



FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC UNDERTAKINGS
(2016-2019)**

FORTY EIGHTH REPORT
(Presented on 23rd May, 2017)

**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2017

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ON
PUBLIC UNDERTAKINGS
(2016-2019)**

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On

**The Action Taken by Government on the Recommendations contained in the
Second Report of the Committee on Public Undertakings (2011-2014)
relating to Kerala State Electricity Board based on the Report
of the Comptroller and Auditor General of India for the
years ended 31-3-2005, 31-3-2006
and 31-3-2008 (Commercial)**

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COMMITTEE ON PUBLIC UNDERTAKINGS (2016-2019)

Composition of the Committee

Chairman :

Shri C. Divakaran

Members :

Shri T. A. Ahammed Kabeer

Shri K. B. Ganesh Kumar

Shri C. Krishan

Shri S. Rajendran

Shri Thiruvanchoor Radhakrishnan

Shri P. T. A. Rahim

Shri Raju Abraham

Shri Sunny Joseph

Shri C. F. Thomas

Shri P. Unni.

Legislature Secretariat:

Shri V. K. Babu Prakash, Secretary

Smt. P. K. Girija, Additional Secretary

Shri P. B. Suresh Kumar, Deputy Secretary

Smt. Deepa V., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Undertakings (2016-2019) having been authorised by the Committee to present the Report on their behalf, present this Forty Eighth Report on the Action Taken by Government on the recommendations contained in the Second Report of the Committee on Public Undertakings (2011-2014) relating to Kerala State Electricity Board based on the Report of the Comptroller and Auditor General of India for the years ended 31-3-2005, 31-3-2006 and 31-3-2008 (Commercial).

The statement of Action Taken by the Government included in this report were considered by the Committee constituted for the year (2016-2019).

This Report was considered and approved by the Committee at the meeting held on 2-5-2017.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General (Audit) Kerala in the examination of the statement included in this Report.

Thiruvananthapuram,
2nd May, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

REPORT

The Report deals with the Action Taken by Government on the recommendations contained in the Second Report of the Committee on Public Undertakings (2011-2014) relating to Kerala State Electricity Board based on the Report of the Comptroller and Auditor General of India for the year ended 31-3-2005, 31-3-2006 and 31-3-2008 (Commercial).

The Second Report of the Committee on Public Undertakings (2011-14) was presented to the House on 21-6-2012 and it contained 8 recommendations in para numbers 5, 6, 8, 12, 13, 15, 19, 21 and the Government furnished replies to all of them. The Committee (2016-2019) considered the replies received from Government at its meeting held on 28-12-2016.

The Committee accepted the replies to the recommendations in Para No. 5, 8, 12, 13, and 21 without any remarks. These recommendations and their replies furnished by Government form Chapter I of this Report.

The Committee accepted the replies to the recommendations in Para No. 6, 15 and 19 with remarks. These recommendations, their replies furnished by Government and remarks of the Committee form Chapter II of this Report.

CHAPTER I

REPLIES FURNISHED BY GOVERNMENT WHICH HAVE BEEN
ACCEPTED BY THE COMMITTEE WITHOUT REMARKS

<i>Sl. No.</i>	<i>para No.</i>	<i>Department concerned</i>	<i>Recommendations of the Committee</i>	<i>Action Taken by the Government</i>
(1)	(2)	(3)	(4)	(5)
1	5	power	The Committee observed that though Indsil Eelctrosmelts Limited had completed the construction of 21 MW captive Hydro Electric Power Plant at Kuthungal in August 2000, the K.S.E.B failed to construct allied transmission lines within the stipulated time, as per the agreement. The Committee wants to know the reason for the delay of three months in providing the allied transmission line. The Committee also recommends that in future the Board should take steps to get works done within the stipulated time and as per the terms and conditions of agreement.	The construction of 110 KV DC line from Kuthungal to Neryamangalam was for the transmission of power from Kuthungal Hydro Electric Project. Earlier, Board had accorded administrative sanction for an estimate amounting to ₹ 881 lakh for the construction of 15 kms of 110 KV DC line from Kuthungal to Neryamangalam in 1998 vide BO. No. 1354/98 (TC1/SS/317/95) dated 24-6-1998. The completion period specified in the tender for the construction of subject line was 12 months. Later, the work was split up into two stretches and awarded equally among 2 contractors, so that the completion period would be compressed by half the period, considering the urgency. Board sanction

