala 78% consumers are domestic consumers and the per capita consumption of Kerala is lowest in the country.
- (7) As per Section 133 of EA, 2003, Terms and conditions of the transfer scheme shall not in any way be less favourable than those which would have been applicable to the employees if there had been no such transfer under the transfer scheme. Pay revision and the working norms of the employees are as per bilateral agreement between the management and trade unions and has statutory backing and has to be honoured. The trade unions, Management and GoK had entered into a tri-partite agreement at the time of second transfer scheme as envisaged in the Act.
- (8) There is an average addition of 3.5 Lakh Consumer every year with and Average increase in energy sale @ 5% per year.
- (9) KSEB Ltd further submitted that all the employees of KSEB Ltd is taking earnest efforts to give maximum service to its consumers with and complying with the direction issued by this Hon'ble Commission
- (10) KSEB Ltd therefore prayed before the Commission that:
- (i) *Hon'ble Commission may kindly consider the year wise details of the number of employees, for approving the employee cost for the relevant years considered, as detailed in the petition.*
  - (ii) *Hon'ble Commission may, fix the O&M norms of KSEB Ltd as per the Regulation 80 of the KSERC (Terms and Conditions of Tariff) Regulations, 2021 for the next control period starting from the Year 2022-23 to 2026-27, towards employee cost for the 33371 Nos of employees in the year 2018-19.*

6. Sri Dejo Kappen, representing domestic consumers submitted that,
  - (i) The employee cost of KSEB Ltd is very high compared to other States.
  - (ii) The overhead cost of KSEB Ltd is more than Rs 3.00 per unit, whereas in other States it ranges from Rs 0.60 per unit to Rs 1.00 per unit only.
  - (iii) If the Commission allows the petition, it may lead to increase in O&M cost by 33%.
  - (iv) The appeal petitions filed by KSEB Ltd before the APTEL is pending. Mr. Dejo Kappen requested to dismiss the petition.
7. Sri. Bose Jacob, representing Friends of Electricity Employees and Consumers submitted that, there is no logic in sticking on number of employees 27175. He further submitted that, added assets are to be maintained and for that sufficient number of employees is essential. KSEB Ltd should increase its efficiency and reduce cost.
8. Sri MT Varughese, representing Pensioner's association submitted that the petition may be allowed. He welcomed the clarification made by the Chairman that the petition is not on employee expenses, but on the number of employees. He added that the peculiar structure of semiurban area all over the State, the comparison with other States may not be correct. The social and geographical characteristic of Kerala is to be considered. The increase of number of employees from 2008-09 is very much reasonable considering the increase in number of consumers and infrastructure of KSEB Ltd. KSEB Ltd is major Government institution in Kerala and that vacancies are filled through PSC. The social aspects may be considered while finalising the petition.
9. Sri G Anand, Senior General Manager, Mathrubhumi submitted the following.
  - (1) The petition is not maintainable,
  - (2) KSEB Ltd's claim that, its employees cost constitute only 20 to 22% of the total expenses is not correct. In reality, the actual employee cost of KSEB Ltd is about 28.5% of its total cost.
  - (3) The petition is bad for non-joinder since the Government of Kerala is not a party to the petition.
  - (4) Since KSEB Ltd is a loss-making company, hence its ability to pay has to be considered while deciding on the subject matter.
  - (5) As per the Article VII of the Terms of Settlement entered into between the KSEBL Management and Trade Unions on 15<sup>th</sup> February, 2021 envisages a committee to be constituted to study optimisation of manpower. Report of the Committee is very crucial for deciding the Petition for redetermination of employee strength. KSEB Ltd may be directed to file a status report on the action taken to decide on the redetermination of allowable employee strength since 31.03.2009.
10. Sri T S Madhavan, representing EDRAAC submitted that majority of consumers are domestic consumers in Kerala. To have better service to all consumers, the number of employees in 2009 must be increased to present level to cater the

increased volume of sales and to provide quality of power. Hence the prayers of KSEB Ltd may be allowed.

11. Adv Sibikkutty Francis submitted that, even though there is fast change in technology, the linemen in KSEB Ltd have to climb in posts by their own, bare footed. The request of KSEB Ltd is only reasonable considering the increase in business volume.

He concluded that the Commission may allow increased number of employees and direct KSEB Ltd to provide better service to consumers and also to reduce cost in other sections where ever required.

12. Sri Jayaprakash opined that the issue is that earlier the number of employees was arbitrarily fixed as 27175 in 2009 without even considering the vacancies report to PSC. The present employee strength is 33327. KSEB Ltd has been implementing use of technologies like spot billing, online payment. In Tamil Nadu no service in rural area during night.

He raised a major issue that safety of men and materials of KSEB Ltd is very important, which cannot be compromised. When number of employees in less, the increased pressure on employees lead to reduced laxity of safety leading to accidents. Every person here agrees to fact that the service of KSEB Ltd is efficient. He added that the comparison made by most of critics is on the basis of Discoms with KSEB Ltd, which is a vertically integrated company with all functions of generation transmission and distribution. He stated that it is not correct to compare on per unit basis considering the geographical condition in Kerala with high vegetation.

