

**Kerala State Electricity Regulatory Commission**  
**Thiruvananthapuram**

Present : **Shri Preman Dinaraj, Chairman**  
**Shri K.Vikraman Nair, Member**  
**Shri S.Venugopal, Member**

**OP No. 12/2018**

In the matter of Petition under section 86 (1) (f) of the Electricity Act, 2003 read with Article 36.4 of the Power Supply Agreement (PSA) dated 31.12.2014 for supply of 115 MW of Power to KSEBL seeking adjudication on the issue of reduction of Fixed Charges by KSEBL due to Station Heat Rate indicated by JPL as per the terms and conditions of PSA.

Petitioner - M/s. Jhabua Power Limited  
6<sup>th</sup> Floor, Vatika City Point, Gurgaon

Respondent - Kerala State Electricity Board Limited  
Vydyuthi Bhavanam, Pattom

Petitioner represented by - Sri. Parinay D Shah, Advocate  
Sri. Roopam Bansal, Avantha Power

Respondent represented by - Sri. K G P Nampoothiri, EE, KSEB Ltd  
Smt. Sangeetha S, EE, KSEB Ltd  
Sri Ajith Kumar G, DA, KSEB Ltd  
Smt. Hema K, AEE, KSEB Ltd  
Smt. Latha S V, AEE, KSEB Ltd

**Daily Order dated 6.12.2018**

1. M/s. Jhabua Power Ltd (herein after referred to as the petitioner or JPL) filed a petition before the Commission on 03.07.2018 for adjudication of the dispute under Section 86 (1) (f) of the Electricity Act 2003 read with Article 36.4.1 of the PPA with following prayers.
  - i. *Consideration of Net SHR of 2347.9kCal/kWh for payment of Fixed Charge Rate since the start of supply of power under the PSA dated 31.12.2014.*
  - ii. *Allow JPL to recover entire withheld fixed charges along with carrying cost from KSEBL.*

- iii. Issue clarification regarding the applicability of Clause 3.2 of Schedule F of the PSA for Net SHR to be considered for the purpose of payment of Fuel Charge under Article 22 of the PSA*
- iv. Pass such further and other Order, as the Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.*

2. The Commission admitted the petition as OP No.12/2018 and initially scheduled the hearing on 26.09.2018. Since the Advocate present for the hearing could not produce Vakalatnama, the hearing was re-scheduled on 15.11.2018. During the hearing Adv. Sri. Parinay Deep Shah, presented the issue on behalf of the petitioner and Sri. K. G. P. Namboothiri, Executive Engineer presented the issues on behalf of the respondent KSEB Ltd.

3. Summary of the issues raised by the petitioner during the hearing is given below.

Sri. Parinay D Shah, presented the petition on behalf of the petitioner. He submitted that;

- (i) KSEB Ltd is deducting 10 % fixed charges from monthly bills claimed by M/s Jhabua for the energy supplies against PSA for 115 MW. This is being done as per the Article 21.2.3 of the PSA, which states that in the event the completion certificate specifies station heat rate (SHR) higher than SHR specified in schedule C, the initial fixed charge shall be decreased such that for every increase of 1% in SHR, the amount specified in Article 21.2.1 shall be decreased by 2%.
- (ii) The completion certificate in schedule G recorded a net SHR of 2465.2 kCal/kWh, this includes the 5% increase on account of potential variations. The corrected gross SHR arrived in tests was 2347.90 kCal/ kWh. Correction factors are considered as per OEM curves and performance test codes to tackle deviations in parameters from the designed values, since it is never possible to achieve during tests.
- (iii) Article 13.2.2 of the PSA provides that, tests in respect to SHR shall be deemed to be successful only if tests establish that the SHR is equal or lower than the rates specified in specification and standards. In the event the tests establish that actual SHR exceeds the specified SHR by upto 5%, the tests shall deemed to be successful as if the power station achieved the specified SHR.
- (iv) Article 2.1 of Schedule C of PSA states that SHR reckoned at point of grid connection after accounting for auxiliary consumption and transmission losses shall not exceed 2350 kCal/kWh at 100% maximum continuous rating (MCR) or such lower station heat rate specified in completion or

provisional certificate. Unlike SHR in completion certificate, SHR as per Schedule C does not account for potential variations from temperature, humidity, quality of coal and other unforeseen factors and does not include the 5% increase. Thus the SHR as per completion certificate will always be higher than schedule C SHR.

