KARNATAKA ELECTRICITY REGULATORY COMMISSION

BANGALORE-560 001

Dated this 31st day of December, 2007

In the matter of:

Re-determination of Transmission Tariff for the period 2007-08, 2008-09 and 2009-10 under Multi Year Tariff framework, of Karnataka Power Transmission Corporation Ltd (KPTCL) and approval of the Expected Revenue from Charges (ERC) pursuant to the Orders of the Hon'ble ATE dated 4th December 2007 in Appeal No. 100 of 2007 and IA No. 122 of 2007.

Present **:**

Shri K.P.Pandey	***Chairman***
Shri H. S. Subramanya	***Member***
Shri S. D. Ukkali	***Member***

O R D E R

Karnataka Electricity Regulatory Commission had issued Multi Year Tariff (MYT) Order for the first control period i.e. from FY08 to FY10 in respect of Karnataka Power Transmission Corporation Ltd. (KPTCL), on 6th July 2007 as per KERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2006. In this order, the Commission had determined the Annual Revenue Requirement for the control period and Transmission Tariff for FY08 and further specified an indexation formula for determination of Transmission Tariff for FY09 and FY10 of the control period.

~~2~~As part of the MYT order, the Commission for the first time undertook a detailed truing up exercise wherein the Commission had trued up the expenses and revenues of KPTCL for the years FY01 to FY06 and made corresponding adjustments in the ARR of FY08. With respect to FY07, the Commission had discussed the performance of the Licensee in the Chapter on Retrospect, but did not carry out any truing-up exercise.

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~~3~~In approving the ARR for the control period, the Commission did not consider the Interest & Finance charges for the proposed capital investments of KPTCL. The Commission had based its decision on the Order dated 29th August 2006 of the Hon'ble ATE in Appeal No. 84 of 2006 wherein it was stated as under:

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> *"Mere proposal to invest will not involve the liability either interest or finance charges eo-instanti, but such charges may have to be incurred only when the amount is actually invested as planned. Till the investment is complete the utility is not entitled to claim either finance or interest or return on investment"*

The MYT order of the Commission was challenged by KPTCL before the Hon'ble Appellate Tribunal on the following grounds:

a. Legality of truing up

b. Truing up of revenues with respect to performance on losses

c. Disallowance of interest cost on the proposed capital investments

d. Direction of the Commission requiring KPTCL to remit the amount of Rs. 620 Crores to Discoms

e. Truing up of expenses and revenue for FY07 based on the provisional accounts

f. Disallowance of interest and finance charges for FY07 on belated power purchase payments

~~5~~The Hon'ble ATE had allowed the Appeal No.100 of 2007 and in its Order dated 4th December 2007, directed the Commission to give effect to the order within 6 weeks.

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~~6~~The Commission, therefore, issues this Supplementary Order to implement the Orders of the Hon'ble ATE in Appeal No. 100 of 2007 dated 4th December 2007.

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Accordingly, the Transmission MYT Order dated 6th July 2007, stands corrected to the extent of changes effected in this Supplementary Order. The Commission's analysis and modifications of the MYT Order dated 6th July 2007, in compliance of the Order of the Hon'ble ATE in Appeal No.100 of 2007 dated 4th December 2007, are detailed in the following sections.

TRUING UP OF ARR AND ERC OF KPTCL FROM FY01 TO FY06

~~8~~1. The Commission had undertaken a detailed truing up exercise covering expenses and revenues for the period from FY01 to FY06. KPTCL had filed the Appeal before the Hon'ble ATE, questioning the legality of the truing up exercise. It had also questioned the legality of the revenue true up done by the Commission, considering the approved T&D losses. KPTCL had also claimed that the Commission had already undertaken truing up based on actual/audited accounts. The Hon'ble ATE, after considering the contentions of the parties concerned in the appeal, has analysed the matter and given its decision on Appeal No. 100 of 2007 vide its Order dated 4th December 2007. The relevant extract of the order is reproduced below for reference:

> "28. We have heard contentions of the rival parties. Basic issue that has to be decided is: whether or not the Commission was correct in carrying out the truing up of revenue requirements and revenues of KPTCL for the tariff period 2000-01 to 2005-06. Invariably, the projections at the beginning of the year and actual expenditure and revenue received differ due to one reason or the other. Therefore, truing up is necessary. Truing up can be taken up in two stages: Once when the provisional financial results for the year are compiled and subsequently after the audited accounts are available. The impact of truing up exercises must be reflected in the tariff calculations for the following year. As an example; truing up for the year 2006-07 has to be completed during 2007-08 and the impact thereof has to be taken into account for tariff calculations for the year 2007- 08 or/and 2008-09 depending upon the time when truing up is taken up. If any surplus revenue has been realized during the year 2006-07, it must be adjusted as available amount in the Annual Revenue Requirement for the year 2007-08 or/and 2008-09. It is not desirable to delay the truing up exercise for several years and then spring a surprise for the licensee and the consumers by giving effect to the truing up for the past several years. Having said that, truing up, per se, cannot be faulted, and, therefore, we do not want to interfere with the decision of the Commission in this regard to cleans up accounts, though belatedly, of the past. It is made clear that truing up stage is not an opportunity for the Commission to rethink de novo on the basic principles, premises and issues involved in the initial projections of revenue requirements of the licensee. We had occasion to deal with a similar situation in NDPL

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vs DERC, appeal No. 265 of 2006. The relevant part of our judgment in that appeal is reproduced below:-

"47. Second Truing up. Second truing up has been done on three scores namely employee expenses, depreciation and interest. It is contended by the Appellant that the second truing up is warranted only when there is difference between provisional accounts on the basis of which the first truing up is done and audited accounts which may, have been furnished after such truing up. In the present case admittedly there has not been any substantial change between the provisional accounts and the audited accounts. On all the three scores the Commission has done the second truing up on the basis of a revised policy e.g. on the count of depreciation it says that no depreciation should have been allowed on assets created by APDRP grant. Since the accounts were already before the Commission if it was not to grant any depreciation on the assets created out of APDRP grant the same should have reflected in the Tariff Order of the appropriate year. After the Tariff Order based on those accounts, namely for the Financial Year 2004-05, there is no occasion for the Commission to now introduce a new philosophy and approach for such assets acquired out of APDRP fund. It may further be said here that there is no rationale for declining to allow depreciation for assets acquired out of the APDRP grant because depreciation is a source of funding required for replacement of assets. Therefore, unless the Commission is able to say that APDRP grant will be available every year and there is no need to create funds for replacement of such assets, it cannot say that no depreciation on such asset may be given. Similarly, coming to the question of employees cost the Commission says, that other costs and allowance which were being paid to the existing employees had nothing to do with VSS scheme and, therefore, Commission decided to de-link other costs and allowances from the normative employee cost allowed by the Commission. This is again rethinking on the subject of employee cost. The previous years account cannot be trued up on such rethinking. The appellant on the other hand says that such allowances and costs could not have been de-linked as those who availed of VSS would have been paid these allowances had they continued in the employment.