13. Sri. Harilal, General Secretary, KSEB Workers Association stated that Kerala is a fully electrified State and also have a much complicated electricity network compared to other States due to semiurban nature of the State. In spite of huge rainy season with high vegetation, long costal area, natural disasters etc KSEB Ltd is providing quality service. This is achieved with high dedication from the part of employees who most of the time overstay to complete the works. Implementation of IT tools is being done wherever possible lie in billing and accounting. But supply maintenance is to be done manually, for which sufficient employees is essential.
14. Sri Gopakumar M P, General Secretary, Workers Federation supported the views expressed by different associations of KSEB Ltd. He clarified that the petition is only to get approval of the existing employees for last 10 years in KSEB Ltd and not for any additional posts. The statements made by KSEB Ltd is considering the factual position prevailing in the State of Kerala like minimum wages in Kerala, peculiar social and demographic conditions etc. Hence he prayed before the Commission to kindly consider these factors while deciding the petition.
15. Sri. Lathish P V, representing KSEB Officers Association submitted that the peculiarities of the State contribute challenges in distribution of electricity as already mentioned by different stakeholders. KSEB Ltd one of the best utilities in

the country even providing better services than the utilities operating in urban area alone. This is achieved in spite of all these calamities like flood, landslide etc. Further, the line length compared to electricity distributed is comparatively high in Kerala. KSEB Ltd is having a single digit distribution loss which is achieved by very few States only. As per the study reports of NITI AYOJ during 2018, KSEB Ltd is reported to be efficient utility and is having minimum loss. As per the scheme of Electricity Act, 2003, the service conditions cannot be inferior to that prior to transfer scheme. Only reasonable wages are given that too after discussions as per rules. It may be noted that the wages are generally fixed considering the factors like work conditions, possibility of risk etc.

He further submitted that, the increase in number of employees is much less than proportionate increase in sales volume of sales and number of consumers. The request of KSEB Ltd is only that the cost of employees considering the working strength of employees in 2009, if continues, will lead to under recovery of amount by KSEB Ltd affecting its financials.

He explained that the working strength of 27175 in 2009 was due to bar in appointment during 2008-09 even though vacancies were reported to PSC 2006-07 itself. Hence there was a vacancy of more than 3000 employees at the end 2009. Hence the Commission may kindly approve the number of employees as requested by KSEB Ltd.

16. Sri. Noushad Sharafudeen, Kerala Power Board Officers Federation made a detailed presentation.
- (i) Hon. Appellate Tribunal considered the points raised by KSEB Ltd against KSERC Order and directed that, "Commission must approve the cost due to the entire employees existing in KSEBL as of March 2009". Even though there was no direction on restricting the number of employees by Hon Tribunal, KSERC approved the cost incurred due to 27175 employees, which was existing as on March, 2009. There after no approval was accorded from 31/03/2019 to 2017-18 resulting in to huge loss of an amount of 1041.13 Crores to KSEB Ltd.
  - (ii) KSEB Ltd is directly under GoK unlike other utilities and hence Government policies are to be considered. As per norms refixed in 2006, actual requirement of employees is analysed and fixed as 30703.
  - (iii) 1610 vacancies are reported to PSC well before 31/03/2009, but the appointment was made during 2009-10, after 31/03/2009, subsequent to process delay by PSC.
  - (iv) The number of consumers during 2008-09 was 94 Lakhs, which increased to 126 Lakhs by 2008-19 (34% increase). The consumption during 2008-09 was 12414 MU whereas that in 2018-19 is 21537 MU (73% increase). This will demand Solid infrastructure like Generating stations, Substations, EHT/HT/LT Lines and DTRs which in turn requires technically qualified hands for maintenance and operation. Accordingly, KSEB Ltd was forced

to increase the man power to 37147. Increased number of Solar installations also demand more man power.

- (v) The following figures may be considered with respect to the common talk that the employees of KSEBL is more while comparing to other Distribution Licensees.

Description	National average	Kerala
Employees per 1000 consumers	3.17	2.8
Yearly consumer share of consumption	1000units	565
Domestic share of total consumption	30%	81%

- (vi) Unlike other states with Distribution, Generation and Transmission as separate companies, KSEB Ltd is an integrated unit. The Geographical nature of State and life style of consumers are also to be considered. For example daily pay for a worker is more than 1000 Rs in Kerala whereas it is around 500 in other states. In case of solar installation, Discoms revealed the Solar tender amount as Rs 35000, whereas for Soura the L1 for Developers is quoted Rs 65000.
- (vii) When we compare central Govt (7<sup>th</sup> pay committee), and 11<sup>th</sup> pay committee as implemented in Kerala, the pay scale of KSEB Ltd is less. As Maximum to Minimum ratio in Centra Pay is 13.89, Kerala State 7.25, and in KSEB Ltd it is 6.82 only.

He concluded that non approval of employee strength after 2009 will jeopardise the very existence of KSEB.

17. Sri Nanda Kumar Nair, Senior Vice President, representing HT & EHT Association submitted the following.

- (1) Through this petition, KSEB Ltd is seeking approval for increasing its Manpower from 27175 in 2008-09 to 33371 in 2017-18 which corresponds to an increase of 22.8 % over 9 years. When there is increase in number of employees, there will be direct increase in cost which will lead to increase in tariff.
- (2) KSEB Ltd's request for approval of employee strength from 2008-09 is after a gap of 10 years. There have been several directions from the Commission related to manpower, no concrete information has been provided by KSEB Ltd even in this petition.
- (3) As per the revised Data pertaining to 2019-20 published by Central Electricity Authority, Ministry of Power employees per 1000 consumers for KSEB Ltd is 2.5 against All India average of 2.3 i.e. about 9 % higher than the All India levels. Further, Kerala is the 4<sup>th</sup> Highest State in terms of Energy Consumed in Mwh/ sq km which is almost 1.7 times the National

Average. The report also indicates that Consumer served per employee for KSEB Ltd is about 88% of the national average. Also, Kerala is one among the States with highest employee cost per Consumer. KSEB level is 23 % higher than All India Level. It is observed that KSEB Ltd has the lowest in HT Line in km /Employee strength of 2.0 against the National average of 7.0. In case of the parameter of LT Line in km /Employee strength of KSEB Ltd is 9.0 against the National average of 10.6. No of Transformer/ Regular Employee is 2.6 against the National average of 17.30. Installed Transformer Capacity in KVA per Employee is 1120 kVA for KSEB Ltd against the National average of 3316 KVA. Installed Generation Capacity in MW/ Regular Employee of Kerala 0.08 MW/Employee is less than the All India Average 0.52 MW /Employee.

