

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri. Preman Dinaraj, Chairman

OA 15/2020

In the matter of : Petition on Proposal to recover the additional cost incurred during the period from April 2020 to June 2020 over approved level on Generation and Power Purchase due to variation in cost of fuel, from all consumers including Bulk Consumers and other Licensees through fuel surcharge.

Petitioner : Kerala State Electricity Board Limited

Date of hearing : 06.10.2020

Order dated 12.07.2022

1. Kerala State Electricity Board Ltd (herein after referred to as KSEB Ltd or the petitioner), on 11.09.2020, filed a petition for recovery of fuel surcharge for the period from April 2020 to June 2020, with prayers as follows:
 - (a) *The additional financial liability incurred by KSEBL, amounting to **Rs 38.94 Cr.**, due to the variation in power purchase cost resulting from the variation in cost of fuel for the period from April to June 2020 for the procurement/ generation of energy from various thermal sources as per Regulation 86 of KSERC Tariff Regulations, 2018 as detailed in Annexure IV & V to this petition may kindly be approved.*
 - (b) *This approved additional cost may kindly be allowed to be recovered from consumers including bulk consumers and other licensees as fuel surcharge, as per the Regulation 86 of KSERC Tariff Regulations, 2018, @ **6 paise per unit from 1st March 2021** onwards.*
2. The summary of the petition filed by KSEB Ltd are given below:
 - (1) The Commission vide Order dated 08.07.2019 in OA No. 15/2018, had approved the ARR, ERC and Tariff for the MYT period from 2018- 19 to 2021-22. Cost of power purchase for 2020-21 is the main expense component of the ARR.
 - (2) Sub Regulation (6) of Regulation 86 of the Tariff Regulation, 2018 mandate that, KSEB Ltd has to file the petition for approval of the additional liability incurred in power purchase due to variation in cost of fuel from approved sources within 30 days after the close of each

quarter. Accordingly, the petition for the first quarter has to be filed on or before 30th of July 2020. However, the petition was filed by KSEB Ltd only on 11.09.2020 with a delay of 41 days. This delay was mainly due to the unprecedented situation arising out of Covid-19 pandemic and also the delay in finalizing the Regional Energy Accounts (REA) by the SRPC. KSEB Ltd has also filed an application for condonation of delay along with the petition.

- (3) A comparison of the actual variable cost claimed by KSEB Ltd from April 2020-June 2020 against the same approved vide Order dated 08.07.2019 in OA No. 15/2018 is given below.

Table-1
Month wise variation of the variable cost- approved and actual for first quarter of financial year 2020-21

SI No	Source	Approved	Actual (Rs/ kWh)		
		(Rs/ kWh)	Apr-20	May-20	Jun-20
Central Generating Stations					
1	NTPC-RSTPS Stage I & II	2.54	2.58	2.58	2.47
2	NTPC-RSTPS Stage III	2.49	0.00	0.00	2.43
3	Talcher	1.77	2.00	1.89	1.91
4	Simhadri TPS Stage II	2.95	2.98	3.00	2.95
5	NLC-Stage-1	2.69	2.76	2.77	2.77
6	NLC-Stage-II	2.69	2.77	2.77	2.77
7	NLC I Expansion	2.49	2.54	2.54	2.54
8	NLC II Expansion	2.49	2.57	2.56	2.56
9	Vallur STPS	3.2	3.52	3.53	3.53
10	NTPL	3.28	2.78	2.70	2.70
11	NTPCKudgi	3.98	3.59	0.00	3.13
Independent Power Producers					
12	RTPS	2.34	3.32	3.32	3.20
13	Mejia	2.51	2.88	2.77	2.72
14	Maithon Power Ltd- Contract I	2.43	2.67	2.67	2.76
15	Maithon Power Ltd- Contract II	2.43	2.67	2.67	2.76
16	Jindal Power Ltd-Bid I	1.31	1.31	1.31	1.31
17	Jindal Power Ltd-Bid II	1.19	1.31	1.31	1.31
18	Jhabua Power Ltd-Bid I	1.95	1.96	1.96	1.96
19	Jhabua Power Ltd-Bid II	1.73	1.88	1.88	1.88
20	JITPL	1.03	1.14	1.14	1.14
21	BALCO	1.22	1.16	1.16	1.16

- (4) The summary of the additional liability claimed by KSEB Ltd due to the change in variable cost over approved level during the first quarter of the FY 2020-21 is given below.

Table-2
Additional liability claimed by the KSEB Ltd due to the change in variable cost over approved level during the first quarter of the FY 2020-21

Source	Energy purchase		Addl liability claimed by KSEB Ltd	
	Approved	Actual	Actual	Claimed as FS
	(MU)	(MU)	(Rs. Cr)	(Rs. Cr)
<u>CGS</u>				
RSTPS I & II	444.07	349.03	-0.02	-0.02
RSTPS III	125.55	27.28	-0.17	-0.17
Talcher Stage-II	878.94	826.79	13.56	13.56
Simhadri TPS Stage II	132.92	47.2	0.12	0.12
NLC Stage-I	90.30	58.89	0.46	0.46
NLC Stage-II	141.17	55.49	0.45	0.45
NLC 1 Expansion	116.33	117.64	0.56	0.56
NLC II Expansion	75.14	68.34	0.50	0.49
Vallur STPS	83.35	3.36	0.11	0.11
NTPL	113.21	53.53	-2.95	-2.92
Kudgi	200.93	2.88	-0.11	-0.11
Sub Total CGS	2401.91	1610.43	12.51	12.53
<u>IPPs outside the State</u>				
DVC RTPS	94.95	29.77	2.81	2.81
DVC Mejia	192.44	149.03	4.20	4.20
Maithon Power Ltd-I	301.24	225.66	6.08	6.08
Maithon Power Ltd-II,	301.24	225.49	6.07	6.07
DBFOO Bid-1				
Jindal Power Ltd-Bid I	373.46	376.74	0.00	0.00
Jhabua Power Ltd-Bid I	214.73	222.19	0.22	0.21
DBFOO Bid-2				
Jindal Power Ltd-Bid II*	280.10	282.58	3.39	3.36
Jhabua Power Ltd-Bid II*	186.73	192.17	2.88	2.78
JITPL*	186.73	188.94	2.08	2.01
BALCO	186.73	185.53	-1.11	-1.10
Sub Total IPPS	2318.35	2078.10	26.62	26.42
Total	4720.26	3688.49	39.12	38.94
*Variable cost of these stations was not separately approved.				

- (5) Summary of the additional liability claimed by the KSEB Ltd as fuel surcharge for the first quarter of the financial year 2020-21 is given below.

Table-3
Summary of the Additional liability claimed by KSEB Ltd

Source	Energy procurement			Add liability	
	Approved	Actual	Admissible as per regulation	Actual	Admissible as per regulation
	(MU)	(MU)	(MU)	(Rs. Cr)	(Rs. Cr)
CGS	2401.91	1610.42	1607.19	12.51	12.53
IPPs	2318.35	2078.08	2048.56	26.62	26.42
Total	4720.26	3688.49	3655.74	39.12	38.94

KSEB Ltd has proposed to collect the fuel surcharge @6 paise per unit for the energy consumption from March 2021 onwards.

- (6) KSEB Ltd further submitted that, due to Covid-19 pandemic and consequent lockdowns, the energy demand as well as the actual availability of power from various sources are considerably less than the approved figures, as detailed below.
- The actual demand during the first quarter was less by 921 MU from the approval.
 - Reduction in energy availability from CGS, IPPs and Renewables during first quarter from April to June 2020 was 1465.19MU, as detailed below.
 - (i) Reduction in energy availability from CGS- 901.84 MU.
 - (ii) Reduction in renewable purchase- 356.60 MU.
 - (iii) Reduction in availability from IPPs- 240.33 MU
 - As part of banking contracts entered by KSEB Ltd as approved by the Commission vide Order dated _____, KSEB Ltd returned 38.44 MU during the quarter.
 - The external sale of excess energy during the quarter was 11.18MU.
 - Reduction in energy availability from CGS and IPPs leads to an additional requirement of 276.27 MU from short term markets/exchanges and deviation settlements.
 - In the MYT Order dated 08.07.2019 of 'ARR, ERC and Tariff for the MYT period 2018-19 to 2021-22, Commission had approved an energy surplus of 317.52 MU and an additional revenue of Rs 158.76 crore through sale of surplus power @Rs 5.00/unit. However, the sale of surplus power during the quarter was only 11.18 MU, resulting in the reduction in revenue from surplus power sale by Rs 153.17 crore.
 - Further, the reduction in energy demand due to Covid-19 pandemic by 921MU, resulted in a reduction in revenue of Rs 497.86 crore @Rs 6.144/unit (average realization approved for the year 2019- 20).
- (7) Thus, due to Covid-19 pandemic, and the consequent reduction in energy availability from CGS and IPPs, and also due to the reduction in energy demand, the reduction in revenue was Rs 651.03 crore. However, there was a reduction in cost of power purchase due to reduction in availability from CGS and IPPs by Rs 366.88 crore. Thus, the net reduction in

revenue during the quarter was Rs 284.15 crore over approval. Since the impact of the reduction in demand and availability cannot be addressed under Fuel Surcharge Regulations, KSEB Ltd will address the matter at the time of truing up.