48. Similarly, so far as interest is concerned the second truing up is not based on difference between the audited account and the provisional account and, therefore, could not have been done by the Commission. The Commission has no alternative but to allow all these expenses in the next truing up mechanism.

29. It is noted that the Commission had been carrying out the truing up exercises on year to year basis but had not given effect to the results of such exercises during all these years. Once the truing up exercise has been carried out, the Commission is not permitted to again take up the truing up exercise based on new assumptions.

30. It has been brought to our notice that whereas the Commission, in the first truing up exercise, had found a deficit of Rs. 479.9 crores, second truing up exercise by the Commission has resulted in sufficient surplus in the revenues of KPTCL to not only wipe out the deficit of Rs. 479.9 crores but also adjust an amount of Rs. 545.87 crores which this Tribunal had directed to allow on account of difference in power purchase cost paid to Tanir Bhavi. The main reason for this disparity, it has been contended by the appellant, is on account of treatment of Transmission and Distribution losses.''

T&D Loss targets

~~10~~2. The Commission, in its order dated 6th July 2007, had considered the approved T&D loss targets for truing up of revenue from FY01 to FY05, which has not been approved by the Hon'ble ATE. The Hon'ble ATE in its Order dated 04.12.2007 has held that:

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'31. XXXXX Once the target for loss level is fixed, the licensee is expected to make all efforts to achieve the loss level. The consumers should not be made to bear the brunt of losses over and above the fixed target. In the case in hand, during one year, a loss level of 31% is fixed by the Commission. The cost of 100 units purchased and 69 units (100-31) sold should be considered in the ARR. However, KPTCL could achieve only 35.5% loss level which means that units required to be purchased will be about 107 so that 69 units are available for sale to the consumers. Whereas the Commission has allowed the cost of procurement of power of about 107 units, simultaneously by applying a loss level of 31% to 107 units, it has also assumed that there will be sale of about 5 units over and above the 69 units. This results in recovering from the licensee for the electricity which has not actually been sold because of losses being 35.5% (actuals) against the set target of 31%. The additional imaginary sale of power assumed by the Commission is irrational, unreasonable as this electricity has not even reached the consumer end.

We need to balance the interest of the consumer and the licensee by ensuring that the licensee tries his best to achieve the said targets and is deterred to under achieve loss reduction. In the present case to sell 69 units KPTCL will be allowed purchase cost of 100 unit only as per the target of 31% set by the Commission and the licensee will have to pay for the power required over and above 100 units so that 69 units are sold to consumers. We decide that this deterrent of disallowing *cost of electricity required over and above 100 units is sufficient and it will not be correct to assume an imaginary sale of electricity when the actual loss level is 35.5% and when the licensee has already been penalized by not allowing it the cost of power procurement over and above 100 units. This will ensure that the licensee functions efficiently. Interest of consumers is not prejudiced because licensee is being allowed only purchase cost of power as per the loss level target set by the Commission.*

The question before us is how much of power can be deemed to have been sold and what amount should be taken as the revenue from the sale of power. The Commission cannot be allowed to assess the revenue of the licensee on the imaginary sale of power as indicated above. The licensee has borne the burden of extra purchase of power for meeting the T&D loss over and above the target. The revenue of the licensee can be assessed only on the basis of actual sale. We accordingly, uphold the objection of the appellant on this aspect and allow the appeal in respect of issues A&B.

32. Xxxxxxxx

Concedingly, the Commission has taken into account the additional power purchase cost payable to Tanir Bhavi as allowed by this Tribunal in Appeal No.107 of 2006. We direct that this element of additional cost may be succinctly reflected by the Commission while implementing this order."

~~11~~3. In compliance of the above directions of the Hon'ble ATE, the Commission has now carried out modifications to the revenues and power purchase cost for the truing-up exercise. The direction of the Hon'ble ATE for succinctly reflecting the element of additional cost of power purchase payable to Tanir Bhavi as allowed by the Hon'ble Tribunal in Appeal No. 107 of 2006 , which had already been allowed by the Commission as part of the truing up exercise, is also complied with in this Order. Accordingly, the workings of power purchase cost are indicated in the Tables-No.1 & 2 here below:

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TABLE - 1

TRUING UP OF POWER PURCHASE COST

Particulars	FY01		FY02		FY03		FY04		FY05		FY06	
	As Approved by Commi-ssion	Actual as per Audited Accounts	As Approved by Commi-ssion	Actual as per Audited Accounts	As Approved by Commi-ssion	Actual as per Audited Accounts	As Approved by Commi-ssion	Actual as per Audited Accounts	As Approved by Commi-ssion	Actual as per Audited Accounts	As Approved by Commi-ssion	Actual as per Audited Accounts
1. Sales (MU)	18,766	17,867	20,024	18,640	28,600	22,623	28,149	29,738	31,727	31,726	33,688	33,124
2. Loss(MU)	8,431	9,834	8,996	10,421	1,952	1,914	1,797	1,480	1,383	1,384	1,477.00	1,516.81
3. Loss (%)	31.00%	35.50%	31.00%	35.86%	6.39%	6.55%	6.00%	4.74%	4.18%	4.18%	4.18%	4.38%
4. Power purchase (MU)	27,197	27,700	29,020	29,061	30,552	29,279	29,946	31,217	33,110	33,110	35,324.00	34,640.55
5. Power purchase considering approved loss (MU)		25,894		27,014		29,228		31,636		33,109		
6. Deviation in Loss to be borne by the licensee (MU)		1,807		2,047		231.7		-419		1 .04		
7. Power Purchase (Rs. Cr)	3,695	3,761	4,724	4,787	5,420	5,393	5,883	6,025	5,980	6,014	935.55	1,236.49
8. Average power purchase (Rs./kWh)		1.36		1.65		1.84		1.93		1.82		
9. Deduction/ (Addition) to actual power purchases (Rs. Cr.)		245.29		337.19		42.76		-80.12		0.19		
10. PP cost considered for true-up	3,695	3510.62 (incorporating penalty of Rs. 5 Cr)	4,724	4449.48	5,420	5350.64	5,883	6104.86	5,980	6013.35	935.55	1,236.49
11. Net adjustment		-184		-274.15		-69.8		221.82		33.27		300.94

