

CHAPTER - 2

2.0 BACKGROUND TO THE PRESENT FILING AND PUBLIC HEARING

2.1 ERC for FY05

KPTCL had filed its ERC for FY05 during January 2004, and had proposed revision of BST and Transmission charges to cover the revenue gap. In response to the Commission's observations on the ERC, KPTCL had filed its revised ERC for FY05 during December 2004, duly proposing revision of BST and Transmission charges. Since the ERC of KPTCL for FY06 had become due by that time, the Commission considered the ERC application of FY05 along with the ERC application of FY06.

2.2 ERC for FY06

KPTCL had filed the ERC for FY06 along with the tariff application on 16.02.2005 and filed an amended ERC on 12.04.2005. ESCOMs also filed their ERCs for FY06 along with the tariff application on 31.05.2005.

A combined tariff order comprising of (i) ERC of KPTCL for FY05 & FY06 (ii) ERCs of ESCOMs for FY06 and (iii) tariff applications of KPTCL and the ESCOMs was issued by the Commission on 27.09.2005.

2.3 ERC for FY07

2.3.1 The ERC filings of KPTCL and ESCOMs for FY07 were due on 30.11.2005. KPTCL filed its ERC for FY07 along with tariff application on 30.11.2005, but ESCOMs have not made their ERC filings for FY07 as on date. Since tariff revision applications were filed by KPTCL and the ESCOMs almost at the same time in the previous years, the same were considered together by the Commission and a common Tariff Order was issued in March 2003, December 2003 and September 2005. As indicated earlier, prior to the formation of ESCOMs, it was a common revision of retail tariff in Tariff Order December 2000 and May 2002, which included BST and

transmission charges revision also. Therefore, it was possible to pass on the revision in BST and transmission charges to the consumers through retail tariff in those years. However, presently only KPTCL has filed its application for revision of transmission charges with its ERC while the ESCOMs have not made their ERC/ tariff filing. In fact, the Commission proposed amendments to the KERC (Tariff) Regulations to facilitate the ESCOMs to file their ERC without waiting for any subsidy commitment from GoK and informed the ESCOMs to file their ERCs accordingly. However, the ESCOMs have not responded in the matter. Therefore, while KPTCL has sought upward revision of transmission charges, there is no corresponding application by the ESCOMs for tariff revision. Therefore, any upward revision of transmission charges of KPTCL will have to be absorbed by the ESCOMs themselves.

2.3.2 On the ERC/tariff application filed by KPTCL on 30.11.2005, the Commission communicated its preliminary observations to KPTCL on 06.12.2005 and KPTCL furnished the replies to the observations on 14.12.2005. Thereafter, the Commission considered the application as petition and cleared it for publication of the notice and informed KPTCL to publish a summary of their application in the newspapers calling for objections from the stakeholders vide letter dated 16.12.2005. The said notice was published by KPTCL on 24th & 25th December 2005 in the following newspapers:

Deccan Herald
Times of India
Vijaya Karnataka
Prajavani

KPTCL's ERC and tariff application was also made available on the websites of KERC as well as KPTCL.

2.3.3 According to the above notice published by KPTCL, the last date for receiving objections from the public was 07.02.2006.

2.3.4 In the meanwhile, consequent on issue of the Tariff Policy by the Gol on 06.01.2006, the Commission proposed certain amendments to the KERC (Tariff) Regulations 2000 to comply with the Policy and KPTCL was informed to file its revised ERC for FY07 considering the proposed amendments vide letter dated 07.02.2006. However, KPTCL in their letter dated 07.03.2006 have stated that it would like to retain the figures as per the ERC already filed by it. This matter would be further discussed in the Chapter on ERC for FY07.

2.4 Validation of ERC

The Commission took up the validation of ERC and Tariff filing of KPTCL for FY07 as soon it was received.