- (8) KSEB Ltd further, submitted that, as a result of the relief measures extended to various categories of consumers as per the directions of the State Government to alleviate the difficulties faced by consumers due to the lock down imposed by the State Government, KSEB Ltd is facing financial difficulties owing to the delay in recovery of revenue.
3. The Commission admitted the petition as OA No 15/2020 and published it in the website of the Commission for comments of the stakeholders. Public hearing on the petition was held on 06.10.2020 through video conference. The list of the stakeholders who participated in the deliberations of the subject petition is given as Annexure-1. Summary of the deliberations during the hearing is given below:
- (1) Sri K G P Nampoothiri, Executive Engineer, presented the petition on behalf of KSEB Ltd and responded to the queries of the Commission, and its summary is given below.
 - The total additional liability incurred by KSEB Ltd for power purchase during the first quarter of the financial year 2020-21 above the approved level is Rs 38.94 Crore. They propose to recover the same from consumers @ Rs 0.6/unit from March 2021 onwards.
 - The variation in price for CGS was due to variation in fuel price, calorific value of fuel, usage of imported coal and also due to the change in norms such as Station SHR, auxiliary consumption etc as per the CERC Tariff Regulations 2014 and CERC Tariff Regulations, 2019.
 - (2) Sri Dijo Kappen, representing domestic consumers submitted that, the Commission in the year 2008, in OP 08/2008, had directed KSEB Ltd to collect arrears from consumers promptly and to report the same to the Commission on quarterly basis. This is not adhered to.

The cost of power under long-term purchases for 25 years is on the higher side when compared to the cost of power in the power exchanges. Most often, KSEB Ltd is not able to answer the queries of the Commission during the hearings. Hence, necessary direction may be given to the officers of KSEB Ltd to do the necessary home work before appearing before the Commission for the hearings.
 - (3) Sri. Prabhakaran, HT & EHT Association submitted that KSEB Ltd did not file the petition for approval of fuel surcharge within the time frame

stipulated by the Commission. Situations like flood, Covid-19 pandemic further delays the filing of the fuel surcharge petition. Hence the Commission may allow more time to file the fuel surcharge petition so that the delay condonation could have avoided.

- (4) Sri. Saji Mathew, representing MRF, remarked that the practice of getting approval of PPA on the post facto basis cannot be entertained. Further, KSEB Ltd being a public entity, the loss or gain of KSEB Ltd falls on the shoulders of the stakeholders in the long run.
- (5) Smt. Prini Peter, Carborandum Universal Limited, submitted that the power purchase under DBFOO contract is without the approval of the Commission. Hence payment to these generators must not be allowed by the Commission. KSEB Ltd should avail power from the power exchanges and short term market including power exchanges under open access to reduce the overall price.
- (6) Sri Satheesh A R, president, HT&EHT Consumers Association submitted that, the fee paid for condonation of delay shall not be allowed to be passed on to the consumers. Sri. Rajesh Kuruvilla and Sri. Satheesh A R, made a detailed presentation on behalf of HT & EHT Association, and the summary of the issues raised by them is given below.
 - The T&D loss worked out by KSEB Ltd on monthly basis varies from 8.31% in April-2020 to 14.49% in May-2020 and 6.03% in June-2020. KSEB Ltd has not explained the reasons for such wide variations. This is required to be looked into by the Commission.
 - The T&D loss approved by the Commission for the year 2020-21 is 12.02%, whereas KSEB Ltd could reduce the T&D loss to 8.31% in certain months. Hence, the Commission may refix the T&D loss target to 8%.
 - There is wide variation in the energy consumption as per the SLDC data and the actual consumption claimed by KSEB Ltd. The actual consumption is always less than the SLDC data and hence appears to be incorrect and may be for showing better T&D loss achievement.
 - The short term power purchase cost by KSEB Ltd through contracts is much higher than the IEX price during this quarter. The cost difference between the average IEX rate and the short term contract rate is Rs 1.34/unit in Apr-2020 and Rs1.24 per unit in May-2020.
 - The Commission may verify the prudence of procuring power at higher cost through short term contracts when power is available in

open access markets at much lower rates.

- The variable cost of power purchase from almost all the CGS and IPPs are much higher than the IEX rate during the quarter.
 - As per the details submitted by KSEB Ltd, though normative availability has been declared for NTPC RSTPS Stage I and II, NTPC Talcher II, NTPC Simhadri II, NLC TPS Stage 1, Vallur, NTPL and Kudgi stations, there is shortfall in the energy scheduled from these stations ranging from 22.90% to 99.90% when compared to the quantum of power purchase approved.
 - KSEB Ltd has entered into long term agreements for power purchase when other utilities are withdrawing from long term contracts. KSEB Ltd received good rainfall and better inflow this year for their own hydro generation.
 - Association remarked that, the cost of power purchase claimed by KSEB Ltd for CGS is much higher than the same claimed for the same units by other States. This is required to be verified before admitting this claim.
 - Association further submitted that, KSEB Ltd has claimed fuel surcharge amounts of Rs 8.50 crore for Jhabua Power-bid-II, Jindal Power- bid-II, Jindal Thermal Power Ltd-bid-II whereas the PPA of these stations are not approved by the Commission. Hence the Association requested to disallow the same.
- (7) KSEB Ltd during the hearing clarified that, in view of the long term agreements entered into, the licensee cannot completely resort to short term purchase including IEX for meeting the power requirement of the State. The short term contracts were entered into for meeting the anticipated peak power shortage and energy shortage during the summer months and that too in February 2020. At present up to 10% of the energy demand is being met by purchasing power from power exchanges. However, in order to ensure reliable power on demand to all its consumers in the State, short term power purchase cannot be relied upon and may even be costlier in the long run, due to its uncertainty and unpredictability.

To the comment for disallowing the delay condonation petition fees, KSEB Ltd submitted that, the Commission has been allowing the A&G expenses to KSEB Ltd on normative basis only. Hence, the fees remitted to the Commission for condonation of delay is not claimed separately through tariff.

KSEB Ltd further clarified that, the energy consumption as per the SLDC data includes the energy injected into the system by captive consumers such as CIAL, Maniar and Kuthumkal for their own consumption, and also the power purchase of HT&EHT consumers by availing short-term open access. However, the energy consumption claimed by KSEB Ltd includes their own generation and power purchased by KSEB Ltd for meeting the demand of its consumers only.

4. Based on the deliberations during hearing, Commission, vide daily Order dated 13.10.2020 directed KSEB Ltd to submit the following details latest by 30.10.2020.

- (1) Station Heat Rate (SHR) and Auxiliary Consumption as per the present CERC Tariff Regulations, 2019 and the same claimed in the ARR as per the previous CERC Tariff Regulations 2014.
- (2) Details of the variation of calorific value of fuel claimed by CGS and IPPS compared to the same claimed in the ARR petition.
- (3) Details of the blending of imported coal with domestic coal at CGS, and the reasons for the same claimed by the generator.
- (4) Detailed explanation on the wide variation in the T&D loss on month-to-month basis with supporting documents.

KSEB Ltd was also directed to file a separate petition seeking approval of PPA of Neyveli New Thermal Power Stations, with all details with all details and justification for this purchase

5. In compliance of the direction of the Commission, KSEB Ltd submitted the details on 27.01.2021 and its summary is given below.

- (1) Details of the SHR and auxiliary consumption as per CERC Tariff Regulations 2014 and CERC Tariff Regulations, 2019, as given below.

Table-4
Details of SHR and auxiliary consumption claimed by KSEB Ltd

Generating Stations	Tariff Regulations 2014-2019		Tariff Regulations 2019-2024	
	Gross Station Heat Rate	Auxiliary Consumption	Gross Station Heat Rate	Auxiliary Consumption

	kCal/ kWh	(Aux)	kCal/ kWh	(Aux)
NTPC RSTPS I & II	2396.43	6.68	2401.43	7.04
NTPC RSTPS III	2375.00	5.75	2390.00	6.25
NTPC Talcher II	2375.00	5.75	2390.00	6.25
NTPC Simhadri Stage II	2380.32	5.25	2359.45	5.75
NTPC Kudgi	2210.66	5.75	2221.24	6.25
NLC II Stage-I & II	2900.00	10.00	2890.00	10.00
NLC TPS I Expansion	2750.00	8.50	2720.00	8.50
NLC TPS II Expansion	2559.94	10.00	2559.94	10.00
NTPL	2351.25	6.25	2358.84	5.75
NTECL vallur	2351.25	6.69	2358.84	6.25
DVC Mejia (100 MW)	2371.61	5.25	2374.10	5.75
DVC Raghunathpur (50 MW)	2339.78	5.25	2350.17	5.75
Maithon Power Ltd PPA I	2375.00	5.75	2375.00	6.25
Maithon Power Ltd PPA II	2375.00	5.75	2375.00	6.25

- (2) Details of the variation of Calorific value of the fuel claimed by CGS and IPPs compared to the same claimed in the ARR petition.
- (3) Details of blending of imported coal with domestic coal at CGS and IPPs.
- (4) Explanation on the variation in the T&D losses and its summary is given below.

