

KARNATAKA ELECTRICITY REGULATORY COMMISSION
No.16 C-1, Miller Tank Bed Area, Vasantha Nagara, Bengaluru-560 052

Order dated 18th March 2025

Present:

Sri P.Ravi Kumar : Chairman
Sri H.K.Jagadeesh : Member (Legal)
Sri Jawaid Akhtar : Member

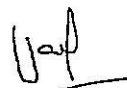
**In the matter of Determination of Government portion of Pension and Gratuity
Surcharge payable by the electricity consumers.**

1. PREAMBLE:

The KPTCL and ESCOMs have filed their petitions on 30.11.2024 for approval of Annual Revenue Requirement and determination of electricity tariff for the Control Period FY2025-26 to FY2027-28. The Commission notes that the ESCOMs have incorporated the government's share of pension and gratuity contributions into the KPTCL transmission charges, based on a predetermined allocation of transformation capacity to ESCOMs by the KPTCL. However, ESCOMs have not provided the context for this inclusion. As a result, the Commission has examined the KPTCL proposal and the decision of the Commission thereon in the matter, is as follows.

2. KPTCL's Submission:

The Government of Karnataka vide Order No. ENERGY/168/PSR/2022 dated 29.11.2024, has directed KPTCL to claim the arrears of Government portion of Pension and Gratuity contribution for the period FY2021-22 to FY2024-25 and Contribution from FY2025-26 onwards which is payable by the Government to KPTCL & ESCOMs P&G Trust, through Annual Tariff Filing until further orders as per Amendment to Rule 4(13)(1) of the Karnataka Electricity Reforms (Transfer of Undertakings of KPTCL and its Personnel to Electricity Distribution and Retail



Supply Companies) Rules, 2002 notified vide Government Notification No. ENERGY/168/PSR/2022, dated 31.12.2022, published in the official Gazette vide Notification dated 06.01.2023.

However, as per the meeting held on 26.11.2024 under the Chairmanship of Additional Chief Secretary, Energy Department, GoK attended by the Managing Director, KPTCL and the Managing Directors of ESCOMs, it was decided to claim the arrears of GoK portion of P&G contribution amounting to Rs.4659.34 Crores for the period from January 2023 to 31.03.2025, in six equal instalments (for the control period FY2025-26 to FY2027-28 and FY2028-29 to FY2030-31) along with the projected contribution for the period FY2025-26 to FY2027-28 in Multi Year Tariff application, to be filed before KERC.

Accordingly, KPTCL has claimed the following amounts towards government portion of P & G contribution:

Particulars	FY2025-26	FY2026-27	FY2027-28
Govt. Portion of contribution towards P&G Trust from January 2023 to 31.03.2025 amounting to Rs.4659.34 Crores spread across 6 annual instalments i.e., Rs.4659.34 Crs/6 instalments = Rs.776.56 Crores	776.56	776.56	776.56
As per G.O dated 29.11.2024, Govt. Portion of contribution towards P&G Trust from 2025-26 onwards	2036.27	2069.19	2084.41
Total Amount	2812.83	2845.75	2860.97

3. Commission's Analysis and Decisions:

The Commission has examined the KPTCL's submission seeking to pass on the Government's portion of pension and gratuity liabilities to consumers through tariff and has articulated its stance and determinations below.



- (a) Rule 4 (13) (1) of the "Karnataka Electricity Reforms (Transfer of Undertakings of KPTCL and its personnel to Electricity Distribution and Retail Supply Companies) Rules, 2002" stipulates as follows:

"(13) (1) The State Government, and not the Escoms, shall be liable for and shall make appropriate arrangements in regard to, the funding of the pension funds and all the statutory and other personnel related funds for the services rendered by the Specified Personnel to Karnataka Electricity Board and KPTCL prior to the Effective Date of Second Transfer of the Specified Personnel and to the extent they are unfunded as at the respective Effective Date of the Specified Personnel. Until such arrangements are made by the State Government, the discharge of all such unfunded liabilities for Specified Personnel who retire after the Effective Date of Second Transfer of such Specified personnel shall be arranged by KPTCL".

- (b) The Government has introduced a proviso to the aforementioned Rule vide Notification dated 31.12.2022, which was published in the official Gazette on 6th January, 2023, which reads as follows;

"Provided that the Government whenever deems it fit, may by an order direct KPTCL to claim the Government portion of Pension Contribution through tariff by filing an application before the State Regulatory Commission".

- (c) KPTCL had previously claimed, in its APR filing for FY2021-22, to pass on the government's portion of pension and gratuity contribution liabilities to consumers through tariff, relying on the above proviso added to Rule 4 (13) (1).