1. KPTCL has proposed in the ERC a capital investment programme of Rs. 2700 crores during FY07, with a target of commissioning 365 new sub-stations at the rate of one new sub-station each day of the year, in addition to augmenting capacity of 194 existing sub-stations and erection of several transmission lines. The Commission observed that the financial and physical targets indicated by KPTCL were several times higher than what KPTCL had achieved historically over the past four years. The Commission therefore decided to have the proposals of KPTCL examined independently and appointed an Expert Committee for the purpose on 21.12.2005 under the Chairmanship of Sri B.G.Rudrappa, former Chairman/KEB. The committee, after scrutinising the proposal, has furnished its report to the Commission, which would be discussed in Chapter on ERC for FY07.
2. On the ERC, the Commission sought clarifications on various issues from KPTCL. An abstract of the letters addressed by the Commission and the replies furnished by KPTCL thereon are given below:

Letter Nos. & date	Details of the clarifications sought/ Reply furnished
Commission's letter No.B/07/5/1845 dated 06.12.2005	Preliminary observations on the ERC and Tariff filing made on 30.11.2005
KPTCL's Letter No. 1019-22 dated 14.12.2005	KPTCL's replies to the preliminary observations of the Commission
Commission's letter No. B/07/5/1900 dated 16.12.2005	ERC & Tariff filing application was treated as petition and KPTCL was requested to publish a notice in the newspaper to call for objections
KERC O.M.No. B/07/5/1916 dated 21.12.2005	Constitution of an expert Committee to scrutinize the capital investment of Rs.2700 crores proposed by KPTCL for FY07.
KPTCL's letter No.1094-95 dated 24.12.2005	KPTCL's views on the constitution of Expert Committee and request to dispense with the proposal to constitute an Expert Committee
KPTCL's letter No.1097 dated 26.12.2005	KPTCL's letter confirming the publication of Notices (calling for objections), in the newspapers.
Ref. No. B/07/5/1949 dated 28.12.2005	Meeting Proceedings of the Expert Committee's observations on the KPTCL's proposed Capital Expenditure
KPTCL's Letter No. 1183 dated 09.01.2006	KPTCL's reply on the observations of the Expert Committee observations.
Commission's letter No.B/12/01/226 dated 7 th Feb.2006	Proposed amendment to KERC(Tariff) Regulations and Commission's directions to KPTCL to revise the ERC in the light of proposed amendments.
KPTCL's letter No.1675-81 dated 8 th March 2006	KPTCL's submission to allow the depreciation at the existing rate and urge the Commission not to amend the Tariff Regulations
KPTCL's letter No.1723-26 dated 21.03.2006	KPTCL's appeal to consider their request to permit KPTCL to carry out all works included in the investment plan for FY07

2.5 Objections

Against the notices published in the newspapers calling for objections on ERC/tariff application of KPTCL for FY07, 27 objections were received in proper format (with affidavit) and 16 objections were received without affidavit. KPTCL has provided replies to the 27 objections which were in proper format, with a copy to the Commission. The Commission notes that, after detailed analysis of the filings, elaborate objections have been raised by the Objectors for which KPTCL has also responded in detail. The

details of objections raised and responses from KPTCL thereon, along with list of objectors are given in **Annexe- 2**.

2.6 Public Hearing

1. The Commission conducted a public hearing on 21st March 2006 at the Commission's office in Bangalore to elicit views/suggestion/objections on the ERC and Tariff filing of KPTCL. Notices to this effect were published by the Commission on 13.03.2006 in the following newspapers:

Deccan Herald
Times of India
Vijaya Karnataka
Prajavani

2. In the public hearing held on 21st March 06, 20 objectors participated. A list of persons who expressed their views in the hearing is given in **Annexe- 3**.
3. During the hearing, after a presentation by the Managing Director/ KPTCL on the filings, the objectors presented their views in detail. The objectors made elaborate and concrete submissions on the filings and KPTCL responded to the objections.
4. The Commission is highly impressed by the quality of the objections raised by the objectors both in writing and also during the public hearing. The Commission hereby places on record its appreciation for the active participation of the objectors and also for the response given by KPTCL.

2.7 Analysis of Objections

- a. A large number of objections received both in writing and during the public hearing related to the capital investment programme proposed by KPTCL for FY07, which would be discussed while dealing with the capital investment programme in this order. All the other

objections raised and the responses given by KPTCL would also be discussed in the appropriate portions of this order.