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for the same was issued and the work was awarded to (1) M/s Hi-tech Towers and (2) Sri. D. Ajayakumar on 16-6-1999. The above arrangement was done for the early execution of the work before the commencement of power generation from the Kuthungal Power House. But the agreement for work would be executed only on 24-11-1999 and 21-12-1999 with M/s Hi-tech Towers and Sri. D. Ajayakumar respectively because the award of work was challenged in the Honourable High Court by Sri. K. J. Jose, who was another tenderer in the contract. While the work was being executed, some abnormalities were noticed in the estimate and the actual length of line was found to be 16.477 Km. The Kuthungal-Neryamangalam 110 KV line route in Idukki District is hilly area and there was no road approach to most of the tower locations. Hence contractors had to use headload provisions

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which also resulted in the delay in completion of work. After completion of line stringing, 1st circuit was charged on 27-5-2001 and 2nd circuit charged on 13-7-2002. The Audit Party observed that KSEB failed to construct allied transmission lines for evacuation of power from Kuthungal power project within the stipulated time as per the agreement. It may be noted that court cases and public interventions severely affect the timely completion of transmission lines. Moreover due to the special nature of terrain and the thick population, drawing of transmission line in the State is getting more and more difficult. It may please be noted that KSEB had taken all out efforts for the timely completion of the work but the undue delay was due to court cases involved and difficult terrain along the line route, which restricted easy to the work site, were beyond the control of the Board.

(1)	(2)	(3)	(4)	(5)
2	8	Power	The Committee recommends that the Board should evolve an effective internal control mechanism so that lapse like delay in raising demand from consumers and in collecting dues from them can be avoided.	It may please be noted that the Security Deposit required by a consumer is reviewed during the first quarter of every financial year. Whenever additional cash deposit is required. Additional Cash Deposit notices are issued during the first quarter of the financial year itself. In order to avoid delay in raising the demand, this process has been automated and Additional Cash Deposit notices are being generated through 'Energise' Software.
3	12	Power	There is no data seen available with KSEB on the actual quantum of power construction by TATA. It is surprising the note that no metre had been installed to measure the consumption of power for own use by TATA, a licensee who distributed power to the public also. The committee therefor recommends that the Board should take action to measure separately the power consumed by such licensees. So that their eligibility for separate Grid Tariff can be ascertained properly. The action taken in this regard should be intimated to the Committee.	After the enactment of Electricity Act, 2003 and upon inception of the Kerala State Electricity Regulatory Commission (KSERC) the Commission is the authority to determine tariff applicable to licensees in the State of Kerala, the Commission had issued regulations for determination of tariff of licensees and as such the earlier differentiation of tariffs as G1 and G2 tariff based on self consumption of licensees is dispensed with by the Commission. The Commission determines the tariff applicable to licensees based on the

(1)	(2)	(3)	(4)	(5)
				<p>Annual Revenue Requirement & Expected Revenue from charges (ARR & ERC) of each licensee every year. Since KSERC determines tariff applicable to licensee based on ARR & ERC, consumption details including self consumption of each licensee is made available by the licensee before KSERC while filing petition for determination of tariff before KSERC. For this purpose the licensee has installed separate meters for all consumers including for assessing the self consumption in the tea factories and estates. After detailed scrutiny and public hearing, KSERC fixes the tariff applicable to each licensee and thus appropriate tariff is ascertained by KSERC following due procedure.</p>
				<p>The KSERC while approving the ARR & ERC of M/s Kannan Devan Hills Plantations Company Private Limited (KDH PCPL) (erstwhile) TATA TEA Limited. For the years 2008-09 and</p>