KSEB Ltd submitted that, T&D loss for a given period is arrived at based on the energy input data for that particular period and the energy sales corresponding to that energy input. However, in the present system of billing, the monthly T&D loss cannot be arrived accurately due to the following.:

- (i) In KSEB Ltd system, 98% of consumers are billed bimonthly and remaining are billed one monthly basis.
- (ii) The energy billed during a particular month consists of the following:
 - Energy consumption of previous month in the case of monthly billed consumers.
 - In the case of bimonthly billed consumers – the consumption as on bill date is the consumption pertaining to previous 60 days preceding to the bill date. Further only half (50%) of the total bimonthly billed consumers are billed in a month.
- (iii) Thus, the consumption shown in the bills of bimonthly billed consumers corresponding to the consumption during the previous 60 days prior to the date of billing. Hence, it is not possible for KSEB Ltd to find exact sales corresponding to the energy input in a particular month.

- (iv) There is wide variation in the energy demand over month to month. For example, the energy demand in the month of June after the onset of monsoon is less by about 25% when compared to the demand in April and May. Hence, when comparing the energy billed in June (which corresponds to the energy sale in April and May) with the actual energy consumption in June (energy generation and purchase), the loss may appear to be much lesser than the approved level. Similarly, the energy demand in February and March will be about 25% higher than the demand in December and January. Hence, when comparing the loss with reference to the energy billed in February and March (which corresponds to the energy sale in December and January) with the energy consumption in February and March, it can be seen that the loss assessed is much higher than the approved level.
- (5) Power purchase from 'Neyveli New Thermal Power Station at Neyvelli (NNTPS)' station of NLC.

KSEB Ltd submitted a copy of the Power Purchase Agreement (PPA) signed by KSEB Ltd dated 10th December 2010 with NLC for the procurement of power from NLCs 'Neyveli New Thermal Power Station at Neyvelli'. KSEB Ltd further submitted that, the power from the project was allocated by the Ministry of Power, GoI, vide the allocation dated 09.06.2011 and 32.38MW power was allocated from the project to the State of Kerala. As per the terms of the PPA, the tariff for the power generated from the project has to be determined by CERC. Since the approval of PPA from CGS was not insisted by the Hon'ble Commission prior to the notification of Tariff Regulations, 2014.

However, KSEB Ltd has been seeking approvals for all PPAs signed after the notifications of Tariff Regulations, 2014. As per the provisions of the Tariff Regulations 2018 also, the Hon'ble Commission had not insisted for the approval of the already signed PPAs. However, the implementation of the project was delayed and unit-I was declared CoD only on 28.12.2019. Hon'ble CERC vide the order dated 29.01.2020 has determined the interim tariff for the project. Hence KSEBL requested before the Commission to consider the power procurement from the NNTPS and allow the power purchase cost.

Analysis and Decision of the Commission

6. The Commission has examined in detail the petitions filed by KSEB Ltd for the approval of fuel surcharge for the 1st quarter (April-2020 to June-2020) of the financial year 2020-21, the objections made by the stakeholders, the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018, directions issued by the Hon'ble Appellate Tribunal for Electricity (APTEL) vide Order dated 20.11.2020 and the fact that the Commission has challenged the decision of the Hon'ble APTEL before the

Hon'ble Supreme Court which has stayed the Order of Hon'ble APTEL vide Order dated 27.01.2021 and prudent utility practices in the Country, hereby decide as follows.

7. The Section 62(4) of the Electricity Act, 2003 provides for recovery of fuel surcharge as per the fuel surcharge formula specified by the Commission. The relevant section is extracted below.

The Section 62(4) of the Electricity Act-2003 is extracted below for ready reference:

“(4) No tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.”

8. Hon'ble APTEL vide the judgment dated 11.11.2011 in OP No. 1 of 2011 had issued directions to all the State Commissions, regarding the fuel surcharge as follows.

65. In view of the analysis and discussion made above, we deem it fit to issue the following directions to the State Commissions:

.....

- (i) Fuel and Power Purchase cost is a major expense of the distribution Company which is uncontrollable. Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably be on monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/ mechanism.”*

9. The Regulation-86 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018 (hereinafter referred as Tariff Regulations, 2018), deals with the 'Fuel Surcharge Formula' and related aspects, which is extracted below for ready reference.

“86. Fuel surcharge formula.–(1) The tariff or part of any tariff determined in accordance with these Regulations, shall not ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted by the Commission under the terms of fuel surcharge formula specified in this Regulation.

(2) Fuel surcharge is the amount approved by the Commission in terms of the formula specified under Annexure X, by way of recovery from or refund to the consumer, so as to enable the distribution business/licensee to pass through to the consumer additional expenditure or savings due to:

- (i) the difference between the actual cost of fuel and the cost of fuel approved in Aggregate Revenue Requirement by the Commission for the generation of electricity in the generating stations owned by the distribution business/licensee;*
- and*

(ii) the difference on account of the change in cost of fuel, between the actual cost of power purchase and the cost of power purchase as approved by the Commission in the Aggregate Revenue Requirement.

(3) The distribution business/licensee may be allowed by the Commission to adjust the fuel surcharge on a quarterly basis at the rate and the period of adjustment, as approved by the Commission based on the petition submitted by the distribution business/licensee specifically for this purpose.

(4) (a) The amount of fuel surcharge to be adjusted shall be determined by the Commission in accordance with the formula specified in Annexure X.

(b) The difference between the actual cost of fuel and the approved cost of fuel for own generation shall be computed for each quarter with respect to the month wise quantity of generation as approved by the Commission in the Aggregate Revenue Requirement of the distribution business/licensee, based on merit order.

(c) The difference between the actual cost of power purchase and the approved cost of power purchase on account of change in cost of fuel shall be computed for each quarter with respect to the month wise quantity of power purchase as approved by the Commission in the Aggregate Revenue Requirement of the distribution business/licensee, based on merit order.

(5) Every distribution business/licensee shall, within thirty days after the close of each quarter, submit to the Commission a petition with all relevant details required for the approval of the amount of fuel surcharge to be adjusted from the consumers and the rate and period of such adjustment:

Provided that distribution licensees who purchase electricity from KSEB Limited in bulk for retail sale, are exempted from the above requirement.

(6) The Commission may, after prudence check, approve with modifications if any, the amount of fuel surcharge to be adjusted from the consumers and stipulate the rate and the period of such adjustment.

(7) The rate of adjustment of fuel surcharge shall be expressed as paise per kWh and it shall be adjusted in the energy charges as per the existing tariff for the energy billed to each consumer, on a monthly or bi-monthly basis, as the case may be.

(8) The adjustment on account of fuel surcharge as approved by the Commission shall be effected from the third month of the subsequent quarter onwards or as directed by the Commission.

(9) The fuel surcharge adjustment shall be uniformly applicable to all consumers in the State except the domestic consumers with connected load of and below 500 W and having monthly consumption of and below 20 units.

(10) The Commission may decide appropriate rate and period of adjustment of the amount of fuel surcharge, considering the impact on the tariff of consumers.

(11) (a) The distribution business/licensee shall submit to the Commission, the month-wise details of the changes in the cost of fuel with respect to the approved cost for all its generating stations using liquid fuel or gas or coal, for each quarter separately.

(b) The distribution business/licensee shall submit to the Commission, the source wise and month-wise details of the changes in the cost of power purchase with respect to the approved cost of power purchase on account of change in cost of fuel, for each quarter separately.

(c) The month-wise details as specified in clauses (a) and (b) above, shall be submitted in the Form-I as specified in Annexure-X to these Regulations, on a quarterly basis.

(12) (a) Distribution licensees who purchase electricity from KSEB Limited in bulk for retail sale, shall within fifteen days of the close of each month, provide to KSEB Limited with a copy to the Commission, the month-wise details of retail sale of energy to facilitate the estimation of fuel surcharge.

(b) KSEB Limited shall consolidate the details of such retail sales and indicate with calculations, the provisional amount and rate of fuel surcharge to be adjusted along with the details in Annexure X.

(13) The distribution licensees who purchase electricity in bulk from KSEB Limited shall promptly adjust with KSEB Limited on a monthly basis, the amount of fuel surcharge adjusted from their consumers.

(14) The Commission may seek additional information or any documents, if any, required from the distribution business/licensee and the distribution business/licensee shall submit the details within the time limit stipulated by the Commission.