- b. However, some objections which are common in nature are discussed below:
 - i. The revision of tariff has become traditional year after year. The present proposal for increase in transmission tariff would be followed by tariff revision proposals of the ESCOMs. With the introduction of reforms in the other sectors like Telephone, Airways, etc, while the tariffs have been substantially reduced over a period, in Railways, the tariffs have not been increased over 3 to 4 years, the tariffs are being increased in the power sector in the State year after year defeating the objectives of reforms. Increase in tariff to an extent of 34 % in one go is against the interest of the consumers. While the average inflation rate is about 5 %, KPTCL's proposal to raise tariff by 35 to 40% is not justified. KPTCL is considering the KERC as a Tariff Commission and not as Regulatory Commission. Any increase in tariff to the industrial category would discourage investments in the manufacturing sector in the State.
 - ii. Several Grama Panchayats have represented to reduce the tariff for water supply and streetlights.
 - iii. Due to good monsoon during the year, there is no need for any tariff increase.
 - iv. ESCOMs should have filed their objections to the ERC of KPTCL, as they would be largely affected. All the 5 ESCOMs are largely guided by KPTCL and hence unbundling has not really taken place, and hence they have not objected.
 - v. The quality of replies provided by KPTCL to the objections is not upto the mark and inadequate.

- vi. KPTCL should strive to improve its efficiency in each area and bring down its expenses instead of proposing tariff revision in a routine manner. The objectors quoted an example that even to obtain a copy of the ERC filings, consumers had to move around, from table to table this time.
- c. KPTCL in their response has stated that (i) P&L account for the half year has been furnished to the Commission (ii) KPTCL is filing its ERC according to the Tariff Regulations and tariff revision is being sought in order to meet the revenue gap. ESCOMs may or may not come up with tariff revision proposals now. The increase in revenue sought by KPTCL is only 3% of the ARR of the previous year, which is only a marginal increase. With the capital investment proposed by KPTCL for FY07, ESCOMs losses are likely to reduce substantially which would be factored in the ERCS of ESCOMs. (iii) ESCOMs are functioning independently and all the assets and liabilities have been transferred to the respective ESCOMs. (iv) KPTCL is trying to improve its efficiency in all areas (v) Other issues raised by the objectors are relating to retail consumer tariff.
- d. While the Commission finds merit in the above objections raised by the Objectors, it also agrees that according to the Tariff Regulations, the utilities have to propose measures to fill their revenue gap every year, one such measure being tariff revision. But before exercising this option, the utilities have to strive to fill the gap to the extent possible through efficiency improvements and reduction of losses as far as controllable expenses are concerned. The Commission agrees that many issues raised by the Objectors as indicated above relate to retail consumer tariff but at the same time they are inter-linked with the transmission tariff and therefore transmission tariff cannot be looked at in isolation. The Commission would keep in mind the objections raised in this regard.

2.8 ESCOMs Response to KPTCL's ERC

The Commission notes that ESCOMs have not filed any written response to KPTCL's ERC and Tariff proposals. However, the MD/CESCO and MD/MESCOM & i/c MD/HESCOM supported the KPTCL's investment proposal during the public hearing. Many objectors took strong objection to the ESCOMs not filing their views on the KPTCL's proposals and that the ESCOMs have not indicated how the increase in transmission charges would be met by them. The Objectors argued that the ESCOMs have not filed their objections on the KPTCL's proposal for the simple reason that the ESCOMs are not functioning independently as expected of any other commercial organisation but are continued to be guided by KPTCL in its day to day working with MD/KPTCL as a common Chairman of all the ESCOMs. They further argued that the ESCOMs should be made independent as otherwise the very purpose of unbundling and reforms would be defeated. KPTCL in their response categorically stated that the ESCOMs are functioning independently and all the assets and liabilities have been transferred to the respective ESCOMs.