- (d) On the above claim of KPTCL, the Commission explicitly stated in Tariff Order-2023 that Rule 4(13)(1) is absolute clause, placing the sole responsibility of funding pension and gratuity payments of specified personnel on the State Government. According to this rule, the government's responsibility cannot be transferred to KPTCL by adding a proviso to the Rule.



The Commission has reiterated and reaffirmed its aforesaid stance in the Tariff Order-2024 as well.

- (e) The Hon'ble High Court of Karnataka, in its order dated 25.03.2024 in Writ Petition No.4010 of 2023 (Federation of Karnataka Chambers of Commerce and Industry v/s Government of Karnataka and others, challenging the Amendment Rules 2022 which modified Rule 4, sub-rule (13), clause (1) of "Karnataka Electricity Reforms (Transfer of Undertakings of KPTCL and its personnel to Electricity Distribution and Retail Supply Companies) Rules, 2002) dismissed the writ petition".

The Hon'ble High Court of Karnataka's dismissal of the writ petition led to a significant directive, mandating the Commission to necessarily include the government's portion of pension and gratuity contributions in the consumer tariff.

The relevant portion of the order of the Hon'ble High Court of Karnataka is as follows.

44. The KERC's decision was based on an application from KPTCL, without involving the state government in the proceedings. The KERC lacked the authority to examine the validity of the proviso and ignored the Second Proviso to Section 15 of the Reforms Act, 1999, and the tripartite agreement. A regulatory authority, like the KERC, cannot overrule rules set by the state government. Therefore, the KERC's order is not binding on the state government, and the petitioner's claim that Respondent Nos. 1 and 2 should have appealed to the Appellate Tribunal under Section 111 of the Electricity Act 2003 is unfounded.

Point No. 4:

45. The short point that survives for consideration is the contention of impermissibility to amend the transfer rules post the expiry of twelve months from the effective date of the Rules. Before addressing the same, a reference must be made to Section 16 of the Reforms Act, 1999, extracted hereunder –

"Section 16 - Variation of transfers - Subject to the proviso of sub-section 2 of Section 15, the State government may provide that the transfers in terms of Sections 14 and 15 shall be



provisional for a period of twelve months from the effective date and reserve the right to alter, vary, modify, add, or otherwise change the terms in such manner as the state government may consider appropriate."

46. The argument put forth is that Section 16 of the Reforms Act, 1999 has two connected parts linked by the word 'and'. The twelve-month time limit applies only to the first part, which affects the transfer itself, not the terms of the transfer.

47. In the case of Vidyacharan Shukla v. Khubchand Baghel AIR 1964 SC 1099, the Apex Court ruled that courts must give meaning to each word in a section. When sentences are connected by a conjunction, one sentence should not limit the other. Thus, the second part of Section 16 stands alone, allowing the state government to change the terms of the transfer under Sections 14 and 15 of the Act of 1999 even after twelve months.

48. Therefore, the petitioner's claim that the amendment contradicts Section 16 of the Reforms Act, 1999 is unfounded and rejected. Accordingly, I pass the following –

ORDER

The petition is dismissed.

- (f) In compliance of the order of the Hon'ble High Court of Karnataka, the Commission is mandatorily required to incorporate the Government's portion of Pension and Gratuity contributions in the consumer tariff.

Further, the management, administration, and monitoring of the Pension and Gratuity in respect of KPTCL and ESCOMs' employees is vested with the "**KPTCL and ESCOMs Pension and Gratuity Trust (Pension Trust)**". Given this, the Commission has decided that the Government's portion of pension and gratuity contributions should be indicated as a distinct component to be collected from the consumers in the retail supply tariff, rather than including the same in transmission tariff, to ensure transparency and accuracy in the tariff structure and also to ensure proper accounting and remittance of the amounts by the ESCOMs to the Pension Trust.



(g) Scrutiny of the amounts claimed as Government Portion of Pension and Gratuity Contribution for the Control Period FY2025-26 to FY2027-28.

As the amendment to Rule 4(13)(1) of the Karnataka Electricity Reforms (Transfer of Undertakings of KPTCL and its Personnel to Electricity Distribution and Retail Supply Companies) Rules, 2002 came into effect from 06.01.2023, the date of publication in the Gazette, KPTCL has claimed the arrears for the period from January-2023 to 31.03.2025.

To reduce the tariff impact, KPTCL has proposed to stagger the arrears amount of Rs.4659.34 Crores over six years, from FY2025-26 to FY2030-31, claiming equal proportion of Rs.776.56 for each year.

For the period FY2025-26, FY2026-27 and FY2027-28, KPTCL has claimed Rs.2036.27 Crores, Rs.2069.19 Crores and Rs.2084.41 Crores respectively.