Thus there is a conflict between SHR as per completion certificate and Schedule C which requires a clarification from the Commission.

- (v) The objective of penalty in article 21.2.3 on reducing fixed charges @ 2% for increase in SHR @ 1%, is for disincentivizing inefficient machines only. Further, Article 13.2.2 indicates that; the tests shall be successful if the tests establish that the actual station heat rate exceeds the specified station heat rate upto 5%. Hence, the penalty under Article 21.2.3 does not apply in the present case.
- (vi) Article 22.2.1 of the PSA indicate the calculation of fuel charges payable by KSEB Ltd to M/s Jhabua Power Limited. It would be fair that fuel charge calculation is done on the basis of net SHR, i.e, the determined SHR plus 5% variation to account for potential variations from temperature, humidity, quality of coal and other unforeseen factors in SHR.
- (vii) Therefore JPL prayed that,
  - Consideration of net SHR of 2347.9 kCal/kWh for payment of fixed charge in 115 MW PSA dated 31.12.2014 since start of supply of power to KSEB Ltd.
  - Allow JPL to recover entire withheld fixed charges along with carrying cost form KSEB Ltd.
  - Issue clarification regarding the applicability of Article 3.2 of Schedule F of the PSA for net SHR to be considered for the purpose of payment of fuel charge under Article 22 of PSA

4. Sri K G P Nampoothiri, EE, KSEB Ltd submitted that, the PSA provides only one SHR for payment of fixed charge and fuel charge. KSEB Ltd had a detailed study on the various provision of the PSA regarding SHR and has come to a consensus with the petitioner to adopt 2347.9 kCal/kWh as SHR of the project for both the payment of fixed charge and fuel surcharge. KSEB Ltd also produced the copy of the minutes of the meeting dated 31.10.2017, held between the officials of KSEB Ltd led by Director (Finance), and officials of M/s Jhabua Power Limited (JPL). The completion certificate provided by JPL indicated a station heat rate of 2465.2 kCal/kWh, and the petitioner reported that this is after applying a correction factor of 5%. Further, M/s JPL has been supplying another 100 MW from the same unit of the petitioner to KSEB Ltd in the PSA dated 26<sup>th</sup> December 2014 for supplying power from 1<sup>st</sup> October 2017. In the second PSA, the SHR as per the completion certificate was 2347.90 kCAI/kWh, and the same was adopted for payment of both fixed charge and fuel charge. KSEB Ltd is

agreed to adopt the SHR of 2347.90 kCal/kWh for payment of fixed charge and fuel charge in the present case i.e., the PSA dated 31.12.2014 for supplying 115 MW power to KSEB Ltd, which was agreed by the petitioner in the meeting dated 31.10.2017. KSEB Ltd further submitted that, on the alternative, in case the petitioner is seeking an SHR of 2465.20 kCal/kWh in an indirect manner, which is against the consensus arrived at, the same SHR has to be applied for working out fixed charge as well.

5. Based on the deliberations during the hearing, the Commission hereby issues following directions to the petitioner M/s Jhabua Power Limited and the respondent KSEB Ltd, for compliance within two weeks from the date of this order.
- (i) The Commission clarified during the hearing that, since the SHR being a technical parameter, two different SHR cannot be accepted for the same unit of the plant.
  - (ii) M/s Jhabua Power Limited shall confirm whether the petitioner is agreeable to adopt the SHR of 2347.90 kCal/kWh for the payment of fixed charge and fuel charge as per the PSA dated 31.12.2014.
  - (iii) Whether the approval of the Board of Directors of KSEB Ltd has been obtained for adopting the SHR of 2347.90 kCal/kWh for payment of fixed charge and fuel charge, as decided in the meeting held on 31.10.2017 between KSEB Ltd and M/s Jhabua Power Limited. If so, a copy of the Board Order may be produced.
  - (iv) Whether KSEB Ltd has done any financial assessment resulting from (iii) above for the entire term of the PSA, by adopting the SHR of 2347.90 kCal/ kWh?. If so, a copy of the same may be submitted to the Commission.
  - (v) Whether KSEB Ltd has done any financial assessment for the entire term of the PSA by adopting the SHR of 2465.20 kCal/kWh ?. If so, a copy of the same may be submitted to the Commission.

**Sd/-  
K.Vikraman Nair  
Member**

**Sd/-  
S.Venugopal  
Member**

**Sd/-  
Preman Dinaraj.  
Chairman**

**Approved for issue**

**Santhosh Kumar.K.B  
Secretary**