KERALA STATE ELECTRICITY REGULATORY COMMISSION THIRUVANANTHAPURAM

Present: Shri. R. PremanDinaraj
Adv. A.J. Wilson

OP.No.02/2021

In the matter of : Petition for approval ofthe settlement reached in compliance with the direction of the Hon'ble Commission contained in the Order dated 08-07-2019, between KSEBL and NTPC and approved by Government of Kerala in respect of the PPA of Rajiv Gandhi Combined Cycle Power Project (RGCCPP), Kayamkulam,for the years from 2019-20 onwardstill the end of the current PPAperiodi.e. till 28-2-2025

Petitioner : M/s Kerala State Electricity Board Ltd (KSEBLtd)
(Represented by Shri.Prem Kumar, Dy.CE, Smt. Latha, AEE& Manu Senan, AEE, TRAC, KSEB Ltd)

Respondent : M/s National Thermal Power Corporation (NTPC)
(Represented by Shri.V.V Kurian, NTPC,Kayamkulam, Smt.Kalyani, DGM, Commercial, NTPC)

Date of Public Hearing: 09-02-2021 (First Hearing)

Venue: Conference Hall, PWD Rest House, Pathadipalam, Ernakulam

Daily Order dated 23.02.2021

1. The Kerala State Electricity Board Ltd (KSEB Ltd.) has filed the instant petition for the approval of the settlement reached between KSEB Ltd and NTPC Ltd and as approved by Govt.of Kerala in respect of payment of the fixed charges for RGCCPP and the PPA thereof for the years from 2019-20 till Feb, 28, 2025.KSEB Ltd submitted that the Agreement was in compliance with the direction of the Commission in the Order dated 08-07-2019.

2. The matter was heard in the Public Hearing held at 11:00 AM in the Conference Hall, PWD Rest House, Pathadipalam, Ernakulam. KSEB Ltd represented by Smt. Latha, AEE, presented the background of the petition and stated that the Supplementary PPA was entered into by KSEB Ltd and NTPCfor facilitating the conversion of the Plant to LNG. However, the same could not materialise till date and future prospects are also bleak considering the high cost of LNG. The Commission in the *suo motu*Tariff Order dated 17-04-2017 had disallowed the fixed cost of RGCCPP and approved only Rs.200 crore in the MYT Tariff Order dated 07-08-2019 for 2018-19 only. The Commission directed KSEB Ltd to

takeup the matter with NTPC, considering the provision in the PPA that KSEB Ltd has the discretion not to schedule power from the plant after 5 years from 1-3-2013.

3. Accordingly, several rounds of discussions were held between NTPC and KSEB Ltd in the presence of Government of India and Government of Kerala and the settlement was reached in the Meeting held on 12-11-2020whereby the FC was reduced and fixed at Rs.100 crore per year till the expiry of PPA ie., 28-02-2025. KSEB Ltd. informed the Commission vide letter dated 27-11-2020 and the Commission directed to file petition in this regard. Accordingly, the present petition is filed for approval of settlement reached between the petitioner and the respondent NTPC Ltd in respect of the PPA for RGCCPP Kayamkulam for the years from 2019-20 till end of PPA period ie., 28-02-2025 under Section 86 of the Act.

4. The stakeholders and consumers present in the hearing responded to the claims in the petition. Shri. P.K Santhosh, Hindalco, objected to the proposal and mentioned that Hindalco is struggling to survive and any increase in electricity charges would seriously affect the very existence of the plant. He submitted that the Agreement should not be approved by the Commission and maintaining a high cost NTPC plant from which KSEB Ltd. does not propose to schedule power should not be at the cost of Kerala consumers. However, in case, the fixed cost is to be allowed, then this amount should be realised from the Government of Kerala.