(4) The Association summarised its prayers as follows:

- (i) *The Petition submitted by KSEBL is for redetermination of employee strength from 27175 to 33371 as enumerated in Table 15 of their petition. However, KSEBL in its prayers is actually seeking not mere approval for enhanced employee numbers but, approval of employee cost. The Hon'ble Commission may critically review prayer#1 of KSEBL and not approve this request for higher employee cost.*
- (ii) *The petition submitted by KSEBL is seeking in its prayer-2, fixing of O& M norms as per Regulation 80 of KSERC (Terms & Conditions of Tariff) Regulations 2021 for the next control period of 2022-23 to 2026-27 with employee cost based on the employee strength of 33296. This will lead to increase in overall expenses of KSEBL. The Consumer has to bear the consequences of higher tariff burden in future. We humbly request the Hon'ble commission not to approve this prayer.*
- (iii) *We humbly request the Hon'ble Commission to direct KSEBL to file status report on the action taken as per Article VII of the Long Term Settlement dated 15th February, 2021. Pending this, the decision on the KSEBL petition should be kept on hold.*
- (iv) *We request the honourable commission to consider the impact of increasing employee strength on Employee cost , and thereby on the financial performance of KSEBL before taking the decision on the petition for approving additional strength.*
- (v) *We humbly request the honourable commission to direct KSEBL to provide the status report against the various directives and orders of the commission in the matters of optimising employee strength, reducing employee cost and improving employee efficiency.*
- (vi) *We humbly request the honourable commission to direct KSEBL to provide concrete plans to enhance own power generation in state in a time bound manner so as to offset the rising cost impact on employee cost. This may be a prerequisite to enhancing any strength of KSEBL.*
- (vii) *We request the honourable commission to note that KSEBL is performing poor financially in spite of being among the lowest in terms of APPC because of its extremely high Overhead Costs mainly contributed by exorbitant employee cost per unit. We request the honourable commission to direct KSEBL to submit a roadmap for implementation of the recommendations by IIM, Kozhikode. The revised strength may be fixed based on scientific basis of redeployment of manpower, freezing of non core & non-value added posts and integration of numbers as recommended in the report.*

- (viii) *We humbly request the honourable commission to direct KSEBL to engage reputed external consultant to conduct studies on manpower strength optimization and manpower cost reduction before approving the enhanced manpower strength.*
- (ix) *The Association request the commission to freeze the manpower strength at 27175. The existing strength may be retained & permitted to continue so that the strength comes down to 27175 over a period of time. In the meantime, Association request Hon Commission to give directions to KSEBL for the above mentioned areas of compliances*
18. Sri Saji Mathew expressed concern on whether it is possible to withdraw a part of the petition before the Hon. APTEL. A certificate of withdrawal may be submitted to the Commission by KSEB Ltd. There should be some comparison among similar utilities which is for betterment of service. He added that the salary of KSEB Ltd is comparatively higher.
19. Sri Sarath, FACT submitted that number need not be increased, rather productivity should be increased. He narrated the example of FACT by reducing the cost through various measures like limiting new recruits, redeployment of manpower, freezing wage revision and promotion etc. Profitability and affordability clause is there in 7<sup>th</sup> pay commission. KSEB Ltd is also a loss making company and hence higher employee cost may not be allowed.
20. Sri Rajesh Kuruvilla, CUMI submitted that, the consumer per employee is 393 for Kerala against all India average of 446. Other parameters also indicate such results. In case of infrastructure also less than All India average. Hence there are scope for improvement. It is clarified that in some States majority of work is done through contract. Hence the number of regular employees is less in such States. MWh per square km is high in Kerala so that O& M cost will be reduced. Employee cost per consumer Rs 1653 in all India level for KSEB Ltd its Rs 2001.00
21. Sri Sasankan Nair, Chief Engineer submitted that KSEB Ltd may be allowed to study the issues raised by the stakeholders and submit its comments to the Commission.
22. In addition to the above, the following written submissions are also received in the Commission from various stakeholders.
- (1) Sri. C Murthi, Secretary, Patspin India Limited Employees Association (INTUC), vide his letter dated 27.01.2022 any increase in electricity charges will have heavy impact on the already ailing spinning industries.
- (2) Sri. K Suresh, Secretary, CITU Patspin Textile Mill Workers Union also expressed a similar view.
- (3) Sri Danish M S Don Villa, Ponkunnam, vide his letter dated 25.01.2022 submitted suggestions of redeployment of staff of KSEB Ltd. as follows:



- (i) The number of employees in each section should be in accordance with number of consumers, like below 10,000, between 10,000 and 20000, above 20,000 etc
- (ii) For sections below 10,000 consumers, there is no need of overseer and senior superintend.
- (iii) For sections with consume strength between 10,000 and 20,000, only one cashier is required. Swiping machine may be provided at Senior superintends at section offices and collection may be done through the same after 3 PM
- (iv) One of the Office Attendant out of two in division office may be redeployed as front officer at section office. Also, junior of senior assistant may also be posted at front office. Civil sub engineers can also be posted.
- (v) Senior assistant posed at EB 1 section of division office is not necessary. Also sub engineer post at division office may be dispensed with
- (vi) Minimum 5 sections may be brought under one subdivision
- (vii) The number of typist and confidential assistants may be reduced to minimum.

23. KSEB Ltd, vide its letter dated 02.06.2022 has submitted additional details/clarifications based on the deliberations during the hearing held on 25.01.2022.