Thus, KPTCL's claims for the Control Period works out to Rs.2812.83 Crores for FY2025-26, Rs.2845.75 Crores for FY2026-27 and Rs.2860.97 Crores for FY2027-28.

In the preliminary observations, the Commission has directed KPTCL to submit detailed financial year-wise calculations, along with actual data for January-March 2023 and the entire financial year 2023-24, to justify the determined amount.

KPTCL has furnished the requisite details in its response to the preliminary observations, as directed by the Commission. Data furnished are as below.

Actuals for the period from Jan-2023 to March-2024:

The Commission has considered the KPTCL's statement that actual pension expenses, including monthly pensions, family pensions, and pension commutations, that are extracted through **Pension Payment Management System** software being utilized in **KPTCL and ESCOMs Pension and Gratuity Trust**.



Estimates for the period FY2024-25 to FY2027-28:

The Commission has reviewed the estimates of the expenditure towards the P & Contributions provided by KPTCL for the period between FY2024-25 and FY2027-28. These estimates take into account the actual monthly amounts towards pension as well as projected pension and family pension requirements arising out of employees' retirements. Considering this calculation, the Commission has observed that the total contributions of KPTCL and ESCOMs towards pension and gratuity have been deducted from the total liability, leaving only the government's liability.

Total liability of Government portion of Pension and Gratuity contribution:

The Commission has considered the below mentioned Government portion of Pension and Gratuity contribution to be payable by consumers through retail supply tariff:

Period	Pension / Family Pension Rs.in Crores	Commutation of Pension Rs.in Crores	Death cum Retirement Gratuity Rs.in Crores	Total Rs.in Crores
January-2023 to March-2023	355.37	9.51	7.93	372.81
FY2023-24	2,109.76	90.79	70.25	2,270.80
FY2024-25	1,881.71	81.69	52.33	2,015.73
FY2025-26	1,920.90	62.32	53.05	2,036.27
FY2026-27	1,952.51	62.82	53.86	2,069.19
FY2027-28	1,982.55	52.67	49.19	2,084.41

The Commission has accepted the proposal of KPTCL to stagger the arrears amount of Rs.4659.34 Crores, pertaining to the period January-2023 to FY2024.25, over a period of six years, from FY2025-26 to FY2030-31, in equal proportions for each year.

Thus, the Commission has decided to allow the Government portion of Pension and Gratuity contribution in the retail supply tariff, for the Control Period FY2025-26 to FY2027-28, as below.



Period Considered for recovery from consumers	Amount Pertaining to the period January-2023 to FY2024-25 Rs.in Crores	Amount Pertaining to the period FY2025-26 to FY2027-28 Rs.in Crores	Total Amount considered for the Control Period Rs.in Crores
FY2025-26	776.56	2,036.27	2,812.83
FY2026-27	776.56	2,069.19	2,845.75
FY2027-28	776.56	2,084.41	2,860.97
FY2028-29	776.56		
FY2029-30	776.56		
FY2030-31	776.54		
Total	4,659.34		

- (h) Determination of per unit rate of Government portion of Contribution payable by the electricity consumers.

Year	Amount of P&G Contribution Rs.in Crores	Approved total Energy Sales to ESCOMs MUs	Per Unit of P&G Contribution Paise / Unit
FY2025-26	2812.83	77,268.74	36
FY2026-27	2845.75	81,095.29	35
FY2027-28	2860.97	85,170.73	34

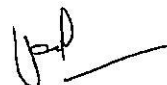
The ESCOMs shall levy and recover the Government Portion of Pension and Gratuity Contribution, as determined above, from consumers as "**P & G Surcharge (Government Portion)**", which shall be distinctly reflected in the regular monthly energy bills, calculated on a per unit consumption basis, including IP sets consumption.

- (ii) **Mechanism for Accounting, Collection, and Reporting of Government's portion of Pension and Gratuity Contributions:**

- (1) The demand raised pursuant to this surcharge shall be accounted for and recorded in the books of accounts of the ESCOMs under a distinct and separate Account Head. Any variation in demand (shortfall or excess) due to changes in energy sales will be reconciled and carried over to the next financial year, during the Annual Performance Review (Truing up).