5. Shri, George, INTUC leader and Vice President of Joint Council of Trade Unions cited the examples of closing down of INDAL and Binani Zinc and stated that only few industries are surviving in the industrial belt of Kerala and all these industries are struggling against all odds for mere survival. Hence, KSEB Ltd. should also be considerate to such conditions while taking decisions on increasing the cost which have to be paid by its consumers. Hence, the Commission is the only hope for the consumers and must step in and effectively regulate the KSEB Ltd costsby taking a strong stand in the matter.

6. Shri. Ramdas, Carborandum Universal, Kalamassery also put forth similar arguments. According to him, RGCCPP was established when Kerala was in dire need of power. However, the situation has since changed due to competition where the cost of electricity is falling. Hence, KSEB Ltd should be dissuaded from any action which bypass the Commission'sguidelines. Such actions contribute to increasing KSEB Ltd.'s revenue gaps which in turn results in tariff increase. He also requested the Commission to take a well considered and reasonable decision in the matter.

7. Shri. Biju, FACT Udyogmandal, stated that KSEB Ltd has filed the petition before the Commission for the transfer of the burden to its consumers. If such a burden was required to be borne from KSEB Ltd.'s own finances, then such decisions will not be taken by KSEB Ltd and they would be more cautious. Shri. Job, Hindalco, stated that the PPA has been arbitrarily extended by KSEB Ltd. for 12 years without much concern for the cost. Hence, the cost should not be passed on to the consumers. He further submitted that Tamil Nadu has cancelled the allocation from RGCCPP considering the high cost and KSEB Ltd too should also havedone the same, instead extending the PPA. Hence, the plea should not be allowed.

8. Shri, Satheesh Kumar, Apollo Tyres, stated that since KSEB Ltd is not intending to source power from the plant, there is no reason whatsoever for not scrapping the PPA. Shri, Sarath, FACT stated that the Commission must enquire into the circumstances under which KSEB Ltd took the decision to continue with PPA, especially since Tamil Nadu had withdrawn from the Agreement. FACT is dependenton Government support for its survival and the Government will extends support only if the costs are within reasonable limits. He requested that the Commission should decide a rate lower than the petitioned Rs.100 crore and the balance, if any payable should be borne by KSEB Ltd. Shri. Sujo Paulose, GTN Textiles, also expressed similar sentiments comparing the Tamil Nadu case. Shri. Joy, Carborandum,Koratti stated that any increase in power cost will adversely affect the industries. The fixed cost of NTPC is unjustifiably high and low cost solar sources are available and should be used. He also submitted to disallow the petitioned fixed costs of RGCCPP.

9. Shri, Saji Mathew, MRF Kottayam stated that Regulatory Commission should ensure justice in the matter. He sought to know as to whether the extension for 12 years is fair and just on the part of KSEB Ltd. According to him, the present Agreement would cost each consumer an additional burden of at least Rs.385/. Already, FC amounting to Rs.3000 crore has been paid for a plant whose investment cost was a mere Rs.1500 crore. The consumers attend the hearing of the Commission in anticipation of a fair and just decision from the Commission. Shri. Harish, Hindustan Organic Chemicals stated that the settlement arrived at by KSEB Ltd is not at all useful for the consumers and definitely not in the interest of its consumers. Non-scheduling of the plant by KSEB Ltd. by itself proved that the plant is uneconomical and extension of PPA by KSEB Ltd is in fact wrong. The extension of Agreement may be legally right, but is not fair for the electricity consumers of the State. Shri Rajesh Kuruvila, CUMI stated that KSEB Ltd has to clarify two aspect viz. whether the PPA of the plant was extended considering it as a base load or peak load station and if the plant is not used for meeting the base load or peak load requirements, why such a plant is to be maintained in the first instance.

10. Shri. Saji Thomas, BPCL,Kochi enquired whether the extension of PPA and payment of FC is a contractual obligation or forNTPCprofit. Shri. Jijo Mathew, PatspinIndia Limited stated that industrial units are closing down and KSEB Ltd is also adding fuel to it by extending such contracts. Shri. Rinu, Apollo Tyres stated that already a large sum has been paid to NTPC and it is not necessary to continue any further payment and the example of Tamil Nadu should be followed. Shri. Aneesh, Apollo Tyres also stated the same arguments.