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

24. The Commission has examined in detail the petition filed by KSEB Ltd, the objections raised by the various stake holders, and other documents and details presented during the deliberations of the subject petition as per the provisions of the Electricity Act, 2003, and decided on the matter as follows.
25. Regarding the employee cost of KSEB Ltd, Hon'ble APTEL vide the judgment dated 10.11.2014 in Appeal Petition No. 01 of 2013 and 19 of 2013, had issued the following observations and directions to the Commission.

"Paragraphs 8.4 to 8.5 of the Judgement of the Hon'ble APTEL dated 10.11.2014 in Appeal Petition No.01 of 2013 and 19 of 2013.

*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 honoured. 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.*

26. As above, the Hon'ble APTEL has ordered to provide actual pay, DA, pay revision and terminal benefits to at least the existing employees during the year 2008-09, without accounting for increase in man power from 2008-09 to 2012-13. As per the details submitted before the Commission, the number of employees in the pay roll of KSEB Ltd as on 31.03.2009 was 27175 numbers. Based on the directions of the Hon'ble APTEL, the Commission had approved the Truing up of Accounts of KSEB Ltd for the period from 2019-10 to 2013-14 and allowed 'actual pay, DA, pay revision and terminal benefits ' to the 27175 number of employees as on 31.03.2009.

27. Subsequently, KSEB Ltd submitted before the Hon. High Court in its petition WPC 465/2015 that,

*“in case the truing up of Accounts for the year 2014-15 onwards are also considered in the light of the revised Orders passed for the year 2010-11 onwards in tune with the judgments of the APTEL, the difficulties faced by the petitioner on account of the Regulations would be addressed to some extent”.*

In the said Writ petition, the Commission also submitted before the Hon. High Court that while considering the truing up applications of the petitioner for the year 2015-16, 2016-17 and 2017-18, the Commission would take into account the judgment of APTEL and the consequential orders passed thereafter. Hon'ble High Court on 28-02-2018 issued the final judgment and disposed off the Petition No WP(C) 465/2015, and directed the Commission to pass order on the application of the petitioner KSEB Ltd for truing up of accounts for the years 2015-16, 2016-17, 2017-18 with due regards to the findings in APTEL Judgments in Appeal Nos. 1 and 19 of 2013 and consequential orders passed by the Commission for 2010-11 onwards, in the case of KSEB Ltd. The relevant portion of the judgment of the Hon. High Court is quoted below:

*“In view of the submission made by learned senior counsel that the Commission would take into account Ext.P6 judgment of the APTEL while taking up the applications for truing up of accounts, I direct the 1<sup>st</sup> respondent to pass orders on the applications of the petitioner for truing up of accounts for the year 2015-16, 2016-17, and in 2017-18 with due regard to the findings in Ext.P6 judgment and the consequential orders passed by the commission for the year 2010-11 onwards in the case of petitioner.”*

28. In compliance of the assurance given by the Commission before the Hon'ble High Court, the Commission Trued up the accounts of KSEB Ltd till the year 2017-18 as per the direction of the Hon'ble APTEL dated 10.11.2014 in Appeal Petition Nos. 01 of 2013 and 19 of 2013.
29. The Commission vide the notification dated 26<sup>th</sup> October 2018 had notified the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018. In norms for O&M cost including employee cost in the said Regulation was specified based on the O&M cost including cost approved for the year 2016-17 based on the direction contained in the APTEL judgment dated 10.11.2014 in Appeal Petition Nos. 01 of 2013 and 19 of 2013. Thus, the norms specified in the Tariff Regulations, 2018 also considered only the 27175 number of employees of KSEB Ltd as on 31.03.2009.

### **Provisions in the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021**

30. KSEB Ltd has been repeatedly pleading before the Commission the requirement of additional manpower necessitated due to the asset addition, increase in number of consumers, energy sales volume, stringent norms and performance standard specified by the Commission. It is a fact that, the consumer strength, energy sales, the assets of KSEB Ltd including EHT lines, HT Lines, LT lines, distribution transformers etc has increased since the year 2008-09.
31. The Commission also took note of the fact that, based on the Commission's directions, KSEB Ltd had, on 7.12.2021 submitted the complete documents regarding sanctioned/ revival of different posts in KSEB Ltd approved by the Board/ Government of Kerala in justification of their claim. Further, during the period between 01.04.2009 to 31.10.2013, KSEB, as an entity was vested with the State Government. Hence, any fresh sanction of posts in KSEB necessarily required the approval of the Government of Kerala.
32. Thereafter, w.e.f 01.11.2013, KSEB, was revested from the Government and converted into a public sector undertaking governed by the provisions of the Companies Act, 2013. Hence, it necessarily follows that any fresh sanction of post beyond 01.11.2013 should have the approval of the Full Board of Directors of KSEB Ltd.

33. The Commission also noticed from the documents produced by KSEB Ltd that a number of posts which were previously created and kept in abeyance had been revived by KSEB Ltd. The Commission is of the firm view that any sanctioning of post has necessarily to be need based and when “actually required” basis. It therefore necessarily follows that not only the posts sanctioned has to be need based but also it has to be at the appropriate time. Sanctioning of posts in anticipation of requirement which may or may not arise at a later point of time is not a healthy practice and deserves to be discouraged. Further, any posts which is sanctioned should necessarily have the approval of the competent authority and any deviation from this requirement makes such creation of post irregular.
34. Considering these aspects in detail the Commission vide the note under paragraph-2 to Annexure-7 of the Tariff Regulations, 2021 provide as under.