~~12~~4. As an illustration of the workings, the Commission has provided a detailed explanation on approving or revising the power purchase cost from the earlier truing-up exercise for the year FY01 as detailed below:

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5. In the previous truing-up exercise, the Commission had allowed the entire power purchase cost of Rs 3755.91 Crores (after adjusting for the penalty of Rs. 5 Crores levied earlier) based on the audited accounts. However, in the present truing-up exercise, the Commission has to allow Rs 3510 Crores as per the directions of the Hon'ble ATE to ensure that non-achievement of losses is borne by the Licensee and not by the Consumers. The explanation for arriving at the Power Purchase Cost of Rs 3510 Crores is provided below:

- Actual Sales 17867 MU, Actual loss 9834 MU, Actual power purchase 27700 MU
- Approved loss 31.00% and actual loss 35.50%
- Quantum of Power Purchase (MU) at approved loss level = Sales/(1-loss target); i.e. 17867/ (1-31.00%)= 25893.69 MU
- Deviation from Approved loss levels (actual – approved) to be borne by the Licensee = Actual power purchase 27700.33 MU minus 25893.69 MU (power purchase adjusted for loss targets) = 1,806.64 MU
- Adjustment to actual power purchase cost considering the deviation in loss levels = Average actual power purchase cost x Deviation in loss i.e. Rs. 1.36 / kWh x1806.64 MU / 10 = Rs. 245.29 Crores. The implication of non-achievement of losses by KPTCL is that, the actual power purchase cost should be reduced or disallowed to the extent of Rs 245.29 Crores. Therefore, the revised power purchase cost that needs to be considered for truing-up is actual power purchase as per the audited accounts minus loss adjustments i.e. Rs. 3755.91 Crores - Rs. 245.29 Crores = Rs. 3510.62 Crores.
- For the true-up adjustment, this implies that the KPTCL should return an amount of Rs 184.38 Crores to the consumers on account of power purchase truing-up based on the above principles in accordance with the Hon'ble ATE's Order. The Commission in its MYT order for FY01 had approved power purchase cost of Rs 3760.91 Crores as against the

revised computation of Rs 3510.62 Crores, which shows an excess provision of power purchase cost to the extent of Rs 184.38 Crores (3695.00 - 3510.62) with reference to approved amount of Rs.3510.62 Crores.

6. In similar manner the power purchase costs for the years FY02 to FY06 have been worked out and allowed accordingly as detailed in Table-1 above.

~~13~~7. Thus, on giving effect to the Hon'ble ATE's Order dated 4th December 2007, the total amount of power purchase costs disallowed for the period from FY01 to FY06 works out to Rs 545.31 Crores. (under Sl. No 9 in Table-1 above). This amount is the net effect of non-achievement of losses by KPTCL.

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~~14~~8. After making the above adjustments, the Commission has revised the power purchase costs that need to be considered for truing-up. The details of Power Purchase Costs for each year are indicated in the above table. The difference between the revised power purchase cost and the initial approved costs would be the net adjustment that needs to be trued-up. Based on the above calculations, an amount of Rs. 27.71 Crores has to be given to KPTCL by including the same in the ARR for FY08.

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~~16~~9. The Hon'ble ATE has also directed the Commission to succinctly reflect the Tanir Bhavi costs while implementing the order. The Commission has therefore presented the total power purchase cost details as per the audited accounts, Tanir Bavi costs and adjustments on account of non-achievement of losses separately in the table below:

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TABLE – 2

TANIR BHAVI CLAIMS INCLUDED IN POWER PURCHASE COST

Year	Power purchase cost as per Audited Accounts including Tanir Bavi (Rs. Cr)	Tanir Bavi Actual cost with FC of 4 Cents (Rs Cr)	Power purchase revised for truing up (Rs. Cr.)	Cost of non achievement/(achievement) of target loss (Rs. Cr.)
FY02	4,786.67	433. 31	4,449.48	337.19
FY03	5,393.40	611.84	5350.64	42.76
FY04	6,024.74	538.85	6,104.86	(80.12)
FY05	6,013.54	520.47	6,013.35	0.19

***KPTCL became a wires company from FY06 onwards. As such, the Commission does not consider penalising the Licensee to the extent of deviation of losses.**

10. From the Tables 1 & 2 above, it is made clear that power purchase cost only to the extent of non-achievement of losses is disallowed by the Commission and the entire power purchase cost including Tanir Bhavi's full fixed cost at 4 cents, has been allowed and hence considered for truing-up. From the Tables above, it is clear that, in FY04, the power purchase cost allowed as per truing up is more than the actual power purchase cost incurred. This is on account of over achievement in losses by KPTCL in that year. For that year, the target transmission loss was 6.00% whereas the actual was 4.74%. It is thus clear that, KPTCL is rewarded for over achievement in transmission losses against the target loss.