11. Smt.Prini Peter, representing HT-EHT Association made a detailed presentation. She mentioned that KSEB Ltd has already paid Rs.3,589crore to NTPC in 21 years, which is three times the investment cost of the plant. The plant has generated only 8,735MU since 2002-03 and just 12 MU in the last 5 years. The variable cost of the Plant is more than Rs.14/kWh and hence it is completely unviable. The Government of India has since taken a decision to scrap the plants more than 25 years on environmental considerations. Further, as per the Report of the Standing Committee on Energy (2018-19) on Stressed Assets in Gas based Power Plants, 57% of the gas capacity is stranded due to shortage of domestic gas. The funding agencies have concluded that there is no future for gas based power plants in the country and banks may have to write off its investments in such plants. Considering all these factors, the Association made a strong plea to disallow payment of any further FC to the plant. Instead,KSEB Ltd should explore the feasibility of installing solar PV in RGCCPP at rates on par with national standards.

12. The Commission during the hearing sought the following clarificationsfrom KSEB Ltd/NTPC Ltd
    - Whether KSEB Ltd has taken the approval of the PPAs of Central Stations so far, as per the provisions of Electricity Act and the Regulations?
    - Whether the Supplementary PPA entered into by KSEB Ltd has been submitted for approval to the Commission after the Order dated 27-04-2017 of the Commission?
    - Whether NTPC can legally issue Regulation Notice covering all their plants when the issue of FC payment relates to RGCCPP only? Has KSEB Ltd. examined the legal sustainability of this Notice?
    - Why and under what circumstances did KSEB Ltd agree to pay the conversion cost in the supplementary PPA?
    - Whether NTPC has withdrawn the Regulation Notice?

13. KSEB Ltd in reply stated that the continuation of RGCCPP is warranted for the continuation of allocation of 180MW cheaper power from Talcher, thereby reducing the cost of RGCCPP. If the fixed cost of RGCCPP is also considered, it will add another 75paise per unit only and the compensatory power from Talcher will still be cheaper. The Regulation Notice issued by NTPC has not been withdrawn from the High Court. NTPC submitted that due to Covid situation, the

Regulation Notice is suspended at present. The Supplementary Agreement was entered into considering the severe power shortage and to keep the plant as a supplementary source if and when the need arises.

14. Representatives of NTPC Ltd,Smt. Kalyani Kimidi, and Shri VV Kurian clarified that the stock of 15,000MT of Naphtha is at the plant site and another 3,000MT is with BPCL for which the cost of Rs. 69 crores hasalready been paid. Out of this, about 15,000MT can be used for generating about 80-85MU and the balance cannot be used due to sledge and other impurities. The cost of Naphtastock available with NTPC is about Rs.40,800/MT, when compared to the current price of Rs.46,800/MT. The per unit cost of electricity to be generated will be in the range of Rs.6.74/kWh. The present understanding is that any cost of RGCCPP above the fuel cost of NTPC,Kudgi will be shared equally by KSEB Ltd and NTPC. According to NTPC, the FC will be lower if the cost of maintaining and preserving the naphtha is avoided.

15. The Commission after hearing directedKSEB Ltd to furnish the following,latest by 09 March 2021.

    1. Copy of the Agreement reached between NTPC and KSEB Ltd.
    2. The components and share of FC cost considered to arrive at Rs.100 crore per year including its detailed calculations.
    3. The rationale for keeping the plant and continuing the PPA till the end February 2025, if there is no plan to schedule power from the plant.
    4. Reason for allowing the full fuel cost for the power being generated using naphtha stock at RGCCPP, whereas in the similar case of BSES only UI rate was allowed by the Commission.
    5. Reason as to why PPAs including legacy PPAs are not being subject for approval of this Commission?

Sd/-	**Sd/-**
Adv. A.J. Wilson	**PremanDinaraj**
Member (Law)	**Chairman**

Approved for Issue

Sd/-
Secretary (i/c)