*“Note*

*Details provided in para 2 and figures provided in Tables 2 to 7 above are provisional. The issue of employee strength of KSEB Ltd as mentioned above is sub judice. Hence, the employee strength adopted in the Order on the Truing Up of accounts for the year 2017-18 is retained. It is noted that KSEB Ltd has not yet filed the petition for the truing up of accounts for the financial years 2019-20 and 2020-21 based on the audited accounts of the respective financial years.*

*Many stakeholders and Associations have raised their serious concern with regard to the number of employees actually available in KSEB Ltd vis-à-vis those numbers considered by the Commission while truing up of accounts of the previous years. During February 2021, KSEB Ltd has implemented the Pay Revision with effect from July/August 2018 for its Officers and staff. As per Hon’ble APTEL decision in OP 1/2013 and 19/2013 in the Order dated 10.11.2014, the effect of pay revision have to be allowed as part of the employee cost. The final norms of KSEB Ltd can be arrived at only after the truing up of the figures from the financial year 2018-19 is over and after the subjudice matter is resolved. The norms will be reworked accordingly. KSEB Ltd may file the petition for the approval of ARR & ERC for the Control period based on the provisional figures as mentioned in Tables 2 to 7 above.”*

35. The Commission further noted that, KSEB Ltd had since moved an application to withdraw their prayer regarding the disallowance on employee cost and the Hon’ble APTEL was pleased to allow the request vide the order dated 21.04.2022. Thus, at present no appeal is pending before the Hon’ble APTEL against the orders of the Commission regarding employee cost and related issues. The relevant portion of the order of the Hon’ble APTEL is extracted below.

*“ These five appeals assailed the various orders of the Respondent State Commission on disallowance under multifarious heads. Appeal Nos. 109/2018, 110/2018 & 209/2018 are listed to be taken on 21.04.2022, Appeal No. 27/201 is listed to be taken on 25.01.2022 and Appeal No. 31/2021 is listed to be taken on 12.07.2022. It appears there are some connected matters pending before the State Commission in which one of the subjects of the disallowance – employee cost – is being debated. The Appellant seeks to withdraw the present appeals to the extent of challenge to the disallowance on the subject of employee cost submitting that the Commission is inclined to consider the request for reconsideration of the issue. The learned counsel for the Respondent*

*Commission confirmed that the Commission is inclined to take a fresh look at the contentions of the Appellant for reconsideration of the said subject.*

*In the above facts and circumstances, we allow the request permitting the Appellant to withdraw the prayer vis-a-vis disallowance on the subject of employee cost by the impugned orders. The applications are disposed of with these observations. “*

36. Considering all these aspects in detail, the Commission has reviewed holistically the issue of employee strength based on the documents presented before the Commission, the arguments presented for and against in the public hearing and the decision of the Hon'ble APTEL quoted above. The decision of the Commission is given in the following paragraphs.
37. The Commission took note of the fact that KSEB Ltd had submitted that the need-based employee strength as on 31.03.2006 as 30703 Nos. However, due to various reasons including delay on the part of the Kerala Public Service Commission in issuing appointment orders, KSEB Ltd continued to be short staff consistently. Further, in order to effect economy in expenditure, a number of posts which were created during 2002-2006 were kept in abeyance.
38. Hence, as appraised by the Commission, the employee strength 31.03.2009 stood at 27175 only. KSEB Ltd submitted this number was wholly insufficient to their actual requirement vis-à-vis the jobs to be performed efficiently. It was in this in this context that KSEB Ltd had approached the Hon'ble APTEL challenging among others the disallowance of employee cost for the years 2010-11 to 2016-17.
39. Based on the above facts the Commission has categorised the issue of employee strength on the following criteria:
  - (a) Post reported for filling up to the KPSC upto 31.03.2009.
  - (b) Sanction/ creation of post between 01.04.2009 to 31.10.2013.
  - (c) Sanction/ creation of post between 01.11.2013 onwards.
- (a) Post reported for filling up to the KPSC upto 31.03.2009.**
40. KSEB Ltd submitted that, all permanent staff are recruited through Kerala Public Service Commission only. KSEB Ltd further submitted that prior to 31.03.2009, many vacancies in different cadres were reported to KPSC. However, there was a lot of delay between reporting the vacancies to KPSC and actual issue of appointment orders. KSEB Ltd further submitted that the KPSC recruitment process was a time consuming one which from the vacancy reporting stage involves process such as written examination, interview etc. Hence, KSEB Ltd submitted that they had reported 1610 vacancies to KPSC prior to 31.03.2009. KSEB Ltd also submitted that had KPSC done the recruitment on time, these employees too would have been on the rolls of KSEB Ltd as on 31.03.2009 and therefore eligible for employee cost reimbursement as per the orders of the Hon'ble APTEL. It was therefore prayed before the Commission that these 1610

vacancies reported to KPSC may also be considered while computing the staff strength as on 31.03.2009.

41. The details of the vacancies reported to Kerala PSC before 31.03.2009, but joined after 01.04.2009 is given below.

Table-10

Details of the vacancies reported prior to 31.03.2009, but joined after 01.04.2009