Revenue from sale of power

~~19~~11. On truing up of revenue, the Commission in its MYT Order dated 6th July 2007, had computed the revenue based on the approved loss levels. However, following the directions of Hon'ble ATE, the Commission has now considered actual sale of energy and has made necessary adjustments in the power purchase costs rather than in the revenue. The Commission, has therefore, considered the actual sale of energy for computation of revenues and adjusted the loss performance impact in the power

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purchase costs only. For purposes of clarity the revenue true up for FY01 to FY06 is stated in the Table-3 below:

TABLE – 3

True up of Revenue from Sale of Power as per the Directions of Hon'ble ATE

Year	As approved by the Commission	Actual as per Audit Accounts	Revenue considered for true-up	True-up
FY01	3,885.00	3,549.09	3,549.09	**(335.91)**
FY02	4,637.85	4,395.20	4,395.20	**(242.65)**
FY03	6,053.08	5,655.18	5,655.18	**(397.91)**
FY04	6,084.79	6,439.78	6,439.78	**354.99**
FY05*	6,408.48	6,611.52	7,230.74	**822.26**
FY06	1,592.83	1,574.60	1,574.60	**(18.23)**

***In FY05, the Commission has considered revenues based on the BST and Transmission charge determined by the Commission**

Explanation: In compliance of the direction of the Hon'ble ATE, the Commission has considered actual revenues for truing-up purposes. For FY01, the Commission, in the Tariff Order dated 18th December 2000 had approved Rs. 3885 Crores as revenue from sale of power whereas the actual revenue considered now for truing-up is only Rs.3549.09 Crores. Therefore, the difference of Rs. 335.91 Crores is given to KPTCL as shown in Table-3 above.

~~20~~12. In the MYT Order dated 6th July 2007, the Commission had estimated the revenues on account of loss performance. For FY01, it is now made clear that the Commission had trued-up Rs.88.28 Crores to KPTCL as against Rs.335.91 Crores based on the revised workings in accordance with the Hon'ble ATE's order dated 4th December 2007, as shown in Table-4 below. The benefit accruing to KPTCL on revenue from sale of power, is thus Rs.247.63 Crores.

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TABLE – 4

Revenue True up as per MYT order dated 6th July 2007

Year	Approved	Actual as per Audit Accounts	Considered for true-up	True-up
FY01	3,885.00	3,549.09	3,796.72	(88.28)
FY02	4,637.85	4,395.20	4,728.28	90.43
FY03	6,131.52	5,628.99	5,883.14	(248.38)
FY04	6,084.79	6,439.78	6,343.14	258.35
FY05	6,408.48	6,611.52	7,234.48	826.00
FY06	1,592.83	1,574.60	1,574.60	(18.23)

~~21~~13. The benefit accrued on the revenue account is Rs 247.63 Crores (Rs.335.91 Crores- Rs. 88.28 Crores) where as the disallowance on power purchase for not achieving the loss levels is Rs 245.29 Crores. The net effect of this exercise for FY01 is Rs 2.34 Crores. The backup workings demonstrating this effect are presented below:

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Revenue Approach as followed in Commission's Order dated 6th July 2007:

a. Actual sale of energy: 17844.26 MU
b. Revised sale of energy for loss performance: 19113.30 MU
c. Difference to assess the impact (b-a): 1246.59 MU
d. Average realisation rate : 1.99 Rs/unit
e. Impact on revenues (notional sale) (c*d): Rs 247.63 Crores

Power Purchase Approach as laid down by the Hon'ble ATE in Order dated 4th December 2007:

f. Actual purchase of energy: 27700.33MU
g. Approved losses: 31%
h. Actual losses: 35.5%

i. Revised purchase of energy for approved loss (a/(1-g)): 25893.69 MU
j. Difference to assess impact (f-i): 1806.64 MU
k. Average power purchase cost: Rs 1.36 /unit
l. Impact on power purchase cost (j*i/10): Rs.245.29 Crores
m. Net effect of change in approach (l-e): Rs 2.34 Crores

14. In the MYT order dated 6th July 2007, for FY03 the Commission had considered the revenues and expenses of transmission business alone and had left out the revenues and expenses for two months of retail supply business. Since, KPTCL had undertaken retail sales of electricity also up to June 2002, i.e. till the formation of ESCOMs, the approved expenses and revenues to the extent of 2 months of retail supply business had also to be considered. The Commission, has therefore, now considered 12 months' of approved expenses and revenues for transmission business and 2 months' expenses and revenues as part of retail supply and distribution business in the approved figures for FY03. This is also reflected in the Audited Accounts and therefore it is necessary to incorporate the same in this order to reflect the actual financial position of KPTCL. The corresponding changes would be carried out in the ESCOMs' ARR and truing up exercise by factoring in the expenses and revenues only for a period of 10 months. There would therefore be no impact on the overall sector financials due to this correction.

Summary of truing up

~~25~~15. After giving effect to the Hon'ble ATE's Order on T&D loss, Power Purchase Costs and Revenue, the Commission has reworked the amounts to be considered for truing up as detailed in the Table-5 below:

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TABLE – 5

Abstract of True-up of Revenue/Expenses for FY01 – FY06

Particulars	FY01	FY02	FY03	FY04	FY05	FY06	Total
Revenue from sale of power	(335.91)	(242.65)	(397.91)	354.99	822.26	(18.23)	182.55
Other Income	(7.13)	150.68	167.69	85.66	(48.12)	196.33	545.11
Total Revenue	(343.04)	(91.97)	(230.21)	440.65	774.14	178.10	727.67
Power purchase Costs	(184.38)	(274.15)	(69.80)	221.82	33.27	300.94	27.71
Total Expenses	(290.40)	(117.11)	(80.31)	229.08	35.75	286.57	63.58
Net Surplus / (deficit)	**(52.64)**	**25.14**	**(149.90)**	**211.57**	**738.39**	**(108.47)**	**664.09**

~~26~~16. The truing up exercise as discussed above has resulted in an overall surplus of Rs. 664.09 Crores for the period from FY01 to FY06, which is to be passed on to the consumers. One of the significant reasons for this is the surplus during FY05 wherein KPTCL has excess revenues of Rs 738.39 Crores.

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~~27~~17. This issue of excess revenues in FY05 and the corresponding treatment has been fully dealt with in the MYT Order dated 6th July 2007. The Commission had directed the GoK to return an amount Rs.620.58 Crores to the ESCOMs/Consumers as the surplus amount belongs to the Consumers. Since this amount was already adjusted out of KPTCL revenue, the same was factored in the earlier truing up. The Hon'ble ATE has left this issue undecided as this is a subject matter of a writ petition No.11017 of 2007 in the Hon'ble High court of Karnataka. In view of this an amount of Rs.620.58 Crs which has been found surplus vide the Commission's Order dated 6th July 2007 has to be passed on to the ESCOMs. In this Supplementary Order, therefore, the Commission has considered the surplus of Rs.620.58 Crores of FY05 and the same has been deducted from the overall surplus amount of KPTCL arising out of the truing up exercise.