The Commission agrees with the views expressed by the Objectors in this regard. The ESCOMs, in order to protect their own interest and in turn the interest of the consumers, should have filed their views in writing before the Commission, duly indicating how the consumer's interest would be protected and how the increase in transmission charges would be met. None of the ESCOMs have reacted on the proposal to raise transmission charges by 40% in one year. Merely supporting the KPTCL's proposal during the public hearing indicated that they are continued to be under the obligation and guidance of KPTCL even after 3 years of formation of the ESCOMs. The ESCOMs are expected to critically analyse the KPTCL's proposals and provide their inputs to the Commission and not merely support whatever KPTCL proposes.

The Commission strongly urges that the ESCOMs should function independently as commercial organisations as otherwise the very purpose of unbundling and reforms would not be served. The Commission requests the Govt to take immediate action to make the ESCOMs fully independent.

2.9 Compliance to Directives

The Commission has issued several directives to KPTCL in all the previous Tariff Orders. The directives are continuing in nature and the Commission is monitoring their compliance regularly. These directives include directives on Transmission loss reduction, Energy Audit, Inventory control, Project management, Computerisation and MIS etc.

KPTCL in their ERC have stated that KPTCL has been making sincere efforts to comply with the directives issued by the Commission. A few objectors have stated that the directives issued by the Commission are not being complied with by KPTCL.

The status of implementation of the directives is as under:

- a) KPTCL has reported in the ERC that the reports on development of MIS have not been furnished by the consultants namely M/s PWC and that action is being taken to develop necessary software for consolidation of various reports. Testing of about 15 reports under financial matters is under progress.

The Commission notes that KPTCL has not implemented the directives in a time-bound manner. KPTCL should indicate definite achievements and milestones instead of giving general statements like 'testing of software is under progress' etc. The implementation of various tasks should be time bound and their achievements should be reported to the Commission from time to time.

- b) Energy Audit: KPTCL has reported that the number of interface meters not working during December 2004 were 39 numbers and as on 31.10.2005 there were only 6 interface meters, which are not working.

The Commission notes that keeping the meters in good working condition is a prerequisite for an effective energy audit. KPTCL should put in place a permanent mechanism to ensure that all the Interface meters/check meters work properly and that defective meters are set right without any loss of time. This is more critical when Intra-state ABT is introduced in the state. **KPTCL shall submit an action plan on this, within one month of the issue of this order.**

- c) Quality of Service: KPTCL has submitted that it is reviewing the status of the quality of service on a regular basis and that both the voltage and frequency have improved substantially during FY04-05.

The Commission notes that the frequency in the southern grid has improved substantially after introduction of Inter-state ABT in the southern grid. The voltage has also improved substantially with commissioning of new stations and lines. However, this is a continuous exercise and there is scope for further improvement.

- d) Prioritisation of Capital Works: The Commission had directed to prioritise the capital works and get them approved by the Commission. KPTCL has stated that it is complying with the directives relating to capital works such as realistic project cost estimates, provision of IDC in the estimates, benchmarking of system parameters such as voltages, interruptions, system loss etc.

KPTCL has however not complied with this important directive except submitting the detailed capital works programme for the entire year.

These aspects have also been examined by the Expert Committee constituted by the Commission on the Capital investment programme for FY07 and the Committee has given its observations.

- e) Studies on Manpower: It is stated by KPTCL that it is examining to entrust the study to a consultancy firm having necessary expertise, but some of the employees of KPTCL have challenged the rules for transfer of personnel and the petitions are still pending in the Court of law.

The Commission notes that the matter of transfer of personnel to ESCOMs, which is pending before the Court of law is a separate issue and has nothing to do with study on Manpower of KPTCL. In the Public Hearing also, some of the objectors have pointed out that the reasons furnished for non-compliance of this directive is not convincing and any expenditure incurred by KPTCL for excess staff should not be passed on to the consumers. KPTCL shall take action to conduct the study without giving further reasons.

KPTCL shall note that the directives issued in the earlier orders will form part of the present order. The Commission reiterates that compliance to these directives is a pre-requisite for allowing any future tariff increase.

2.10 Consultation with the Commission Advisory Committee

The Commission placed the KPTCL's ERC for FY07 including tariff application and capital investment proposal before the Commission's Advisory Committee in the meeting held on 04.04.2006 and the same was discussed by the Committee.