10. The fuel surcharge formula specified under Annexure X to the Tariff Regulations, 2018 is extracted below.

The Formula for adjustment of fuel surcharge shall be as under:

The rate of fuel surcharge adjustment in paise per kWh = $F \div E \times 100$

Where,-

F = The amount of fuel surcharge in rupees, which is the sum of **Fg, Fp and A**

E = Energy billed for retail sale to the consumers other than the domestic consumers with connected load of and below 500 W and consumption of and below 20 kWh, in the relevant quarter, based on the approved level of transmission and distribution loss

F_g = Change in the cost of fuel for generation of electricity from own stations

$$= \sum_1^n Q_g \times (R_1 - R_2)$$

F_p = Change in cost of the energy purchased, due to the change in fuel cost

$$= \sum_1^n Q_p \times (P_1 - P_2)$$

(F_g and F_p shall be calculated **for each station month-wise** and added up)

A = Balancing term to take care of difference, if any, in the energy sales

Q_g = Quantity of fuel used for generation of electricity in own stations

= (Approved station heat rate in kilo calories per kWh X Actual or approved energy whichever is less in MU X 1000) ÷ Calorific value of the fuel in kilo calories per kilo gram

$Q p$ = Actual quantity of energy purchased or approved whichever is lesser

$R1$ = Actual price of fuel in rupees per metric ton

$R2$ = Approved price of fuel in rupees per metric ton

$P1$ = Actual price of purchased energy in rupees per kWh

$P2$ = Approved price of purchased energy in rupees per kWh

11. The Commission vide the paragraph 7.13 of the Order dated 08.07.2019 in OA No.15/2018 has directed KSEB Ltd to strictly comply with the Regulation 86 of the Tariff Regulations, 2018 in filing the petition on fuel surcharge.
12. The Commission vide Order dated 08.07.2019 in OA No. 15/2018 in the matter of approval of the 'ARR, ERC and Tariff for the MYT period 2018-19 to 2021-22' has approved the source wise details of the power purchase and cost from various sources including 'Central Generating Stations (CGS)' and also the power purchase under long term contracts from private IPPs.

Further, the Commission vide letter dated 06.08.2019 has communicated to KSEB Ltd the month wise details of the energy schedule approved from each of the CGS and long term contracts during the MYT period from 2018-19 to 2021-22.

The provisions for recovery of fuel surcharge in the Tariff Regulations 2018, is to recover the additional liability incurred by the licensee on the purchase of power or to pass on the savings if any, to the consumers. While calculating the fuel surcharge, only the variations in cost of power purchase due to fuel cost from the approved sources in ARR are considered.

Fuel surcharge for approved sources in the MYT order dated 08.07.2019

13. The month wise details of the power purchase and variable cost from each of the approved sources as per the ARR, ERC and Tariff Order dated 08.07.2019 in OA No. 15/2018 and the actuals are detailed in the subsequent paragraphs.

Table-5
Talcher-II Super Thermal Power Station

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	289.76	272.00	272.00	272.00	1.77	2.00	6.26	6.26
May-20	299.42	287.25	287.25	287.25	1.77	1.89	3.56	3.56
Jun-20	289.76	267.54	267.54	267.54	1.77	1.91	3.75	3.75
Total	878.94	826.79	826.79	826.79	1.77	1.93	13.56	13.56

Table-6
Ramagundam Stage –I &II

Month	Quantum (MU)				Rate (Rs/ kWh)		Savings in FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	164.66	115.65	115.65	115.65	2.54	2.577	0.43	0.43
May-20	153.95	110.43	110.43	110.43	2.54	2.577	0.41	0.41
Jun-20	125.46	122.95	122.95	122.95	2.54	2.470	-0.86	-0.86
Total	444.07	349.03	349.03	349.03	2.54	2.541	-0.02	-0.02

Table-7
Ramagundam STPS Stage-III

Month	Quantum (MU)				Rate (Rs/ kWh)		Savings in FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	41.39	0	0	0	2.49	0	0.00	0.00
May-20	42.77	0	0	0	2.49	0	0.00	0.00
Jun-20	41.39	27.28	27.28	27.28	2.49	2.429	-0.17	-0.17
Total	125.55	27.28	27.28	27.28	2.49	2.429	-0.17	-0.17

Table-8
NLC-TPS-II Stage-1

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	27.22	20.81	20.81	20.81	2.69	2.764	0.15	0.15
May-20	35.86	16.99	16.99	16.99	2.69	2.771	0.14	0.14
Jun-20	27.22	21.09	21.09	21.09	2.69	2.771	0.17	0.17
Total	90.30	58.89	58.89	58.89	2.69	2.769	0.46	0.46

Table-9
NLC-TPS-II Stage-2

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	50.72	21.56	21.56	21.56	2.69	2.770	0.17	0.17
May-	52.41	13.68	13.68	13.68	2.69	2.771	0.11	0.11
Jun-20	38.04	20.25	20.25	20.25	2.69	2.771	0.16	0.16
Total	141.17	55.49	55.49	55.49	2.69	2.771	0.45	0.44

Table-10
NLC-I- Expansion

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	38.35	39.25	38.35	38.35	2.49	2.540	0.20	0.19
May-20	39.63	39.30	39.30	39.30	2.49	2.537	0.18	0.18
Jun-20	38.35	39.09	38.35	38.35	2.49	2.537	0.18	0.18
Total	116.33	117.64	116.00	116.00	2.49	2.538	0.56	0.55

Table-11
NLC-II- Expansion

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	24.77	22.83	22.83	22.83	2.49	2.566	0.17	0.17
May-20	25.60	19.77	19.77	19.77	2.49	2.561	0.14	0.14
Jun-20	24.77	25.74	24.77	24.77	2.49	2.561	0.18	0.18
Total	75.14	68.34	67.37	67.37	2.49	2.563	0.49	0.49

Table-12
Simhadri STPS

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	51.46	16.62	16.62	16.62	2.95	2.984	0.06	0.06
May-20	53.18	14.31	14.31	14.31	2.95	3.000	0.07	0.07
Jun-20	28.28	16.27	16.27	16.27	2.95	2.945	-0.01	-0.01
Total	132.92	47.2	47.2	47.2	2.95	2.976	0.12	0.12

Table-13
Vallur STPS

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	20.58	1.38	1.38	1.38	3.20	3.519	0.04	0.04
May-20	31.90	1.38	1.38	1.38	3.20	3.531	0.05	0.05
Jun-20	30.87	0.60	0.60	0.60	3.20	3.532	0.02	0.02
Total	83.35	3.36	3.36	3.36	3.20	3.527	0.11	0.11

Table-14
NLC Tamilnadu Power Ltd (NTPL)

Month	Quantum (MU)				Rate (Rs/ kWh)		Savings in FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	44.80	19.48	19.48	19.48	3.28	2.775	-0.98	-0.98
May-20	46.30	11.32	11.32	11.32	3.28	2.699	-0.66	-0.66
Jun-20	22.11	22.73	22.11	22.11	3.28	2.703	-1.31	-1.28
Total	113.21	53.53	52.91	52.91	3.28	2.726	-2.95	-2.92

Table-15
NTPC- Kudgi

Month	Quantum (MU)				Rate (Rs/ kWh)		Savings in FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	66.24	2.85	2.85	2.85	3.98	3.590	-0.11	-0.11
May-20	68.45	0.00	0.00	0.00	3.98	0.000	0	0.00
Jun-20	66.24	0.03	0.03	0.03	3.98	3.129	0	0.00
Total	200.93	2.88	2.88	2.88	3.98	3.360	-0.11	-0.11

Table-16
Maithon- contract-1

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	99.31	75.30	75.30	75.30	2.43	2.674	1.84	1.84
May-20	102.62	75.79	75.79	75.79	2.43	2.668	1.80	1.80
Jun-20	99.31	74.57	74.57	74.57	2.43	2.757	2.44	2.44
Total	301.24	225.66	225.66	225.66	2.43	2.699	6.08	6.08

Table-17
Maithon- contract-2

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	99.31	75.30	75.30	75.30	2.43	2.674	1.84	1.84
May-20	102.62	75.79	75.79	75.79	2.43	2.668	1.80	1.80
Jun-20	99.31	74.39	74.39	74.39	2.43	2.757	2.43	2.43
Total	301.24	225.49	225.49	225.49	2.43	2.699	6.07	6.07

Table-18
DVC Mejia

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	63.44	51.73	51.73	51.73	2.51	2.878	1.90	1.90
May-20	65.56	48.65	48.65	48.65	2.51	2.768	1.26	1.26
Jun-20	63.44	48.65	48.65	48.65	2.51	2.723	1.04	1.04
Total	192.44	149.03	149.03	149.03	2.51	2.790	4.20	4.20