(1)	(2)	(3)	(4)	(5)
				<p>2009-10 had insisted for metering of self consumption as well as consumption of all consumers including tea factories and estates to arrive at the Bulk Supply Tariff applicable to KDHPCL. Aggrieved by the directive of KSERC. KDHPCL filed Appeal Petition No. 193 of 2009 before the Appellate Tribunal for Electricity New Delhi (APTEL). APTEL upheld the above methodology of fixing tariff for KDHPCL while disposing the Appeal No. 193 of 2009 files by KDHPCL and as such all consumers in the licensed area of KDHPCL are now metered including self consumption of the licensee KDHPCL.</p>
4	13	power	<p>The Committee takes note of the fact that an Assistant Engineer of KSEB had reported that TATA consumed more than 50% of total power for their own use. But the justification of the Board, that the reply of Assistant Engineer was made without detailed</p>	<p>The Committee may kindly note that even though the officer had erred in reporting on the actual consumption percentage of M/s TATA Tea Limited. Government had not incurred any financial loss on account of the same. The Chief Engineer (Distribution Centre) has reported that the</p>

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study on the matter shows how the Board Authorities are indifferent, inactive and inefficient in respect of Board's routine affairs like classifying the licensees according to the power consumption. Such irresponsible reporting by officials of the Board cannot be accepted by the Committee. The Committee would like to be intimated whether any departmental action had been initiated against the AE for misrepresenting the facts and if not the reasons thereon. The Committee directs that such reporting without proper study and understanding of issues should not be repeated in future and such officials should be given appropriate punishment.

concerned officer against whom disciplinary action was to be initiated was Sri. K. R. Narayanan Assistant Engineer, Electrical Section, Chithirapuram who has already retired from Board Service long back in 2002 and as per the provisions contained in Part III of Kerala Service Rules, departmental proceedings, if any against a retired employee would be initiated only in respect of any event which took place within four years before the date of initiation of such proceedings with the sanction of Government. Since in the present case, the event of misrepresenting of facts by Assistant engineer has taken place during 2002 no departmental action could now initiated against the incumbent.

Considering the above facts and the seasonal pattern of consumption by Tea Industry and the geographical and other complexities in distribution network in Munnar area, the committee is

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requested to take a lenient view and condone the human error occurred on the part of the Assistant Engineer in arriving at the percentage of consumption of TATA Tea Limited for own consumption and to drop further action in this regard.

5 21

Power

The action of KSEB in allowing undue concession to private licensees like TATA Tea Limited, beyond the scope of the licensing agreement and considerable reduction of penal interest is viewed by the Committee as sheer favouritism resulted in the loss to Board's exchequer. When the board pays a sufficiently high rate of interest on loans taken by it, granting of such concessions amount to misuse of money which is warranted under any circumstances. The Committee cannot but see this as an unjustifiable relaxation given to TTL, especially when TTL had retained the current charges

The audit observation is that by reducing the penal interest from 18% to 12% to M/s TATA TEA limited Board had incurred a revenue loss to the tune of ₹ 61.32 lakh. In this context it is pertinent to take into consideration the entire episode which paved the way for the One Time Settlement between KSE Board and M/s TATA TEA Limited which has been elaborately submitted in the reply at Audit para stage.

BACKGROUND OF THE ONE TIME SETTLEMENT

The Kerala State Electricity Regulatory Commission vide its order dated 20-8-2003 has approved the Grid Tariff

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collected by it from consumers. Such concessions would send wrong signals to private licensees to retain huge amount due to KSEB. Hence hereafter timely measures should be taken to collect the amounts due to board which is retained by private parties and no undue concessions should be granted in such cases.

for Licensees with effect from 1-1-2002. M/s TATA TEA Limited challenged the order and filed two petitions before the Honourable High Court of Kerala. The first case was filed against the arrear bill for the period from 10/2002 to 3/2003 served on them by Special Officer (Revenue) in 4/2003 based on new tariff. The second case was filed against the Grid Tariff Order approved by the Honourable Kerala State Electricity Regulatory Commission. M/s TATA TEA Limited went on making payment in the pre-revised tariff in the light of the stay order obtained from Honourable High Court of Kerala against the revised tariff and the matter was pending resulting in receipt of charges only at pre revision rates. This is the circumstances which led to the discussion with M/s TATA TEA Limited on 28-9-2005 and 29-9-2005 and formulation of One Time Settlement package. By this package,