No	Sl	Category	Vacancy reporting date	PSC Advise for appointment date	Advise for appointment (Nos)	Joined in KSEB (Nos)
	1	Asst. Engineer (Ele)	14.08.2006	RIB (2) 21111/09/GW dated 04.08.2009	302	302
			30.08.2006			
			31.10.2006			
			15.01.2007			
			07.08.2007			
			27.03.2008			
			16.02.2009			
	2	Junior Asst/ Cashier	11.08.2006	KLR III(I)905/2007 dated 30.10.2005	398	398
			06.06.2007			
			15.07.2008			
			09.04.2008	SR.III 301/08/SW dated 22.09.2010	26	26
			16.02.2009	SR.III 270/07/SW dated 11.10.2010	3	3
	3	Divisional Accounts Officer	05.04.2008	SR.III(1)2689/10/SW dated 23.12.2013	5	5
			01.09.2008	RIB(2) 3371/14/GB dated 25.03.2014	8	8
	4	Ele worker	TVM dated 24.01.2009	District PSC Letter No. DTC (1) /2453.05 dated 05.05.2009	104	104
				District PSC Letter No. DTC (1) /2453.05 dated 15.06.2009	9	9
			Kollam- dated 06.02.2009	District PSC Letter No.QRI3317/06 district office Kollam dard 18.04.2009	134	134
			Pathanamthitta dated 02.03.2009	PTA.II 1) 2964/05 district office, PTA dated 21.03.2009	4	4
			Kottayam dated 31,01.2009	K.II(2) 1855/05, District Office, Kottayam dated 18.04.3009	144	144
			Idukki dated 11,03.2009 & 18.01.2007	IDB (2)/1382/05, District Office, Idukki dated 09.09.2009	12	12
			Ernakulam dated 13.02.2009, 16.02.2009 & 07.03.2009	EV.I/2738/05 District Office, Ernakulam dated 23.04.2009	316	316

		Palakkad dated 02.02.2009	P II/2312/06 District Office Palakkad dated 07.04.2009	91	91
		Kozhikode dated 24.01.2009 & 04.02.2009	D.II(3)/2007/06, District Office, Kozhikode dated 04.04.2009	21	21
5	Meter reader	22.01.2007	RIB(1)/17911/2010/GW Tvpm dated 20.12.2010	13	13
		12.08.2008	SR III(1)/772/08/SW Tvpm dated 13.03.2012	20	20
	Total			1610	1610

The Commission has examined the above submission of KSEB Ltd. It is true that considerable time delay occurs between reporting a vacancy and its filling up by KPSC. It is also a fact that except for the delay on the part of KPSC, these employees would have to be included in the employee strength of KSEB Ltd as on 31.03.2009 as directed by Hon'ble APTEL.

The Commission also noted that the State Government vide the notification GO (Ms) No. 37/2008/PD dated 25<sup>th</sup> September 2008 had in paragraph 5(11) stated as follows:

"5(11) All orders and circulars issued by competent authorities of the Board till the date of vesting would continue to be applicable during the period till re-vesting and to the transferee on re-vesting and the managing committee shall have power to modify these circulars according to the rules and procedures as was done by the Board."

The above notification also give credence to KSEB Ltd's argument that the post which were notified to KPSC prior to 31.03.2009 is also required to be considered for computation of employee strength as on 31.03.2009.

***Considering these facts in its entirety, the Commission after careful consideration accepts the KSEB Ltd's submission that the 1610 vacancies reported to KPSC prior to 31.03.2009, but who joined for duty after 01.04.2009 onwards can be allowed.***

**(b) Sanction/ creation of post between 01.04.2009 to 31.10.2013.**

42. The second category of post involved those which were sanctioned/ created between 01.04.2009 to 31.03.2013 during which time KSEB was vested with the State Government. From the document presented by the KSEB Ltd before the Commission, it is seen that the State Government vide the notification GO (Ms) No. 37/2008/PD dated 25<sup>th</sup> September 2008 had vested all the interests, rights in properties, all rights and liabilities of the Board with the State Government. The relevant portion of the Notification is extracted below:

"5. (1) All interests, rights in properties, all rights and liabilities of the Board vested in the State Government under clause 4 shall be administered by the

Government in the name as 'Kerala State Electricity Board' by appointing a special officer for this purpose and a managing committee till the date of re-vesting to be notified by the State Government to re-vest the same in a company as provided in sub-section (2) of section 131 of the Act.

(2) The managing committee shall consist of the Chairman and Members of the Board and the person who is holding the post of Chairman shall officiate as special officer to act for and on behalf of State Government to administer all properties, undertakings, assets, liabilities and personnel vested in the State Government as per sub-clause (1) and (2) of clause 4 in the name of transferor.

(3) The State Government shall have the power to appoint such additional members, remove or appoint member, special officer or the managing committee as the case may be as it deems fit, by fixing appropriate terms and conditions of service.

(4) The terms and conditions of service of the special officer and members of the managing committee shall be the same as in the Board prior to the commencement of this Scheme.

(5) The State Government shall continue to discharge all rights and obligations under any licenses which the Board was discharging prior to the commencement of this Scheme for the purpose of generation, transmission, distribution and any other functions in the place of the Board and in the name as 'Kerala State Electricity Board', subject to the provisions of the Act.

(6) The existing officers and employees of the Board, subject to their conditions of service, will continue to discharge their duties, responsibilities, obligations and functions as was done before as per the existing delegation of powers on behalf of the Government in the place of the Board and in the name as 'Kerala State Electricity Board' till it is re-vested in a company by the State Government in accordance with sub-section (2) of section 131 of the Act and the officers and employees who are discharging their duties under the Scheme during this period shall be deemed to be under the services of the State Government.

(7) The special officer, the managing committee, the officers and employees who are discharging their functions under the Scheme during the period mentioned in sub-clause (6) above shall perform all duties in connection with the collection of revenue, incurring expenditures in the name as 'Kerala State Electricity Board' and for and on behalf of the State Government subject to their delegated powers.

(8) The special officer, the managing committee and the officers who are discharging their functions under the Scheme during the period mentioned in sub-clause (6) above may execute or enter into any agreements in the name as 'Kerala State Electricity Board' and for and on behalf of the State Government subject to their delegated powers.

(9) All communications, bills, vouchers, receipts and other expressions to be issued during the period of the Scheme shall be entered into in the name as 'Kerala State Electricity Board' and the same shall be entered for and on behalf of the State Government.



(10) All bank accounts in the name of the Board may continue to be operated by such officers, mentioned in sub-clause (6) above till re-vesting subject to their existing delegation of powers.