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- (2) The amount accrued under this exclusive Account Head at the end of each month shall be transferred to the bank account of **"KPTCL and ESCOMs Pension and Gratuity Trust"**.
- (3) The amount of demand accrued under this exclusive Account Head at the end of each month shall be remitted to a designated bank account of the **"KPTCL and ESCOMs Pension and Gratuity Trust"**. The Trust shall maintain a separate and dedicated bank account exclusively for the purpose of receiving these funds.
- (4) Upon receipt of the funds, the **"KPTCL and ESCOMs Pension and Gratuity Trust"** shall issue a formal receipt to the respective ESCOM, acknowledging the payment and confirming the amount received.
- (5) The ESCOMs shall submit a monthly statement to the Government, with a copy to the Commission, detailing the following:
 - a. The total quantity of energy sold to different categories of consumers.
 - b. The calculation of the **P & G Surcharge (Government Portion)** amount, based on the rate approved by the Commission in the relevant Tariff Orders.
 - c. The date of transfer of the **P & G Surcharge (Government Portion)** amount to the **"KPTCL and ESCOMs Pension and Gratuity Trust"**.
 - d. Such other particulars as may be necessary and incidental to the fund.
- (6) The **"KPTCL and ESCOMs Pension and Gratuity Trust"** shall furnish a statement to the Government, with a copy to the Commission, providing details of:



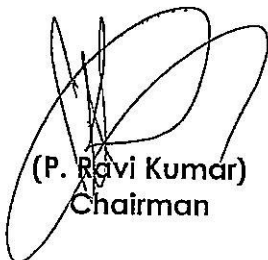
- a. The total amount of contributions received, comprising both the company's contribution and the "P & G Surcharge" demand raised to the consumers.
 - b. The amounts disbursed towards various pension benefits, including gratuity, commutation, pension, family pension, and other applicable heads.
 - c. Such other particulars as may be necessary and incidental to the administration of funds.
- (7) The ESCOMs shall report the implementation and functioning of this mechanism as part of their Annual Performance Review petitions for the respective financial years.

ORDER

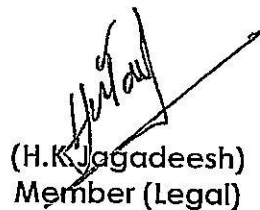
In accordance with the Government of Karnataka Order No. ENERGY/168/PSR/2022 dated 29.11.2024, the Commission allows the ESCOMs to recover the Government portion of Pension and Gratuity contribution uniformly from their consumers, as per this order, as "P & G Surcharge (Government Portion)".

The aforesaid levy shall come into force from 01st April 2025 and remain in effect for the entire duration of the Control Period, commencing from FY2025-26 and concluding on FY2027-28 or as decided by the Government from time to time.

This order is signed and issued by the Karnataka Electricity Regulatory Commission on this 18th day of March 2025.



(P. Ravi Kumar)
Chairman



(H.K. Jagadeesh)
Member (Legal)



(Jawaid Akhtar)
Member

KARNATAKA ELECTRICITY REGULATORY COMMISSION
No.16 C-1, Miller Tank Bed Area, Vasantha Nagara, Bengaluru-560 052

Order dated 27th March 2025

***Preamble:**

1. The Commission had issued an Order on 18.03.2025, pertaining to the determination of the Government's portion of Pension and Gratuity amount payable by electricity consumers of ESCOMs.
2. In the Order, the Commission observed an inconsistency in the mechanism prescribed for accounting, collection and remittance of the P&G Surcharge.
3. Consequently, the Commission has decided to amend the relevant provisions of the Order dated 18.03.2025 to rectify the observed inconsistency.
4. Hence, the following –

ORDER

The Commission Order dated 18.03.2025 is hereby amended to the following extent. The other provisions of the said order remain unaltered.

Sl. No.	As Existing	As Amended
(h)	The ESCOMs shall levy and recover the Government Portion of Pension and Gratuity Contribution, as determined above, from consumers as "P & G Surcharge (Government Portion)", which shall be distinctly reflected in the regular monthly energy bills, calculated on a per unit consumption basis, including IP sets consumption.	The ESCOMs shall levy and recover the Government Portion of Pension and Gratuity Contribution, as determined above, from consumers as "P & G Surcharge (Government Portion)", which shall be distinctly reflected in the regular monthly energy bills, calculated on a per unit consumption basis (excluding consumption under DERS), including IP sets consumption.
(i) (2)	The amount accrued under this exclusive Account Head at the end of each month shall be transferred to the bank account of "KPTCL and ESCOMs Pension and Gratuity Trust".	The amount collected against the demand from the consumers under this exclusive Account Head shall be remitted to the designated bank account of the "KPTCL and ESCOMs Pension and Gratuity Trust" at the end of each month.
(i) (3)	The demand amount accrued under this exclusive Account Head at the end of each month shall be remitted to a designated bank account of the "KPTCL and ESCOMs Pension and Gratuity Trust". The Trust shall maintain a separate and dedicated bank account exclusively for the purpose of receiving these funds.	The Trust shall maintain a separate and dedicated bank account exclusively for the purpose of receiving these funds.

This order is signed and issued by the Karnataka Electricity Regulatory Commission on this 27th day of March 2025.

(P. Ravi Kumar)
Chairman

(H.K. Jagadeesh)
Member (Legal)

(Jawaid Akhtar)
Member