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~~28~~18. The Commission, therefore, now approves an amount of Rs. 43.51 Crores (Rs 664.09- 620.58 Crores) to be passed on to the Consumers as part of the truing up exercise.

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19. In the Hon'ble ATE Order dated 4th December 2007, it is mentioned that as per KPTCL's statement an amount of Rs 479.9 Crores has been indicated as deficit for FY01 to FY04, whereas, KPTCL has a surplus of Rs. Rs.34.17 Crores after carrying out the truing up exercise for the same years4 as explained in the Table-6 here below:

TABLE – 6

Reconciliation of Deficit/Surplus for FY01-04

Year	Amount of Deficit (-)/ Surplus – as claimed by KPTCL (Rs. Cr) as per Provisional Accts	Deficit (-)/Surplus as per audited accounts (Rs.Cr)	Deficit (-)/Surplus as per truing up (Rs Cr.)
(1)	(2)	(3)	(4)
FY01	- 601.01	75.11	-52.64
FY02	- 22.31	79.43	25.14
FY03	+ 49.45	49.47	-149.9
FY04	93.97*	52.30	211.57
Total	- 479.9	256.31	34.17

***This doesn't include non-tariff income. The Commission clearly specified in that particular order that if non-tariff income of Rs 117 Crores is included, the surplus would be revised. It is to be noted that non-tariff income is not specified in the table but is explained in detail in the write-up of the MYT Order dated 6th July 2007.**

~~29~~20. From the table above, it should be clear that the deficit of Rs 479.9 Crores was based on the provisional accounts (except FY04 which was based on audited accounts), where as, the truing up exercise for the same years based on the audited accounts has resulted in a net surplus of Rs. 34.17 Crores.

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~~30~~The net amount of the true-up exercise and the carrying costs for the years FY01 to FY06 is as under:

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TABLE - 7

True up Surplus / Deficit with Carrying Cost

Rs Crores

Particulars	FY01	FY02	FY03	FY04	FY05	FY06	Total
Surplus/ (deficit) from truing up	(52.64)	25.14	(149.90)	211.57	117.81	(108.47)	43.51
Carrying cost @ 12% on surplus/deficit	(41.06)	16.59	(80.95)	88.86	35.34	(19.53)	(0.73)
Total Surplus/ (deficit) Considering carrying cost	(93.70)	41.74	(230.85)	300.43	153.15	(128.00)	**42.78**

~~31~~In view of the above analysis, KPTCL has to pass on an amount of Rs.42.78 Crores to the consumers. Hence this amount has to be deducted from the revenue requirement of KPTCL for FY08.

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~~32~~The detailed workings of the truing up exercise for FY01 to FY06 are provided as **Annex** to this order.

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TRUING UP FOR FY07

~~33~~21. The Commission, in its MYT order dated 6th July 2007, had made an observation on the deviations in expenses and revenues for FY07 based on the provisional accounts of KPTCL. However truing up exercise was not carried out as the audited accounts were not available. In this regard, the Hon'ble ATE, in its order dated 4th December 2007, in Appeal No. 100 of 2007 has issued the following directions:

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> *'This Tribunal in its judgment dated May 23, 2007 in appeal No. 269/06, Poddar Alloys vs. Uttaranchal Electricity Regulatory Commission has held that the truing up exercise should be taken up in two stages: firstly on the basis of the available data and information and secondly and subsequently truing up exercise can be taken up when Audited Accounts are available. We order accordingly. The Commission is directed to immediately take up the truing up exercise and decide tariff which should form the base line for the MYT.'*

~~34~~22. In compliance of the above directions of the Hon'ble ATE, the Commission has now trued-up the expenses and revenue for FY07 based on the provisional accounts of KPTCL in this supplementary order. The Commission would undertake final true-up based on the audited accounts and other information that would be submitted by KPTCL for prudence check.

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~~35~~23. The Commission has now carried out the truing-up exercise based on the provisional accounts and the computations thereon are presented in the table below:

TABLE – 8

Truing up of ARR of FY07 based on Provisional Accounts

Rs Crores

Particulars	Approved by KERC	Actual as per provisional accounts	Actual as considered by Commission	True up
	A		B	B-A
R & M	32.3	25.2	25.2	-7.1
Employee Costs	182.96	170.86	168.81	-14.15
A & G	42.05	59.51	53.34	11.29
other debits	1.05	1.21	1.21	0.16
Less Expenses capitalized	-74.37	-49.84	-49.84	24.53
Depreciation	120.33	235.95	206.91	86.58
Interest & Financial charges	278.44	373.45	373.45	95.01
Prior period credits/debits	1	86.15	86.15	85.15
Taxation	10.77	5.32	15.22	4.45
Total Expenses	**594.53**	**907.8**	**880.45**	**285.92**
RoE	95.56		138.36	42.8
Less other income	-24	-158.28	-158.28	-134.28
Net Transmission expenses	**666.09**	**749.52**	**860.53**	**194.44**
AAD	19.42		19.42	0
Total Transmission expenses	**685.51**	**749.52**	**879.95**	**194.44**
Less SLDC charges	4.05			-4.05
Net ARR	**681.46**	**749.52**	**879.95**	**190.39**
Revenue	681.46	780.86	780.86	99.4
Net amount to be Trued up	0	31.34	-99.09	-90.99
Revised Net ARR after True up			**772.45**	

The impact of the difference between the approved amounts and the amounts as per the provisional accounts are discussed below:

~~36~~**a) Repairs and Maintenance expenses:** The Commission has considered the actual as per the provisional accounts and hence an amount of Rs 7.10 Crores has to be returned to ESCOMs/Consumers by KPTCL.

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~~37~~**b) Employee Cost:** The Commission has provided the rationale for approving Rs 168.81 Crores in the MYT Order dated 6th July 2007(Retrospect Chapter) indicating a savings of Rs 14.15 Crores. The same has been considered for truing-up.

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The Commission, therefore, allows the expense of Rs.168.81 Crores towards Employee costs, subject to final truing up as per Audited Accounts.

~~38~~**c) Administration and General expense:** The Commission had approved Rs 53.34 Crores for A&G expenses which amounts to 20% increase over the previous years. The Commission has provided the rationale in the MYT Order 6th July 2007 (Retrospect chapter) and the same has been considered for truing-up.