(11) All orders and circulars issued by competent authorities of the Board till the date of vesting would continue to be applicable during the period till re-vesting and to the transferee on re-vesting and the managing committee shall have power to modify these circulars according to the rules and procedures as was done by the Board.”

43. As detailed above, w.e.f 25.09.2008 till 31.10.2013, i.e, till KSEB was re-vested and converted into a company under the Companies Act, 2013, the competent authority for creation of post was solely vested with the State Government.
44. From the documents produced by KSEB Ltd to the Commission vide their letter dated 07.12.2021, the Commission noticed that the State Government vide GO (Ms) No.14/12/PD dated 16.07.2012 has created 1248 number of additional posts in KSEB. A copy of the said GO is extracted below:

“

**Government of Kerala**

**Abstract**

*Power Department – Kerala State Electricity Board – Creation of posts for the functioning of newly formed electrical sections of KSEB Ltd – Sanction accorded – Orders issued.*

**Power (A) Department**

**GO (MS) No 14/12/PD dated Thiruvananthapuram 16.07.2012.**

*Read : Letter No. Estt.II/1174/2012 dated 20.03.2012 from the Secretary, Kerala State Electricity Board Ltd.*

**Order**

*The Secretary, Kerala State Electricity Board as per the letter read above has submitted a proposal for the creation of following number of posts in Kerala State Electricity Board for the smooth functioning of the 32 new electrical sections sanctioned in March and May 2011.*

<b>Name of posts</b>	<b>No of post to be created</b>
<i>Overseer</i>	<i>192</i>
<i>Line man</i>	<i>384</i>
<i>Electricity worker / mazdoor</i>	<i>192</i>
<i>Total</i>	<i>768</i>

*2. In addition to the above 32 Sections, 20 more electrical sections are proposed to be created shortly for which the following staff is required as per the approved staff pattern.*

<b>Name of posts</b>	<b>No of post to</b>
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	<b>be created</b>
<i>Overseer</i>	120
<i>Line man</i>	240
<i>Electricity worker / mazdoor</i>	120
<i>Total</i>	480

*Government have examined the proposal in detail and are pleased to accord sanction for the creation of 1248 posts in various categories as detailed below for the smooth functioning of new electrical section offices of KSEB subject to the condition that no financial assistance will be provided to KSEB by Government on account this.*

<b>Name of posts</b>	<b>No of post to be created</b>
<i>Overseer</i>	312
<i>Line man</i>	624
<i>Electricity worker / mazdoor</i>	312
<i>Total</i>	1248

*By Order of the Governor  
**Elias George**  
Principal Secretary to Government."*

**The Commission examined the matter in detail based on the above submissions and GO. As stated earlier, during the period of vesting of KSEB Ltd with the Government, i.e., 25.08.2008 to 31.10.2013, the State Government was the competent authority for creation of post and fully empowered to do so. As seen from the GO No.14/12/PD dated 16.07.2012, the State Government had sanctioned the creation of 1248 additional post in KSEB in the various categories as shown in the GO.**

**The Commission notes that the State Government with whom KSEB was vested had full authority to create these posts. It is also a fact that all creation of new posts by the State Government undergo a due diligence process and only thereafter are the posts sanctioned. Since the creation of these 1248 additional posts was sanctioned by the competent State Government, the Commission after due consideration has decided to accept these posts.**

**(c) Sanction/ creation of post between 01.11.2013 onwards.**

45. The Commission noted that w.e.f from 01.11.2013, the State Government vide the Government notification GO(P) No. 46/2013/PD dated 31.10.2013- Kerala Electricity Second Transfer Scheme (Re-vesting) 2013 notified the re-vesting KSEB to KSEB Ltd and bringing it under the ambit of a company incorporated

under Companies Act, 2013 fully owned by the Government of Kerala. Section 166 (3)- Duties of Directors of the Companies Act, 2013;  
*“ a Director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgments”*

The above sub-Section clearly entrusts the responsibility of exercising due and reasonable care and independent judgment while exercising his duties as a Director of the company. It is therefore clear that all post which are sanctioned by the competent authority i.e., the Board of Directors have to be done in conformity with the above requirements.

KSEB Ltd in their submission before the Commission has produced the proceedings of the 12<sup>th</sup> Meeting of the Board of Directors of KSEB Ltd held on 12.12.2013 (Agenda Item 25- 12/2013) (BO dated 31.12.2013). As seen from this Board Order has sanctioned creation of 192 Nos of Lineman and 96 Nos of electrical worker, totalling 288 new posts.

As mentioned earlier, KSEB Ltd is a Company registered under Companies Act, 2013 and the Board of Directors have full powers to create additional posts subject to their exercising due and reasonable care, skill and diligence and exercising independent judgments. Since these posts were created by the competent authority i.e., the Board of Directors and the Commission does not have any reason whatsoever to believe that these posts were created without exercising the requirements of the above provision, the Commission accepts these posts as duly authorised and required by KSEB Ltd for their efficient functioning.

46. The Commission also noted that, KSEB Ltd in their submissions had produced various documents pertaining to creation/ redeployment/ revival etc of posts on various dates. However, on its perusal, the Commission noted that most of these orders did not comply with the basic requirement of sanction by the competent authority. The Commission would also like to mention that all posts which are created have necessarily to be need based, fully justified and only at the appropriate time. The Commission hereby directs KSEB Ltd to assess the requirement of all new posts and permanent posts shall only be created where the work is of an ongoing nature and cannot be fulfilled by sanctioning of temporary posts.
47. The Commission also strongly disapproves the sanctioning of posts in anticipation and thereafter keeping it either vacant or in abeyance. Similarly, the tendency to revive such posts is neither correct nor a healthy one and must be avoided at all costs. Since the manpower planning and budgeting are normally done on a year to year basis, a yearly review of all sanctioned but vacant post must be done and its essentiality established. Otherwise all such posts must be abolished. It is a standard practice in Central PSUs that any sanctioned which is not filled for a continuous period of one year stands automatically abolished.