Table-19
DVC RSTPS

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	31.30	11.57	11.57	11.57	2.34	3.318	1.13	1.13
May-20	32.35	9.62	9.62	9.62	2.34	3.315	0.94	0.94
Jun-20	31.30	8.58	8.58	8.58	2.34	3.201	0.74	0.74
Total	94.95	29.77	29.77	29.77	2.34	3.278	2.81	2.81

Table-20
Jindal Power Limited- Bid-1

Month	Quantum (MU)				Rate (Rs/ kWh)		Addl liability as FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	123.12	123.08	123.08	123.08	1.31	1.31	0	0
May-20	127.22	129.87	127.22	127.22	1.31	1.31	0	0
Jun-20	123.12	123.79	123.12	123.12	1.31	1.31	0	0
Total	373.46	376.74	373.42	373.42	1.31	1.31	0	0

Table-21
BALCO- Bid-2

Month	Quantum (MU)				Rate (Rs/ kWh)		Savings in FS (Rs.Cr)	
	Approved in ARR	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Approved	Actual	Actual	Approved for recovery as 'FS'
(1)	(2)	(3)	(4)	(5)= Lesser of (2) & (3)	(6)	(7)	(8)	(9)= (5)x((7)-(6))
Apr-20	61.56	59.17	59.17	59.17	1.22	1.16	-0.36	-0.36
May-20	63.61	65.17	63.61	63.61	1.22	1.16	-0.39	-0.38
Jun-20	61.56	61.19	61.19	61.19	1.22	1.16	-0.37	-0.37
Total	186.73	185.53	183.97	183.97	1.22	1.16	-1.12	-1.11

Fuel surcharge for the provisionally approved/ unapproved DBFOO contracts

14. The Commission has noted that KSEB Ltd has claimed fuel surcharge for the following provisionally approved/ unapproved DBFOO contracts as shown in the Table below.

Table-22
Details of procurement from provisionally approved/ unapproved DBFOO contracts

No	Trader/Source	contracted capacity (MW)	Auxillary consumption %	LTA approved capacity (MW)	PLF	Ex-bus Energy (MU)	Energy at periphery (MU)
					(%)		
1	Jhabua Power Limited-1	115	5.000	109.25	90%	861.33	831.78
2	Jindal Power Limited-II	150	5.000	142.5	90%	1123.47	1084.93
3	Jindal India Thermal -II	100	5.000	95	90%	748.98	723.29
4	Jhabua Power Limited-II	100	5.000	95	90%	748.98	723.29
	Total	465				3482.76	3363.29

15. The Commission has arrived at the following conclusions regarding each of the provisionally approved/ unapproved PSAs regarding the fuel surcharge claimed by KSEB Ltd.

(a) Power purchase from Jhabua Power Ltd (L2 of Bid-1)

16. KSEB Ltd in their petition has claimed Rs 0.21 crore as fuel surcharge to M/s Jhabua Power Ltd (L2 bidder of Bid-1). The Commission in the Order dated 22-12-2016, had provisionally approved the purchase of 115 MW of power from Jhabua Power Ltd, L2 bidder of Bid 1, in view of the facts, circumstances and urgency explained by KSEB Ltd and in view of the decision of Government

of Kerala in GO (Rt) No.238/2016/PD dated 31.11.2016. Relevant portion of the Order is given below:

“In view of the facts, circumstances and urgency explained by KSEB Ltd and in view of the decision of Government of Kerala in GO (Rt) No.238/2016/PD dated 31.11.2016, the Commission hereby approves provisionally the purchase of 115 MW of power by KSEB Ltd from M/s Jhabua Power Ltd at the rate of Rs.4.15 /kWh as per the power purchase agreement dated 31.12.2014, subject to the clearance from Government of India and subject to the final decision of the Hon’ble High Court in Writ Petition No. WP (C) 33100/2014.”

17. As mentioned above, the Commission had only given a conditional provisional approval for purchase of power from M/s Jhabua Power Ltd, subject to the approval of the Central Government on this matter. In the meantime, in response to the request of the Government of Kerala, the Ministry of Power, vide its letter dated 18.11.2016 clarified that,

“the deviations as pointed out by the KSERC would have been got vetted and approved by the before the issuance of RFQ, RFP and PSA and not at this stage. As per the Guidelines deviations on the provisions of the bidding documents are approved if necessary and not the actions taken by the utility as per practice or precedent.”

18. Further, the Central Government vide the letter dated 11th December 2019, reiterated the same position and clarified as follows:

“The views of Ministry of Power as communicated earlier vide letter dated 18.11.2016 are reiterated. The deviations as pointed out by KSERC would have been got vetted and approved by the Central Government before issuance of RFQ, RFP and PSA and not at this stage. Government of Kerala/ KSEB Ltd may take actions as appropriate in consultation with KSERC.”

19. The Commission also noted that while the Central Government had refused to approve the unauthorized deviations by KSEB Ltd in the tender process, the State Government has neither approved the deviations pointed out by KSERC nor accorded final approval to the purchase of the unapproved DBFOO contracts. Further, the approval for any deviations from the standard bidding documents could be issued only by the Ministry of Power, Government of India. However, as stated above, the Ministry of Power has already refused the request of the State Government twice to approve post facto the deviations made by KSEB Ltd.
20. In view of the fact that the Central Government has affirmatively communicated that, it shall not grant approval for the deviations made by KSEB Ltd in accepting the L2 bid of Bid-1, at a rate higher than the L1 rate of this bid, the Commission is of the firm view that the tender finalisation procedure adopted by KSEB Ltd and its further actions of entering into a PSA

did not comply with the requirements of Section 63 of the Electricity Act, 2003, which is reproduced below.

“63. Determination of tariff by bidding process- Notwithstanding anything contained in Section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government’.

Under such circumstances, the Commission cannot approve any rate including fuel surcharge higher than the rate paid to the L1 bidder of Bid-1, for the purchase of power based on the provisionally approved PSA from the L2 bidder of Bid-1 M/s Jhabua Power Ltd (115 MW).

Fuel surcharge claim of Unapproved contracts

21. In their petition, KSEB Ltd has claimed Rs 8.35 crore as fuel surcharge on account of the three unapproved PSAs. The Commission has examined in detail the power purchase proposal submitted by KSEB Ltd from the following three unapproved DBFOO contracts of Bid-2 for the quarter April-2020 to June 2020.

- (1) 150MW from Jindal Power Limited
- (2) 100MW from Jindal India Thermal Limited
- (3) 100 MW from Jhabua Power Limited.

22. In this matter, the Commission noted the following.

22.1 KSEB Ltd had invited two separate bids, on Design, Build, Finance, Own and Operate (DBFOO) basis for procuring 450 MW power from December-2016 onwards for 25 years, and for procuring 400 MW power from October-2017 onwards for 25years. Accordingly, the first bid was invited on 05.03.2014 (referred to as Bid 1) and the second bid was invited on 25.04.2014 (referred to as Bid 2). Bid 1 was opened on 31.10.2014 and Bid 2 was opened on 14.11.2014.

22.2 KSEB Ltd sought approval of the Commission for the purchase of 865 MW of power under Section 63 of the Act as per petition No. OP 13 of 2015 dated 21-04-2015. The Commission vide order dated 31-8-2016 gave approval for purchase of 200 MW of power from M/s Jindal Power Ltd at the rate of Rs.3.60/ kWh being L1 of Bid -1 only. In the same order, the Commission had also approved the purchase of 100 MW of power by KSEB Ltd from M/s Bharat Aluminium Company Ltd, Chhattisgarh at the rate of Rs.4.29/ kWh being the L1 of the Bid -2 dated 25.04.2014. The relevant portion of the order is extracted below.

“40. In view of the facts, circumstances and legal provisions explained above the Commission hereby issues the following orders,-

- (1) The purchase of 200 MW of power by KSEB Ltd from M/s Jindal Power Ltd, New Delhi at the rate of Rs.3.60 / kWh as per the Bid -1 dated 05.03.2014 which was opened on 31.10.2014, is approved.*

(2) The purchase of 100 MW of power by KSEB Ltd from M/s Bharat Aluminium Company Ltd, Chhattisgarh at the rate of Rs.4.29/ kWh as per the Bid -2 dated 25.05.2014 which was opened on 14.11.2014, is approved.

(3) The approval of the following purchases of power by KSEB Ltd from the bidders other than the lowest bidder (L1) will be considered on getting the approval from Government of India for the deviations from the guidelines and on getting the views from Government of Kerala on the issues raised in paragraphs 34 and 38 of this order.

(a) The purchase of 115 MW of power by KSEB Ltd from M/s Jhabua Power Ltd, Gurgaon at the rate of Rs.4.15/ kWh as per the Bid -1 dated 05.03.2014 which was opened on 31.10.2014.

(b) The purchase of 100 MW of power at the rate of Rs.4.29/ kWh by KSEB Ltd from M/s Jindal India Thermal Power Ltd, New Delhi (L2) as per the Bid -2 dated 25.05.2014 which was opened on 14.11.2014.