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~~39~~**d) Depreciation:** The Commission notes that in Appeal No. 84 of 2006, the Hon'ble ATE has directed that for FY07, KPTCL shall be entitled to depreciation at 6% or at the rate as provided in the Tariff Regulations framed by KERC. In the MYT Order 6th July 2007 (Retrospect chapter), the Commission has discussed the issue on depreciation and advance against depreciation and has approved Rs 206.91 Crores and Rs 19.42 Crores respectively. The same has now been considered by the Commission for truing-up.

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The Commission has also reiterated that both the depreciation & AAD would be further trued up as per the Audited Accounts for FY07 and subject to prudence check of CAPEX. In the subsequent sections, the

Commission has also discussed the requirements for prudence check and directs the KPTCL to provide necessary information.

~~40~~**e) Interest and finance charges:** In the MYT Order 6th July 2007 (Retrospect Chapter), the Commission had disallowed the interest of Rs.220.23 Crores towards belated payments for power purchase. In this regard, the Hon'ble ATE in its order 4th December 2007 has held that interest on belated payments towards power purchase for the year FY07 has to be allowed by the Commission. The extracts of the order are given below:

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> *'We note that the Commission has not allowed an expenditure of Rs. 220.23 crores, being interest on belated power purchase payment on the premise that KPTCL is responsible for the delayed payment. However, it has been contended by the appellant that the claims related to the arrears for the period during which KPTCL was undertaking functions of bulk purchase and bulk sale of power and that KPTCL was deprived of its revenues and therefore, had to face financial difficulties resulting in delay in the payment of power procurements cost. We do not find any justification for not allowing the interest charges to KPTCL; KPTCL was merely a bulk power buyer and seller and not repository of revenue stream. In view of this ground reality we direct the Commission to allow the interest on delayed payment and give effect to the adjustments in the distribution tariff for the periods 2007-08 to 2009-10 along with the carrying cost as per the principles laid down by the Commission.'*

~~41~~For the truing up exercise, the Commission therefore, has considered an amount of Rs 220.23 Crores towards interest on belated payment towards power purchase. The Commission has also noted that this would be applicable only for this financial year and not for the future years, as the Commission has carried out the true-up exercise for all the previous years along with the carrying cost. Any delay in payment towards power

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purchase in the future years, if any, may only arise for the costs of not achieving loss targets, non realisation of revenue in full and non receipt of Govt. Subsidy. The costs related to these reasons cannot be passed on to the Consumers.

~~42~~In the Retrospect Chapter of the MYT order 6th July 2007, the Commission has also observed that KPTCL has under-invested on the approved capital expenditure in FY07. It is worthwhile here to note that, the Commission had allowed interest and financial charges based on approved capex of Rs. 1755 Crores for FY07. Whereas as per the provisional accounts the actual capex works out to Rs.771 Crores, resulting in an under-investment of Rs 984 Crores. As the Hon'ble ATE has directed the Commission to carry out a true up based on the provisional accounts, the Commission has to make an adjustment of interest of Rs 41.82 Crores (Rs.984 Crores * 8.5% for 6 months) on account of under investment.

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Based on the above adjustments, the interest charge to be considered for true-up works out to be Rs 331.63 Crores. The amount to be trued-up works out to Rs 53.19 Crores on the basis of provisional figures. The same is summarised in the Table-9 below:

TABLE – 9

TRUE UP OF INTEREST AND FINANCE CHARGES FOR FY07

Particulars	Amount (Rs Crores)
Interest Cost as per provisional accounts including 220.23 Crores for delayed power purchase payment (a)	373.45
Adjustment for under investment (b)	41.82
Interest considered for true-up (c) = (a-b)	331.63
Interest cost approved in the FY 07 tariff order (d)	278.44
True-up amount with adjustments (e) = (c-d)	53.19
Trued-up amount without adjustments (f) = (a-d)	95.01

KPTCL has not so far furnished the necessary details sought by the Commission for carrying out the prudence check. The Commission is not in a position to carryout the prudence check and true up the interest and finance charges incurred for Capex for FY07. The Commission, therefore, has allowed Rs 95.01 Crores based on the provisional figures in this order. The Commission would make necessary adjustments after the information for prudence check is submitted by KPTCL and prudence check is carried out during the final truing up based on the audited accounts.

~~43~~**f) Net Prior period Charges/Credit :** The Commission had approved Rs. 1.00 Crore as Net prior period charges. As per provisional accounts, the net prior period charges are Rs. 86.15 Crores, which is higher by Rs.85.15 Crores. The Commission notes that an amount of Rs. 68.76 Crores is attributed to other expenses relating to prior periods for which no details are available in the provisional accounts. The Commission, however, allows Rs. 86.15 Crores towards prior period charges, which is subject to truing up as per the Audited Accounts.

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~~44~~**g) Provision for taxation:** The Commission had approved Rs. 10.77 Crores as provision towards taxation. The actuals as per provisional accounts is Rs. 5.32 Crores, which is less by Rs. 5.45 Crores. Further, in the additional information furnished in P & L statement of provisional accounts, KPTCL has claimed additional income tax on difference of RoE of Rs. 10.62 Crores. Hence the total tax claimed by KPTCL is Rs. 15.94 Crores.

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Based on RoE of Rs. 138.36 Crores, the Commission allows the total income tax of Rs. 15.22 Crores, subject to actuals as per audited accounts.

~~45~~**h) Return on equity:** The Commission had approved Rs. 95.56 Crores against Rs.143.14 Crores proposed by KPTCL as RoE. In terms of Hon'ble ATE's order dated 29.08.2006 in Appeal No. 84 of 2006, RoE at 14% on equity and reserves of Rs.988.31 Crores works out to Rs.138.36 Crores. The true-up amount works out to Rs 42.80 crores.

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~~46~~**i) Revenue:** As against the amount approved in the Tariff Order dated 7th April 2006, there is surplus revenue of Rs 99.40 Crores from revenue from sale of power and Rs 134.28 Crores from non-tariff income which have to be trued-up.

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~~47~~Based on the above explanation and the Table-8 given above, the total amount to be trued-up based on the provisional accounts works out to Rs 90.99 Crores which is allowed in the ARR of KPTCL for FY08. After applying the carrying cost for a year @ 12%, the amount to be trued-up works out to Rs 101.91 Crores.