(1)	(2)	(3)	(4)	(5)
				<p>M/s TATA TEA Limited agreed to accept the tariff revision from 10/2002 and agreed to withdraw all the cases from 10/2002 against tariff revision in the Honourable High Court of Kerala. Moreover M/s TATA TEA Limited had agreed to remit an amount of ₹ 40 lakh which was long pending arrear through One Time Settlement package, M/s TATA TEA Limited agreed to make payment in the revised tariff rate and the Board was able to get a revenue gain of 39% by way of increase in current charge.</p>
				<p>Reduction of penal Interest from 18% to 12%.</p>
				<p>The Board has been initiating stringent measures to realize the long pending arrears from defaulters of electricity charge. Several schemes has been evolved and adopted by the Board for early recovery of arrears outstanding. In order to facilitate speedy effective settlement of the pending disputed cases of HT/EHT consumers, the Board</p>

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approved the scheme for One Time Settlement of dues of HT/EHT consumers. As per the 4th guideline of this order the penal interest would be reduced to 12% per annum, if the consumer was ready to clear all the arrears in one lump sum. Also it was mentioned in clause 23 of Supply Code 2005 notified by Honourable Kerala State Electricity Regulatory Commission on 2-3-2005 viz. 'In case of belated payment, penal interest at twice the bank rate based on actual number of days of delay from due date may be charged by the licensee'. The Prime Lending Rate remained at 6% for many years in the past and 12% interest was fixed as penalty for belated payment as part of One Time Settlement Package. The reduction of penal interest from 18% to 12% was made in the wake of B.O. dated 20-12-2005. Also the penal interest @ 12% per annum for arrears up to 30-10-2005 was calculated as per the Board Order,

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subject to the condition that M/s TATA TEA Limited clears the arrears in one lump within 15 days from the date of communication and if they don't agree and make payment, the concession in interest would be with draws.

Hence, by way of providing OTS scheme to TTL for clearing the long pending dues, Board was successful in realizing the blocked principal amounts due to the Board, even though the penalty charges were realized a lower interest rates.

It may kindly be noted that the introduction of such One Time Settlement packages is a general practice followed by the Board with the objective to settle long pending issues and litigations and to do away with the blockage of revenue due from such defaulters, which was extended to TTL also to settle their long pending arrears.

With regard to the recommendation of the Committee that timely

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measures should be taken to collect the amounts due to the Board which is applicable for private parties and no undue concessions should be granted in such cases, it is submitted that in order to avoid blockage of sums due to the Board by way of sale of power, Board has executed the Power Purchase Agreement (PPA) being executed with licensees by introducing sufficient payment security mechanism such as revolving irrevocable Letter of Credit (LC) equivalent to monthly charges in addition to security deposit to be kept with the Board. Presently regular electricity bills are promptly realized from all licensees in the State.

CHAPTER II

REPLIES FURNISHED BY GOVERNMENT WHICH HAVE BEEN
ACCEPTED BY THE COMMITTEE WITH REMARKS

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Recommendations of the Committee</i>	<i>Action Taken by the Government</i>
(1)	(2)	(3)	(4)	(5)
1	6	Power	The Committee further observes that inordinate delay had occurred on the part of Government in settling the dispute between KSEB and Indsil. Despite repeated direction from the High court to Government to settle the dispute before December 2001, the Government did not take any decision till May 2005. Such an unpardonable delay on the part of the Government to settle a dispute involving a claim of 14.27 crore and interest thereon, had resulted in heavy loss to the Board. The Committee therefore recommends that if the dispute still remain unsettled, immediate steps should be taken to settle the dispute so that further delay in recovering the dues	The High Court in its Judgement dated, 8-8-2001 in O.P. No. 23120/2001 had directed Government to dispose Ext. P5 representation pending before government within 3 months from the date of receipt of the copy of the Judgment. But from the files available in Government regarding the OP it us seen that the Judgment was not received in Government till 3-8-2010. During a review of a recommendation of the Committee on Public Undertakings this Judgement came to the notice of Government and thus a copy of the Judgment was obtained from the Office of the KSEB on 3-8-2010. On the basis of the directions of the Honourable High Court contained in the above Judgment, the petitioner

(1)	(2)	(3)	(4)	(5)
			<p>could be avoided. The Committee also desires to know the position of the two cases after their hearing held on 31-8-2010. A detailed report in this regard should be furnished to the Committee without delay.</p>	<p>company was invited for a hearing on 31-8-2010. Instead of appealing for the hearing the petitioner company informed Government Vide their letter dated 13-8-2010 that they have filed WP(c) 20393/2003 in the matter an have produced the above Judgment as Ext. P9. It is also reported that WP(c) 20393/2003 was referred to Division Bench and the Division Bench on 24-9-2003 passed an Interim Order that status quo to be maintained particularly when the issue itself relates to the demand covered by the judgment in O.P. No. 23120/2001, they informed that it was not appropriate that any hearing is held which will be violative of the status quo.</p>

Remarks:—The Committee desires to be intimated the present stage of the interim order of the High Court Division Bench on 24-9-2003 and wants to know whether any decision has been taken to vacate this interim order and also whether the final verdict has been issued by the Hon'ble High Court of Kerala.