KSEB Ltd is hereby directed to consider this recommendation for implementation.

48. The Commission is also aware that a manpower requirement study was entrusted to IIM Kozhikode and their report and recommendation are available with KSEB Ltd. Since this study is more than five years old, a review of its recommendations must be conducted and sanctioning of manpower must only be on absolute need basis and in a manner that the most optimum, efficient and productive manpower only is retained in the organisation. KSEB Ltd shall within six months of the date of this order conduct a review for the efficient utilisation of the manpower sanctioned by the Commission till date.
49. Based on the discussion as above, the Commission hereby revises the need-based manpower of KSEB Ltd as follows.

Table-11  
Summary of the need based requirement of Manpower of KSEB Ltd as on 31.03.2022

	Particulars	Numbers
1	Number of employees in the pay roll of KSEB Las on 31.03.2009	27175
2	Vacancies reported to PSC prior to 31.03.2009 but joined after 31.03.2009	1610
3	Posts created by the State Government vide the GO dated 16.07.2012	1248
4	Posts created vide the Director Board Order BO dated 31.12.2013	288
	Total	30321

50. The Commission also places on record that 'the Kerala HT and EHT Industrial Electricity Consumers' Association has filed a petition WP (C) No.4752 of 2022 before the Hon'ble High Court of Kerala seeking reliefs including restraining the State Electricity Regulatory Commission in considering any application fastening additional financial liability by permitting increase in employee strength pending disposal of the Writ Petition. Though the Association had in their prayers prayed for a stay in the above matter, this relief has not been granted by the Hon'ble High Court. The Commission also hereby place on record that the above sanction of posts vide this Order in KSEB Ltd will be subject to the final orders of this court case.

## **Orders of the Commission**

51. The Commission, after examining the petition filed by KSEB Ltd , the objections raised by the stake holders and other interested parties as per the provisions of the Electricity Act, 2003 and provisions of the KSERC (Terms and Conditions for Determination of Tariff ) Regulations, 2021, hereby orders the following.

- (1) The Commission hereby approves the total number of posts in various categories of KSEB Ltd as 30321.
- (2) The effect of this revision shall be from the FY 2022-23.
- (3) In view of the advances in technology e.g. smart meters, computerisation etc, KSEB Ltd is hereby directed to review the necessity of retaining the above sanctioned posts and wherever possible skill upgradation, training etc can be provided to make the incumbent employees more effective.
- (4) The Commission hereby makes it clear that the above sanction of posts is subject to the outcome of the WP(C) No. 4752 of 2022 pending before the Hon'ble High Court of Kerala.

Petition disposed off. Ordered accordingly.

**Sd/-**

**Adv A J Wilson**

**Member (Law)**

**Sd/-**

**Preman Dinaraj**

**Chairman**

Approved for issue

C R Satheeshchandran

Secretary

**List of stakeholders participated in the public hearing held on 25.01.2022**

1. Sri. Siji Jose, Director (Finance), KSEB Ltd
2. Sri. P Murali, Deputy CE, Commercial, KSEB Ltd
3. Sri Premkumar P K, Dy CE, KSEB Ltd
4. Sri. A Saifudheen,
5. Sri. Anand. G, Senior General Manager Mathribhumi
6. Sri A.R Satheesh, President, HT & EHT Association
7. Sri. Basheer
8. Sri. Biju
9. Sri. Bose Jacob, Rtd Dy CE KSEB Ltd
10. Sri. Dejo Kappen
11. Sri. Edward, TRAC KSEB Ltd
12. Sri. C.P George
13. Sri. Hareesh, HOCL
14. Sri. Hari Lal. S, General Secretary KSEB Workers Assosiation
15. Sri. Jacob Cheriyan, Malayala Manorama
16. Sri. Jayapraksh. K,
17. Sri Jiju R, Patspin India Limited
18. Sri. Latheesh .P.V, Vice President, KSEB OA
19. Sri. S. N Jayapraksh, Correspondent Mathribhumi
20. Sri M.P Gopakumar, General Secretary, Kerala Electricity Workers Federation
21. Sri. Nair Nandhakumar. P, Carborandum Universal Limited
22. Sri. Noushad Sharafudeen, KPBOF, KSEB Ltd
23. Sri. P.S Prasanth
24. Sri. Prabhakaran. K.V, HT & EHT Assosiation
25. Sri. Pradeep. M, Hindalco Industries
26. Smt. Prini Peter, Carborandum Universal Limited
27. Sri. Rajesh J Kuruvilla, Carborandum Universal Limited
28. Sri. Renjith Jacob, Apollo Tyres
29. Sri. Romy. G,
30. Sri. Saji Mathew, MRF
31. Sri. Shibu Kuriyan,
32. Sri. T.S Madhavan, EDRAAC, District Secretary
33. Sri. Rajeevan, Dy General Manager, Patspin India Limited
34. Sri Viswanathan. K,
35. Sri. Praseedu Kumar, TRAC, KSEB Ltd
36. Sri. Gireesh, TRAC, KSEB Ltd
37. Sri Firoz. N, Manager, Travancore Titanium Products Ltd
38. Sri. Sibykutty Francis, Working President KEEC
39. Smt. Neenu Skaria, Electrical Contractor
40. Sri. Prasanth Krishna. G , Chief Reporter Mathribhumi
41. Sri M.T Varghese, VP, KSEB Pensioners Association
42. Sri. Nithin. C.S, Dy GM FACT
43. Sri Sarath, FACT