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Based on the above discussions, the Commission approves a net ARR of Rs. 772.45 Crores for FY07. As per this ARR, the Transmission Charges for FY07 works out to 20.05 paise per unit. The net deficit of Rs.101.91 Crores (Rs.90.99 Crores plus carrying cost of Rs10.92 Crores) has been carried forward to the ARR of FY08. As such the difference between the Transmission Tariff now approved and the existing Transmission tariff (20.05 ps – 19.42ps) shall not be claimed from ESCOMs.

~~48~~This is the first true-up based on provisional accounts. The Commission will carry out final adjustments of revenue and expenses with reference to audited accounts and after exercising necessary prudence check of Capex for FY07 during the next review of ARR.

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ERC FOR THE CONTROL PERIOD FY08 to FY10

Capital Investments

~~49~~24. On the issue of approval of capital investments, the Hon'ble ATE in its order dated 29th August 2006 in Appeal No 84 of 2006 had held that:

> *"Mere proposal to invest will not involve the liability either interest or finance charges eo-instanti, but such charges may have to be incurred only when the amount is actually invested as planned. Till the investment is complete the utility is not entitled to claim either finance or interest or return on investment"*

~~50~~ Further in para 22 the Appellate Tribunal had held as follows:

> *"The consumers interest also do not arise at this stage for consideration nor they could be an objector in respect of proposal or plan or investment by utility as the liability of the consumers, if any, arise or there could be a passing by way of return on equity or interest etc. as such contingency arises only when the regulatory commission subject to its prudent check allow such expenditure, while fixing the annual revenue requirement and determining the tariff. Till then, the consumers have no say and there could be no objection from their side. When the consumers complain poor service or failure to maintain supply, to face such a situation the utility has to plan in advance, invest in advance, execute the project or scheme for better performance and maintain."*

~~51~~25. Based on the above order of the Hon'ble ATE, the Commission while determining tariffs for the control period had not approved interest and finance charges. However, while allowing the Appeal No. 100 of 2007 of KPTCL, the Hon'ble ATE has given the following directions:

> *'In view of the above judgment of this Tribunal the payments of interest and finance charges, pending final approval of the Commission, are merely provisional payments and, therefore, the Commission need not discontinue its decades old practice of allowing the interest and finance charges to the licensee till capitalization of the assets. If there is any variation in the expenditure made by the appellant and the approval accorded by the Commission, adjustments can always be made. Moreover, if the interest payments are not allowed till capitalization then the*

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Interest During Construction will also form a part of asset base and for the useful life of the asset the return on the equity portion will be allowed to the licensee and this will not be in the interest of the consumer. It will therefore, be just, fair and equitable to continue to allow the interest and finance charges to the appellant as per Commission's well established practice and make required adjustments at the time of capitalization of assets as approved by the Commission. We order accordingly.'

~~52~~26. Complying with the above directions of the Hon'ble ATE, the Commission has analysed the interest charges on the capital investments proposed by KPTCL for the control period as detailed below:

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TABLE - 10

Capital Investment / Interest & Finance Charges as Proposed by KPTCL

Rs Crs

Particulars	FY08	FY09	FY10
Capital Investments as proposed by KPTCL	2400	2100	1600
Additions to GFA	2,031	2,049	1,331
Interest and finance charges	495.85	617.14	757.28
Interest & Finance charges Capitalised	77.07	95.92	117.69
% of interest cost capitalised	15.54%	15.54%	15.54%

~~54~~27. KPTCL has proposed the financing of the investments through 100% debt finance. However, KPTCL has not provided the detailed capitalisation schedules, loan repayment schedules and loan approvals provided by the financial institutions and banks.

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~~55~~28. However, based on the directions of the Hon'ble ATE in order dated 4th December 2007 in Appeal No. 100 of 2007, the Commission considers the capital investment proposed by the Licensee as additional loans and

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hereby approves the interest and finance charges. The Commission would true up the deviations in costs during annual performance review based on Provisional / Audited Accounts subject to prudence check.

29. The table below shows the interest on long-term loans as approved by the Commission.

TABLE - 11
Interest on long term loans as approved by the Commission

Rs.Crores

Particulars	FY08	FY09	FY10
Opening Loan Balance (a)	1,780	3,803	5,499
Incremental Loans (b)	2,400	2,100	1,600
Repayment of long term loans as per filings (c)	377	405	684
Closing balance (d)	3,803	5,499	6,415
Average Balance	2,792	4,651	5,957
Interest rate	8.5%	8.5%	8.5%
Gross Interest	237.31	395.34	506.33
Capitalisation rate (as per licensees proposal)	15.54%	15.54%	15.54%
Interest capitalised	36.88	61.44	78.68
Net Interest as approved	**200.43**	**333.90**	**427.65**

~~56~~30. The Commission notes that the difference between the interest charges as claimed by the Licensees in their filing and that approved by the Commission, arises due to the difference in interest rates and the outstanding loan balance.

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~~57~~31. In FY07, the Commission has observed that KPTCL has invested only Rs 771 Crores out of approved investments of Rs 1755 Crores. Notwithstanding this, the Commission is presently approving the interest and finance charges for the investment as proposed by the Licensee for FY08- FY10 based on the directions of Hon'ble ATE. In this context, the Commission

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would like to refer to order of Hon'ble ATE in Appeal No 116 of 2006 in respect of the state of Punjab

"The tariff could not be subjected to vagaries of incorrect planning and improper phasing of investment as non-adherence to approved targets of the expenditure, besides giving tariff-shocks to the consumers, will inevitably introduce uncertainties and lack of credibility in the tariff determination process".

~~58~~32. In view of the above, the Commission directs KPTCL to ensure that they achieve investments as planned by it, as any material deviations would affect the tariff stability. The Commission also reiterates that, prudence check shall become very important especially in the context of over projecting the investment requirements. For carrying out a prudence check on the investments, for FY07 and FY08, the Commission requires the following information from the KPTCL.

a. Statement of sources of funds for the capital investments proposed by KPTCL

b. Application of those funds for the same capital investments

c. Loan drawals linked to the progress of the same capital projects

d. Capitalisation schedule for the proposed capital investments

e. Actual commissioning date for the proposed capital investments to corroborate interest and expenses capitalised pertaining to that project and loans.

f. Interest costs pertaining to the new capital investments as proposed

g. Reserves and surpluses used for capital investments or operations of the business

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h. Depreciation cost linked to the commissioning of the project

i. Loans pertaining to working capital (normative and actual)

~~59~~33. The Commission further notes that, the timely submission of the above information is essential for the Licensee and the Commission to ensure that the costs pertaining to efficient operations are used for determining ARR and tariffs. The Commission also notes that there may be corresponding changes in the O&M cost (increase in number of bays etc), depreciation, advance against depreciation etc which has to be trued-up at the end of the year based on the Provisional/Audited Accounts.

