



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)

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Abstract

Dispute in the Station Heat Rate (SHR) in the Power Supply Agreement entered into under DBFOO basis with Jhabua Power Ltd—Judgment of APTEL - Sanctioned orders issued.

CORPORATE OFFICE (Planning)

B.O. (FTD) No. 562/2021 (CE (C&T)/DBFOO-Jhabua/2021-22) dated Tvp, 29.07.2021

Read: 1. CERC order dated 25.05.2020 in petition No.169/MP/2019.

2. B.O (DB) No.499/2020 (CE (C&P)/DBFOO-Jhabua/2020-21) dated 29.07.2020.

3. Judgment dated 13-5-2021 in Appeal No. 230 of 2020 & IA No. 1283 of 2020.

4. Letter No. FIN/POP/JHABUA-SHR/2020-21/15 dated 06.07.2021 of the Financial Adviser, KSEBL.

5. Note No. CE (C&T)/DBFOO-Jhabua/2021-22/351 dated 09.07.2021 of the Chief Engineer (Commercial and Tariff) submitted to the Full Time Directors. (Agenda Item No. 25-7/2021)

ORDER

KSEB Limited has entered into Power Purchase Agreements with M/s Jhabua Power Limited (JPL) on 31.12.2014 and on 26.12.2014 for procuring 115 MW and 100 MW RTC power respectively for 25 years on DBFOO basis. Accordingly JPL has started supplying power against the first PSA with effect from 22nd December 2016 and second PSA with effect from 1st October 2017. As soon as the supply from M/s Jhabua commenced, a dispute arose on the Station Heat Rate (SHR) to be followed to claim Fixed Charges and Fuel Charges. KSEBL has processed the admissibility of the claims for PSA 1 with SHR of 2465.2 Kcal/kWh for computation of both the Fixed charges and Fuel charges as per provisions of the PSA.

For adjudication of the issue, M/s Jhabua Power Ltd filed a petition before CERC. As the CERC order dated 25.05.2020 was in favour of M/s Jhabua Power Ltd, KSEBL filed appeal before Hon'ble APTEL as per order read as 2nd above and the Hon'ble APTEL in its order read as 3rd above stated that "Since there is only one generating unit of 600 MW capacity in the power station, the net SHR for PSA 1 and PSA 2 shall be same as 2465.2 kCal/kWh. Accordingly, the computation of Fixed Charges and Fuel Charges under PSA 1 and PSA 2 shall be on the basis of this Station Heat Rate/ SHR/ net station heat rate of 2465.2 kCal/kWh" The CERC order was set aside and the matter was remitted back to the Central Commission with the direction to consider the matter afresh keeping

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in view the opinion expressed in APTEL Judgment and to issue appropriate orders in accordance with law.

Accordingly KSEBL has filed petition before the Hon'ble CERC for implementation of the APTEL order. M/s Jhabua Power Limited has filed an Appeal before the Hon'ble Supreme Court challenging the judgment passed by Hon'ble APTEL. M/s JPL has prayed to set aside the impugned order and also requested to grant ad-interim ex-parte stay of the operation of the impugned final judgement and APTEL order.

The Chief Engineer (Commercial and Tariff) as per note read as 5th above reported that based on the APTEL order, the counsel of KSEBL has opined that for processing the invoices of future bills in relation to both the PSAs, the SHR would deserve to be taken as 2465.2 kcal/kWh. Additionally, in relation to PSA2, the orders of KSERC for limiting the payment as per the tariff being paid to BALCO (L1 Bidder) would also be applicable and the invoices would deserve to be processed accordingly. Further, it would be advisable to defer the decision in relation to recovery of arrears after the hearing before the Hon'ble Supreme Court on the appeal filed by M/s JPL. The Financial Adviser has opined to release the payment by availing rebate to reduce additional monthly expenditure, provided no apprehension on the continuous power flow from JPL is there and is better to recover the receivable amount at the earliest.

The Chief Engineer (Commercial and Tariff) further reported that the total amount withheld from JPL due to limiting @ Balco (L1 bidder) amounts to Rs 22 Crore till June 2021 and JPL is scheduling power to KSEBL without any outage. Thus the total amount available with KSEBL due to scheduling power from JPL will be around Rs 38 Cr as on payment due date for June 2021. The arrear amount to be realized from JPL without interest as per APTEL order is around Rs 35 Cr.

Having considered the matter in detail, the Full Time Directors in its meeting held on 09.07.2021, resolved to accord sanction to

- a. Compute the Fixed charges and Fuel Charges of monthly bills of both PSAs of Jhabua Power Ltd from June 2021 onwards with SHR as 2465.2 kcal/kWh as per the APTEL order dated 13.05.2021.

- b. Defer the decision in relation to recovery of arrears upto May 2021 with SHR 2465.2 kCal/kWh as per the APTEL order for both the PSAs, till the outcome of proposed hearing of the Appeal in the Hon'ble Supreme Court, as opined by the counsel of KSEBL.
- c. Release the payment against monthly bills of M/s Jhabua Power Ltd by availing eligible rebate of 1 % as opined by Financial Adviser, since Rs 38 crores will be with KSEBL against power supplied from Jhabua Power Ltd as on payment date by availing eligible rebate as per PSA.

Orders are issued accordingly

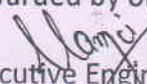
By Order of the Full Time Directors,
Sd/-
LEKHA.G
Company Secretary in-charge

To

1. The Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer.
2. The Deputy Chief Engineer (TRAC)

Copy to:

1. The Chief Engineer (T-SO), Kalamassery.
2. The Financial Advisor/Chief Internal Auditor/LA & DEO
3. TA to CMD/ Director (T& SO)/ (SCM &Gen-E)/ (D, IT& HRM)/ Gen (Civil) /(Plg&Safety)
4. PA to Director (Finance)
5. Senior CA to Secretary/Company Secretary i/c/The Fair Copy Superintendent
6. Library / Stock File.

Forwarded by order

Assistant Executive Engineer