(c) The purchase of 100 MW of power at the rate of Rs.4.29/ kWh by KSEB Ltd from M/s Jhabua Power Limited, Gurgaon (L3) as per the Bid -2 dated 25.05.2014 which was opened on 14.11.2014.

(d) The purchase of 150 MW of power at the rate of Rs.4.29/ kWh by KSEB Ltd from M/s Jindal Power Limited, New Delhi (L4) as per the Bid -2 dated 25.05.2014 which was opened on 14.11.2014.

(e) The purchase of 100 MW of power at the rate of Rs.4.29/ kWh by KSEB Ltd from M/s East Coast Energy Private Limited, Andhra Pradesh (L5) as per the Bid -2 dated 25.05.2014 which was opened on 14.11.2014.

(4) A copy of this order will be submitted to Government of Kerala with request to communicate their views after duly considering the relevant facts and legal provisions in view of the Government Order GO (MS) No. 45/2014/PD dated 20.12.2014 sanctioning the purchase of 865 MW of power by KSEB Ltd on DBFOO basis.

(5) KSEB Ltd is directed to follow up the matter in Government of India and in Government of Kerala and to submit the results to the Commission as early as possible, considering the fact that the power purchases as per Bid-1 will have to commence with effect from December, 2016.

22.3 As is clear from the foregoing paras, the Commission had not given approval for the purchase of the following 450 MW of power contracted through DBFOO basis under Bid 2, for want of approval from the Ministry of Power and approval of the State Government for the purchase.

Table 23

Details of contracted quantum for which approval is not given

Name of generator	Quantum contracted
Jindal Power Ltd Bid-II,	150 MW
Jhabua Power Ltd-Bid II	100 MW
Jindal India thermal power Limited-Bid-II	100 MW
East coast energy Pvt Ltd-Bid-II	100 MW
Total	450 MW

The Commission also noted that since M/s East Coast Energy Pvt Ltd did not commission the project as scheduled, their PSA was cancelled by KSEB Ltd, thereby reducing the quantity of the provisionally approved/ unapproved contract to 350MW.

- 22.4 Subsequently, as per the request of KSEB Ltd and in view of the Government Order G.O.(Ms) No.22/2017/PD dated 21-10-2017, the Commission as per the letter dated 22-12-2017, allowed KSEB Ltd to schedule the contracted power of 350MW from 1-10-2017 from three projects of bid 2, i.e., 100 MW of power from M/s Jindal India Thermal Power Ltd, New Delhi, 100 MW of power from M/s Jhabua Power Limited and 150 MW of power M/s Jindal Power Limited. The State Government vide the GO (Ms) No.22/2017/PD dated 21.10.2017 ordered as follows

“ KSEB Ltd has concluded long term agreements for 25 years for 550MW of power on the basis of e-tenders on DBFOO terms with effect from 01.01.2017. These contracts were concluded on the basis of an analysis of the demand-supply gap in Kerala and the projected availability of transmission corridors from the States in which the generating plants are located, to Kerala. Pending detailed consideration of the matter, Government are pleased to hereby permit KSEB Ltd to draw the contracted power with effect from 01.10.2017. Final orders in the matter shall be issued in due course.”

The letter of the Commission dated 22.12.2017 is extracted below for ready reference.

“The Commission has examined the order of State Government vide order No G.O.(Ms)No.22/2017/PD dated 21.10.2017 permitting K S E B Ltd. to draw the power contracted power and the request of K S E B Ltd., to grant approval to draw the power contracted power under DBFOO from 01/10/2017 onwards.

In view of the State Government order dated 21.10.2017, K S E B Ltd. may draw the contracted power on DBFOO from 01/10/2017 onwards. It may please be noted that the Power Department G.O dated 21.10.2017 is only an interim measure and final orders are yet to be issued. Since the Government is yet to give its final decision, it is informed that, the Commission may approve the power purchase proposal including the rate for the pending approvals under DBFOO only after the State Government accords the final approval for the entire power purchase under DBFOO.”

As seen from the Commission's letter, the Commission has made it clear that since the G.O dated 21-10-2017 is only an interim measure and final orders are yet to be issued, the Commission may approve the power purchase proposal including the rate for the pending approvals under DBFOO only after State Government accords final approval for the entire power purchase under DBFOO.

- 22.5 KSEB Ltd in the MYT petition OP No. 15/2018 dated 31.10.2018 for the period from 2018-19 to 2021-22 had included the schedule of power from the three unapproved DFBOO contracts also as the sources of power purchase.
- 22.6 The Commission after detailed examination of the projected power requirement vis-à-vis the availability, permitted scheduling of power from the unapproved DBFOO contracts vide the MYT Order dated 08.07.2019 strictly at the rate to be paid to BALCO generator, which is the L1 in Bid-2. It is here important to note that the Commission had used the word “rate” which is singular and not “rates” which means more than one. Further, as per the tender this “rate” is for delivery at Kerala Periphery. The Commission further clarifies that, though the price of electricity may have a fixed and variable cost, usage of the term “rate” is clearly indicative of the fact that it is the total of both these cost and is a unitary price at Kerala Periphery.
- 22.7 Hence, KSEB Ltd is not at liberty to separately calculate the fixed and variable cost component for these 3 unapproved contracts, but instead must pay exactly the same ‘rate’ i.e., the fixed cost-plus variable cost paid to M/s BALCO at the Kerala periphery on each and every bill. No deviation from this rate is allowed and any amount paid over and above the rate paid to L1 of Bid-2 BALCO is irregular and is an overpayment.
- 22.8 In addition, the Commission had also clearly stated in the order that, the consideration of schedule strictly as per the request of KSEB Ltd shall not be **construed as an approval of the power purchase, rate or of the PPA itself as per Section 63 of the Act 2003.**

The relevant portion of the MYT Order is extracted below.

“5.104 Hence the Commission has considered scheduling power from the three projects of Bid-2, ie., 100 MW of power from M/s Jindal India Thermal Power Ltd, New Delhi, 100 MW of power from M/s Jhabua Power Limited and 150 MW of power M/s Jindal Power Limited for the limited purpose of estimating the ARR&ERC for the control period. Since the required approvals from Gol and State Government is still awaited, the Commission is constrained to use the rate equivalent to the cost of power from Balco, which is the L1 of Bid 2. The Commission emphasises that this consideration is only for the purposes of estimating the cost of power provisionally in the ARR and shall not be construed as an approval of the power purchase, rate or of the PPA itself as per Section 63 of the Act which can be considered only after the fulfilment of conditions specified by the Commission in its order dated 31-8-2016. It is relevant here to note that the Commission in their Order on Suo motu determination

of Tariff dated 17-4-2017 had approved Rs.4.00 per unit for the purchase of additional quantity of power for meeting the deficit from traders and exchanges.”

- 22.9 At this stage, it is important for the Commission to clarify the difference between “approval of PPA” and “allowing to schedule power” from the DBFOO unapproved generators. It is to be noted that scheduling of power is based on SLDCs assessment of power demand and its availability. Hence ‘scheduling of power” is directly dependent upon demand and does not give a free licence to KSEB Ltd to construe it as “approval of PPA or power purchase”.
- 22.10 The Commission had allowed the scheduling of power considering the request of KSEB Ltd regarding the anticipated shortage of power vide letter dated 22-12-2017. Hence, the Commission had allowed KSEB Ltd to schedule power of 350MW from 01-10-2017 from the three projects of Bid-II, i.e., 100 MW of power from M/s Jindal India Thermal Power Ltd, New Delhi, 100 MW of power from M/s. Jhabua Power Limited and 150 MW of power M/s Jindal Power Limited. It is to be specifically noted that in the said letter, **the Commission has made it clear that since the State Government’s G.O dated 21-10-2017 is only an interim measure and final orders are yet to be issued, the Commission may approve the power purchase proposal including the rate for the pending approvals under DBFOO only after State Government accords final approval for the entire power purchase under DBFOO.** The details are given below:

Table 24
Details of power scheduling

Source	Contracted Capacity (MW)	Date of Commission’s Letter
Jindal Power Ltd-Bid II (DBFOO)*	150	Letter dated 22.12.2017
Jhabua Power Ltd-Bid-II (DBFOO)*	100	Letter dated 22.12.2017
JITPL* - Bid-II (DBFOO)	100	Letter dated 22.12.2017

- 22.11 The Commission further notes that in the MYT tariff Order for 2018-19 to 2021-22 dated 08-07-2019, the Commission has stated specifically that the scheduled power from the three unapproved PSAs in Bid II shall be at the rate equivalent to the cost of power of BALCO, which is L1 of Bid-II.