2	15	Power	<p>The Committee wants to be informed of the outcomes of the case filed before the court by Indsil on the issue.</p>	<p>One of the claims of M/s Indsil Electronics Ltd. Is regarding the Maximum Demand (MD) rebate. The WP (c) No. 20383/03, WP (c) No. 2008/07 filed by</p>
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(1)	(2)	(3)	(4)	(5)
				<p>the consumer, interalia contains prayer for, allowing MD rebate as per their interpretation. These WP(C)s are pending before the Honourable High Court of Kerala.</p>
				<p>Steps have been taken for getting the above WP (C)s disposed off at the earliest.</p>
				<p>In the light of the above facts and explanations, the Honourable Committee on Public Undertakings may kindly be apprised of the facts and the recommendations may please be got dropped.</p>

*Remarks:—*The Committee wants to know the present stage of the case pending before the Hon'ble High Court of Kerala.

3	19	power	<p>The Committee desires to know the present position of the case in respect of the Euro Marine Products Ltd. Filed before the Honourable High Court challenging the claim of the Board. The Committee also wants to know if the amount due to KSEB from EMP had since been realized.</p>	<p>M/s Euro Marine Products Limited (EMP) refused to make payment against the short assessment bill for ₹ 10,20,134 issued on 27-5-2006 and the consumer challenged the demand before the Honourable High court of Kerala by filing WP (c) No. 15138/2006. the Honourable High Court disposed of the petition on 12-6-2006 with a direction to the Board to decide the</p>
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matter afresh. In the meantime another consumer named M/s Baby Marine Products, Kozhikode had moved the Appellate Tribunal of Electricity Regulatory Commission dated 11-5-2006 which interalia upheld the decision of the Board in classifying the business units using cold storages and freezing units under HT IV commercial tariff. The Appellate Tribunal of Electricity vide its judgment dated 7-3-2007 rejected the appeal by upholding the decision of the KSERC in this regard. In cognize of the judgment of the Appellate Tribunal a revised short assessment bill was issued to M/s Euro Marine Products in 12/2007. However the consumer failed to make the payment based on the short assessment bill. Hence based on the legal opinion from the O/o the Legal Advisor and Disciplinary Enquiry Officer, it was decided to resume the action for recovering the arrears from the consumer and a revised demand notice was issued to the consumer on

(1)	(2)	(3)	(4)	(5)
				<p>10-6-2015 incorporating interest charges due on the amount. Since the consumer did not respond to the demand notice, the power supply was disconnected on 13-10-2015. As requested by the consumer, installment facility was granted for settling the dues. The consumer remitted ₹ 1,00,000 on 13-10-2015, being the first installment and re connection of electric supply was effected. M/s Euro Marine Products then filed WP (c) 31741/2015 before the Honourable High Court challenging the demand notice dated 13-10-2015. The Honourable Court admitted the petition and granted stay on disconnection for one month. The stay order was for one month from the date of the court order. On expiry of the same and as per the information received from the standing Counsel, a demand-cum-disconnection notice was issued to the consumer on 25-2-2016 and based on the disconnection notice the power supply was disconnected on 21-3-2016. The consumer</p>

(1)	(2)	(3)	(4)	(5)
				filed an Interim Appeal No. 4160/16 before the Honourable High Court against the dis-connection of power supply and re-connection was effected to them based on the court order. The Honourable High Court also issued stay order on disconnection till disposal of the Writ Petition. The case is still pending before the Honourable High Court.

Remarks:—The Committee wants to know the present stage of the case pending before the Hon'ble High Court of Kerala.

Thiruvananthapuram,
2nd May, 2017.

C. DIVAKARAN,
Chairman,
Committee on Public Undertakings.

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