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~~60~~34. The Commission accordingly directs KPTCL to provide the above mentioned information within the time frame prescribed by the Commission for carrying out the prudence check as any delay in carrying out the true-up exercise would affect the credibility of tariff determination process. Further, timely submission of such information and Commission's Orders thereon would help the financial viability of the Licensees.

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~~61~~35. In case the Licensee does not provide the information within the time frame prescribed by the Commission, the Commission would be constrained to make financial corrections on suo-motu basis based on the previous performance.

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~~62~~36. Based on revised interest and finance charges, the Commission approves the ARR for the control period as shown below:

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TABLE – 12

Annual Revenue Requirement proposed by KPTCL & Approved by KERC for the Control Period FY08-FY10

Rs Crs

Particulars	FY08	FY09	FY10	FY08	FY09	FY10	FY08	FY09	FY10
	As proposed by KPTCL			As Approved in MYT Order dtd 06.07.2007			As approved now as per the Orders of the Hon'ble ATE		
O&M Expense	342.76	323.18	349.61	250.96	264.44	278.64	250.96	264.44	278.64
Depreciation	162.17	226.29	290.96	131.21	130.94	130.64	131.21	130.94	130.64
Advance Against Depreciation	270.57	256.88	488.59	15.50	15.77	16.07	15.50	15.77	16.07
Interest and Finance Charges	495.85	617.14	757.26	145.08	132.59	120.09	237.31	395.34	506.33
Interest on Working capital	27.22	28.49	30.97	20.48	19.86	20.44	20.48	19.86	20.44
Sub total	**1298.57**	**1451.98**	**1917.39**	563.23	563.60	565.88	655.46	826.35	952.12
Less Expenses capitalized									
Interest and finance charges capitalized	77.07	95.92	117.69	22.49	20.55	18.61	36.88	61.44	78.68
Other expenses capitalized	24.29	22.90	24.78						
Sub total	**101.36**	**118.82**	**142.47**	22.49	20.55	18.61	36.88	61.44	78.68
Other debits	0.99	0.99	0.99	0.00	0.00	0.00	-	-	-
Extra ordinary items	0.00	0.00	0.00	0.00	0.00	0.00	-	-	-
Total Expenditure	**1198.20**	**1334.15**	**1775.91**	540.74	543.05	547.27	618.58	764.91	873.44
RoE @ 14%	157.73	179.82	204.99	138.33	157.70	179.78	138.33	157.70	179.78
Provision for Taxation	16.21	18.48	21.06	14.22	16.21	18.47	14.22	16.21	18.47
Net prior period credits	1.00	1.00	1.00	0.00	0.00	0.00	-	-	-
Gross Annual Revenue Requirement	**1373.14**	**1533.45**	**2002.96**	693.29	716.96	745.51	771.13	938.82	1071.69
Less Other income	21.51	22.45	23.42	50.00	50.00	50.00	50.00	50.00	50.00

Less: Surplus carried over from the truing up exercise FY01 to FY06 along with carrying cost	-	-	-	80.44	-	-	-42.78		
Add: Deficit carried over from the truing up exercise for FY07 based on provisional accounts with carrying cost							101.91		
Net ARR	**1351.63**	**1511.00**	**1979.54**	**723.73**	**666.96**	**695.52**	**780.27**	**888.82**	**1021.69**
ARR includes 50% of SLDC charges									

TRANSMISSION TARIFF

37. The Commission had determined the transmission charges on Rs./MW/month in its MYT order dated 6th July 2007. In this order there is an increase in the ARR of KPTCL as compared to the earlier order dtd. 06.07.2007 and accordingly the Tariffs are re-determined. The revised Transmission Tariffs now approved by the Commission are shown below:

TABLE – 13
APPROVED TRANSMISSION TARIFF FOR CONTROL PERIOD

Particulars	As approved in MYT Order dtd. 06.07.2007			As now approved as per the Orders of the Hon'ble ATE		
	FY08	FY09	FY10	FY08	FY09	FY10
ARR for the period (Rs. Crore)	723.73	666.96	695.52	780.27	888.82	1,021.69
Total Peak Capacity (MW) of ESCOMs	7249	7726	8234	7249	7726	8234
Transmission Tariff (Rs./MW/Month)	83,199	71,939	70,391	89,699	95,869	103,402

NOTE: The above tariff is also applicable to Long-Term Open Access customers also.

~~65~~38. The Commission re-determines Transmission charges for the short-term open access customers in accordance with the KERC (Terms and Conditions of Open Access) Regulations 2004 as indicated in Table-14 below:

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TABLE - 14

Transmission Charges for Short Term Users for FY08, FY09 and FY10

Transmission Charges (Rs/MW)	As approved in MYT Order dtd. 06.07.2007			As now approved as per the Orders of the Hon'ble ATE		
	FY08	FY09	FY10	FY08	FY09	FY10
More than 12 hrs & upto 24 hrs in a day in one block	684	591	579	737	788	850
More than 6 hrs & upto 12 hrs in a day in one block	342	296	289	369	394	425
Upto 6 hrs in a day in one block	171	148	145	184	197	213

Commission's Order

1. This is the Supplementary Tariff Order to be read along with the Commission's MYT Order dated 6th July 2007, which stands corrected to the extent of modifications as carried out in this Order in accordance with the directions of the Hon'ble ATE in its order dtd 4th December 2007.

2. The Tariff as approved in this Order shall be effective from 1st July 2007.

3. This Order is signed, dated and issued by the Karnataka Electricity Regulatory Commission at Bangalore on this day of 31st December 2007.

Sd/-	**Sd/-**	**Sd/-**
(K.P.Pandey)	**(H.S.Subramanya)**	**(S.D.Ukkali)**
Chairman	**Member**	**Member**