The Commission further clarify that, in the in the MYT Tariff Order dated 08-07-2019, the Commission has stated that for the scheduling of power

from the unapproved PSAs in Bid II, the Commission will consider only the rate same as that of BALCO, which is L1 of Bid-II. At this stage, it is important to specifically state as to what the Commission meant by the word 'rate'. It is an established fact in all conventional power purchase the cost of power has two elements – fixed cost and variable or fuel costs. While the fixed cost is generally predetermined and included in the PPAs, the variable fuel cost will vary based on factors such as cost of fuel, calorific value, transportation cost, heat rate, etc.,

22.12 It is to be noted that till date, the Commission has not approved the PSA of the above three DBFOO contracts. Hence, KSEB Ltd has not been permitted by this Commission to make payments to these generators as per the unapproved PSA rates and conditions entered into therein. It was very clearly and emphatically directed in the MYT Order that, the rate considered for the purpose of ARR is the same as BALCO rate, i.e, the rate at Kerala periphery for the purchase of power from BALCO generator, the L1 bidder in Bid-2.

22.13 The Commission further notes that, vide Order dated 14.02.2020 in OA No.29/2019 in the matter of fuel surcharge the period April 2019 to June 2019 of KSEB Ltd, the Commission had ordered as follows.

“25. KSEB Ltd has claimed fuel surcharge for the following DBFOO contracts of Bid-2 invited by KSEB Ltd, for which the Commission neither granted approval of the PPA nor adopted the tariff as per Section 63 of the Electricity Act, 2003.

- (i) 100 MW power from M/s Jindal India Thermal Power Ltd, New Delhi.*
- (ii) 100 MW from M/s Jhabua Power Limited.*
- (iii) 150 MW from M/s Jindal Power Limited.*

The Commission, vide the letter dated 22.12.2017 had allowed KSEB Ltd to schedule the above contracted power, in view of the order of the State Government GO (Ms) No. 22/2017/PD dated 21.10.2017,. The Commission had in the said letter clearly mentioned that, the approval of the power purchase mentioned above including the rate of the DBFOO contracts shall be given, only after getting approvals from Government of India for the deviations from the standard bidding documents issued by Ministry of Power, Government of India and after getting the approval of the Government of Kerala on the entire power purchase under DBFOO.

While approving the ARR, ERC and Tariff for the MYT period 2018-19 to 2021-22, the Commission stated as follows.

“Hence the Commission has considered scheduling power from the three projects of Bid-2, ie., 100 MW of power from M/s Jindal India Thermal Power Ltd, New Delhi, 100 MW of power from M/s Jhabua Power Limited and 150 MW of power M/s Jindal Power Limited for the limited purpose of estimating the ARR&ERC for the control period. Since the required approvals from Gol and State Government is still awaited, the Commission is constrained to use the rate equivalent to the cost of power from Balco, which is the L1 of Bid 2. The

Commission emphasises that this consideration is only for the purposes of estimating the cost of power provisionally in the ARR and shall not be construed as an approval of the power purchase, rate or of the PPA itself as per Section 63 of the Act which can be considered only after the fulfilment of conditions specified by the Commission in its order dated 31-8-2016”.

The Commission noticed from the invoices and other documents submitted by KSEB Ltd that, the actual tariff paid by KSEB Ltd for procuring power from these three sources were much higher and amounted to Rs.22.38 crore more when compared to the L1 rate of Rs.4.15 per unit paid to BALCO which is the L1 of Bid-2. As mentioned above, the Commission vide its order dated 22.12.2017 had allowed KSEB Ltd, to schedule the contracted power from these three generators subject to conditions and while approving the ARR & ERC and tariff for the MYT period 2018-19 to 2021-22, the Commission had considered the rate equivalent to the cost of power from BALCO for estimating the cost of power provisionally from these three generators. The Commission reiterate that, during the truing up of accounts for the respective financial years, such excess amount incurred for procuring power from these three generators shall not be considered, unless KSEB Ltd gets the approval of power purchase from Government of India for the deviations from the guidelines and on getting the approval of the Government of Kerala on the entire power purchase under DBFOO.”

- 22.14 Similar Order was issued in OA 02/2020 vide Order dated 27.04.2020 in the matter of fuel surcharge the period July 2019 to September 2019 of KSEB Ltd.
- 22.15 In response to the above orders, KSEB Ltd filed a review petitions No RP 02/2020 and RP 04/2020. The Commission after due process including conduct of public hearing through video conference on 15.07.2020 had dismissed the review petition and ordered vide Common Order dated 14.08.2020 as follows.

“

24. Commission, after detailed examination of the Review Petitions RP No.02/2020 and RP No.04/2020 as per the provisions of the Electricity Act, 2003 and Regulations in force as detailed in the preceding paragraphs, here by orders the following.

(1) The first prayer of the petition RP No. 02/2020 ‘to review the order dated 14.02.2020 in Petition OA No. 29/2019 and allow passing on the additional fuel cost incurred against PSAs with Jindal India Thermal Power Ltd, Jindal Power Ltd and Jhabua Power Ltd under Bid 2 of DBFOO’ is hereby rejected.

(2) The first prayer of the petition RP No. 04/2020 ‘to review the order dated 27.04.2020 in Petition OA No. 02/2020 and allow passing on the additional fuel cost incurred against PSAs with Jindal India Thermal Power Ltd, Jindal Power Ltd and Jhabua Power Ltd under Bid 2 of DBFOO’ is hereby rejected.

(3) Second prayer of both the Review Petitions RP No. 02/2020 and RP No. 04/2020 is ‘to “(2) To issue appropriate directions on the drawal of power

contracted against these PSAs if Hon'ble Commission is not inclined to pass on the liabilities of 350MW PSAs executed on DBFOO basis under Bid 2." This is a new issue raised by KSEB Ltd, which was neither included nor deliberated in the original petitions OA 29/209 and OA No. 02/2020. Hence this prayer cannot be decided through Review Petitions filed by KSEB Ltd and the prayer is rejected."

The above orders make it very clear that the Commission has strictly prohibited KSEB Ltd from paying any unit energy charge to the unapproved DBFOO contracts at a rate higher than that paid to BALCO i.e., the L1 of Bid-2 at Kerala periphery.

22.16 The Commission has also noted that KSEB Ltd vide letter 09-09-2020 informed to Jindal India Thermal Power Limited as follows.

"You are aware that, KSEB Ltd, after entering into long-term Power Sale Agreement (PSA) vide reference 1 above , had filed petition before Hon'ble KSERC for the adoption of tariff as envisaged under clause 4.1.2 of the PSA . This petition had been disposed by the Hon'ble KSERC on 30-08-2016 wherein the adoption of tariff as per this PSA was kept pending for want of approval of Govt. of India and for obtaining the views of Govt of Kerala (GoK). KSEB Ltd had apprised GoK on the matter and requested to convey the decision on this matter to KSERC.

Based on the clarification requested by GoK, Ministry of Power (MoP) had communicated that Govt of Kerala may take action as appropriate in consultation with KSERC. This clarification obtained from MoP had also been intimated to GoK and KSERC on time

Meanwhile, as you are aware, Govt of Kerala vide order dated 21-10-2017 had permitted KSEB Ltd to draw power from the entire DBFOO contracts contracted by KSEB Ltd, pending detailed consideration of the matter. It was also stated that final orders in this matter shall be issued in due course. Based on this order of GoK, KSERC vide letter dated 22-12-2017 had also permitted KSEB Ltd to draw the entire power, stating that the Commission may approve the power purchase proposal including the rate for the pending approvals under DBFOO only after GoK accords the final approval for the entire power purchase under DBFOO. The final decision of the Government on this matter is awaited.

Meanwhile, KSERC while issuing orders on 14-02-2020 and 27-04-2020, in respect of the fuel surcharge petitions filed by KSEB Ltd for the approval of the additional cost incurred due to the increase in fuel charges by various generators for the period from April 2019 to June 2019 (Quarter 1) and July to September 2019 (Quarter 2) respectively, had limited the amount payable against 350 MW non approved PSAs executed under Bid 2, to the amount paid to L1 bidder, M/s Balco under Bid 2. KSERC has also ordered that same principle would be applicable during the truing up stage also. Accordingly, the

excess amount paid against 350 MW PSAs under Bid 2 had already been disallowed by KSERC for the first quarter and second quarter of 2019-20.

In this regard KSEB Ltd filed review petitions RP-2/2020 on 30-03-2020 and RP-4/2020 on 04-06-2020 before the Hon'ble KSERC. The matter was intimated to you vide reference 4 above wherein it was mentioned that the outcome in the review petition is likely to impact the administration of the related PSAs. Now, KSERC had rejected these review petitions in the Common Order issued on 14-08-2020.

In this order, KSERC has reiterated that the contracts do not have approval of KSERC and any amount paid above the rate applicable to L1 bidder will not be passed on. Apparently, with this order of KSERC, the conditions precedents mandated under the PSA remains unfulfilled. In this circumstances, KSEB Ltd is filing a separate petition before KSERC seeking specific order on the approval or otherwise, of the respective PSAs. Meanwhile, KSEB Ltd is constrained to limit the payment against the monthly bills with respect of the power scheduled from your Station to that of the tariff rate of BALCO in the respective monthly bills, in compliance with the orders of Hon'ble Commission. The difference in amounts, if any, is sought to be settled in accordance with specific orders of KSERC in the petition.”

22.17 Thereafter, M/s Jindal India Thermal Power Ltd (JITPL) filed a petition against the Commission's order before the Hon'ble APTEL as DFR No. 369 of 2020. Hon'ble APTEL vide judgment dated 20.11.2020 ordered as follows.

“During the hearing today, we were informed that the second Respondent i.e., Kerala State Electricity Board Ltd. (KSEB Ltd) has approached the State Commission (first Respondent) by a fresh petition seeking approval for procurement of power from the Appellant and the PSA as also adoption of tariff discovered in bid process. The State Commission, we are further informed, has issued notice to the Appellant as well.

All sides through their respective counsel submitted that they would rather await the decision of the State Commission on the fresh petition referred to above. The Appellant, at the same time, seeks protection of its interest in the context of the impugned order dated 14.02.2020 on the fuel surcharge. The learned counsel representing KSEB Ltd also expressed the difficulties that would arise as consequences flowing from the said order. In the facts and circumstances and bearing in mind also the fact that the approval of the State Commission for the PSA and the prayer for tariff adoption is still awaited, we feel it just and proper to direct stay against the operation of the impugned orders dated 14.02.2020 and 27.04.2020 on subject of fuel surcharge and, in the consequence, restoring status quo ante to the dispensation prevailing immediately anterior thereto, as an ad-interim arrangement, such ad-interim order to continue till the application for stay and appeal are adjudicated upon after final hearing. We clarify that the appeal and application filed therewith will be taken up for final hearing after the decision on the fresh petition for

approval/adoption has been rendered by the State Commission. Ordered accordingly.

Since the matter is simmered too long before the State Commission, we would expect the State Commission to conclude the proceedings on the fresh petition expeditiously and render its decision as early as possible. Be listed on 15.02.2021. The State Commission will submit its status report well in advance.”

- 22.18 Since the above decision of the Hon’ble APTEL was not acceptable to the Commission, it filed an Appeal Petition, Civil Appeal No.41/2021 before the Hon’ble Supreme Court and the APEX Court was pleased to stay the proceedings in Hon’ble APTEL vide Order dated 27.01.2021 and issue interim order as follows:

“Until further Orders, there shall be an ad interim stay of the impugned order dated 20.11.2020 passed by the Appellate Tribunal Electricity, New Delhi in DFR no.369 of 2020.”

23. In view of the foregoing facts and developments, the Commission cannot allow fuel surcharge for the above four provisionally approved/ unapproved DBFOO contracts for 450 MW during the first quarter of the FY 2020-21. Hence the Commission decided to dis-allow the fuel surcharge claimed for the above four provisionally approved/ un approved DBFOO contracts at this stage.
24. KSEB Ltd, during the deliberations of the subject matter submitted that, since August 2020 onwards, KSEB Ltd has limited the payments to the three unapproved DBFOO contracts of Bid-2 at the rate of BALCO. Further, in the case of the provisionally approve contracts – purchase of 115 MW of power from M./s Jhabua Power Ltd – L2 of B-d-1, KSEB Ltd has been making payments at PSA rates.

The Commission noticed from the invoices and other documents submitted by KSEB Ltd that, the licensee had effected an excess payment of Rs 8.56 crore to the four provisionally approved/ un approved DBFOO contracts for this quarter. The Commission dis-allow the same for the quarter.

25. Accordingly, the summary of the fuel surcharge claimed by KSEB Ltd for the First quarter of the FY 2020-21 and the same admissible as per the Tariff

Regulations 2018 is given below.

Table-25
Additional liability claimed by KSEB Ltd and admissible as per Tariff Regulation's 2018 for the First quarter of the FY 2020-21(April-20 to June-20)

Sources	Quantum (MU)				Addl liability as FS (Rs.Cr)	
	Approved	Actual	Claimed by KSEB L for 'FS'	Eligible for 'FS' as per Regulation	Claimed by KSEB Ltd	Approved for recovery as 'FS'
Talcher-II	878.94	826.79	826.79	826.79	13.56	13.56
Ramagundam I&II	444.07	349.03	349.03	349.03	-0.02	-0.02
Ramagundam-III	125.55	27.28	27.28	27.28	-0.17	-0.17
NLC TPS-II Stage-1	90.30	58.89	58.89	58.89	0.46	0.46
NLC TPS-II Stage-2	141.17	55.49	55.49	55.49	0.45	0.45
NLC-1 Expansion	116.33	117.64	116.00	116.00	0.56	0.56
NLC-II Expansion	75.14	68.34	67.37	67.37	0.49	0.49
Simhadri	132.92	47.20	47.20	47.20	0.12	0.12
Vallur STPS	83.35	3.36	3.36	3.36	0.11	0.11
NTPL	113.21	53.53	52.91	52.91	-2.95	-2.92
NTPC Kudugi	200.93	2.88	2.88	2.88	-0.11	-0.11
Maithon-1	301.24	225.66	225.66	225.66	6.08	6.08
Maithon-2	301.24	225.48	225.48	225.48	6.07	6.07
DVC-Mejia	192.44	149.03	149.03	149.03	4.20	4.20
DVC-Regunathpur	94.95	29.77	29.77	29.77	2.81	2.81
JPL- 200 MW - Bid1	373.46	376.74	373.42	373.42	0.00	0.00
BALCO 100 MW- Bid2	186.73	185.53	183.97	183.97	-1.11	-1.10
Jhabua - 115 MW- Bid1	214.73	222.19	213.33	0.00	0.21	0.00
JPL 150MW- Bid-2	280.10	192.17	185.51	0.00	3.39	0.00
Jhabua-100 MW Bid-2	186.73	282.58	280.09	0.00	2.89	0.00
Jindal Thermal 100MW -Bid-2	186.73	188.94	182.30	0.00	2.07	0.00
Total	4720.26	3688.52	3655.76	2794.53	39.11	30.58

As detailed above, as per the provisions of the Tariff Regulations 2018, KSEB Ltd is eligible to recover Rs 30.58 crore as fuel surcharge during the first quarter of the FY 2020-21 i.e., from April-2020 to June-2021, due to variation in fuel cost on purchase of power from the approved sources.

26. In the meantime, the Commission vide the Order dated 21.06.2022 in petition OP No. 23/2022 in the matter of Truing up of accounts for the year 2020-21 had approved the actual cost of power purchase claimed for the year 2020-21 after prudence check. Since the cost of power purchase and revenue gap for the year 2020-21 is already approved and carrying cost is also being allowed for the approved revenue gap since then, there is no requirement to allow the

recovery of the fuel surcharge of Rs 30.58 Cr approved for the first quarter of the year 2020-21 from consumers.

Orders of the Commission

27. Based on the petitions filed by KSEB Ltd for the approval of the fuel surcharge for the first quarter of the FY 2020-21, the objections raised by the stake holders, the additional details submitted by the petitioner, and after having duly considering the provisions of the Electricity Act, 2003 and the Tariff Regulations 2018 , the Commission hereby orders the following.
- (1) The amount admissible for recovery as fuel surcharge for the first quarter of the FY 2020-21 is Rs 30.58 crore.
 - (2) The additional payment made to the four provisionally approved/ unapproved DBFOO PSAs for the first quarter of 2020-21 is Rs 8.56 crore which is hereby dis-allowed
 - (3) Since the cost of power purchase including the fuel surcharge has already been approved by the Commission in the Truing up order dated 24.06.2022 in OP No.23/2022 and the revenue gap for the year 2020-21 is already approved vide the above Order and carrying cost is being allowed on the approved revenue gap, there is no requirement to allow recovery of fuel surcharge over and above the approved revenue gap for the year 2020-21 from consumers as per the provisions of the Tariff Regulations, 2018.

The petition is disposed off. Ordered accordingly.

Sd/-

Preman Dinaraj
Chairman

Approved for issue

Sd/-
C. R Satheesh Chandran
Secretary

List of participants

1. Sri. Neelesh Neema, Jindal India Thermal Power limited (JITPL)
2. Sri. Pulak Srivasthava, Jindal India Thermal Power limited (JITPL)
3. Sri KGP Nampoothiri, K S E B Ltd.
4. Sri Satheesh A R , HT &EHT Association
5. Sri Pradeep M, Hindalco Industries Ltd
6. Sri. Renjit Jacob Appolo Tyres
7. Sri Rajesh J Kuruvila, Carborandum Universal Limited
8. Sri Ratheesh K Alikkal, EICL
9. Sri Saji Mathew, MRF Ltd
10. Smt. Prini Peter Carborandum Universal Limited
11. Sri. Nair Nandakumar P, Carborandum Universal Limited
12. Sri Prabhakaran K V , HT&EHT Association