



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad
Ph: +92-51-9206500, Fax: +92-51-2600026
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

No. NEPRA/DL/LAG-103/1671

January 31, 2017

Director
Intergen (Private) Limited
No. 64, Ground Floor,
Beverly Centre, Blue Area,
Islamabad.

Subject: - **Revocation of Generation Licence**

The Authority has revoked the Generation Licence No. IGSPL/16/2008 dated January 01, 2008 of Intergen (Private) Limited. The order of the Authority regarding revocation of generation licence is forwarded for your information and record please.

Encl: As above

(Syed Safer Hussain)



National Electric Power Regulatory Authority
(NEPRA)

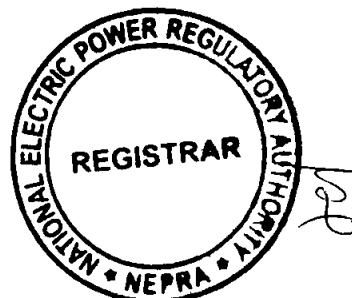
Order of the Authority
in the Matter of Show Cause Notice Dated April 07, 2015 Issued to
InterGen (Private) Limited for Revocation of Generation Licence
under Section-28 of the NEPRA Act read with Rule-8(3)(a) of the
NEPRA Licensing (Generation) Rules, 2000

The Authority granted a generation licence No. IGSPL/16/2008 dated January 01, 2008 to InterGen (Private) Limited ("IPL") for its 165.285 MW HSFO based thermal power plant/generation facility proposed to be located near Lachi, District Kohat in the Province of NWFP (Now KPK).

2. In terms of the Article-5 of the above mentioned generation licence, IPL was made obligated to pay the annual licence fee to the Authority as stipulated in National Electric Power Regulatory Authority (Fees) Rules, 2002 (the "Fees Rules"). IPL did not pay annual licence fee for the financial year 2007-08 to financial year 2012-13 which accumulated to Rs. 8231679/- as on June 30, 2013.

3. The Authority directed IPL to deposit the outstanding annual licence fee. In response, IPL through its letter dated July 09, 2008 submitted that the project company has already paid the licence application fee. Any further fee payment is not warranted unless the legal utility of the generation licence, as described in the NEPRA Act, becomes effective. IPL requested that the annual licence fee may be charged from the financial year during which construction of the project commences.

4. The Authority through its letter dated July 16, 2008 informed IPL that the generation licence is valid from its date of issuance to June 29, 2036, including any pre-construction, construction and the commercial operation phases of the power



plant. Furthermore, according to Schedule (Part-II) Rule-1 of the Fees Rules, the licence fee for any of the licensed generation facility is to be paid on a recurring basis in respect of each financial year for the term of the generation licence. The Authority directed IPL to deposit the fee however, despite sending series of letters and reminders, IPL failed to clear its outstanding dues.

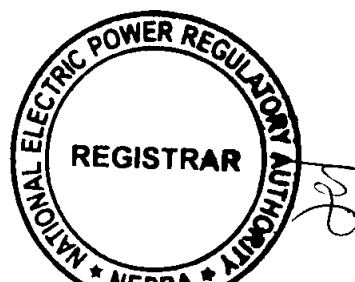
5. Failure to pay annual licence fee is a breach of terms and conditions of the licence which is an applicable document as defined in Rule-2(b) of the NEPRA (Fines) Rules, 2002 (the "Fines Rules"). Rules-4(1) of the Fines Rules states that if any person acts or omits to act in a manner which in the opinion of the Authority constitutes violation of the provisions of the Act or the applicable documents, the Authority shall cause the Registrar to seek an Explanation from such person.

6. In view of the above, the Authority decided to initiate proceedings against IPL for recovery of outstanding dues in terms of Fines Rules. Accordingly, an Explanation was issued to IPL under Rule-4(2) of the Fines Rules, on December 06, 2012. However, no reply was received from IPL.

7. Due to persistent failure to respond to the Explanation, the Authority decided to issue to IPL a Show Cause Notice ("SCN") in terms of Rule-4(8) of the Fines Rules. The SCN was issued on July 19, 2013.

8. In response to the SCN, IPL vide its letter dated August 17, 2013 submitted that the security situation in the project area (Lachi) (southern KPK) has worsened severely and the project development process has suffered several set-backs therefore, the project has not achieved financial close.

9. The Authority considered the reply of IPL and decided to provide an opportunity of hearing under Rule-4(11) of the Fines Rules. The hearing was held on December 18, 2013 wherein, IPL made a presentation before the Authority. During the course of hearing, Mr. Malik Asad Khan, chairman IPL submitted that due to law and order situation at project site, the project could not commence as yet. Further, Mr. Malik Asad Khan assured that the project will be initiated in the near future. The



Handwritten initials: *MA*

Handwritten mark: *✓*

Handwritten mark: *MA*

legal advisor of IPL submitted that they are of the view that the licence fee is payable from commercial operation date of the project, therefore, they have not been depositing the fee. Legal Advisor of IPL requested the Authority for a lenient view in the matter.

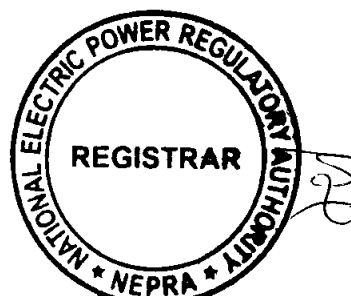
10. The Authority considered the submissions of IPL and decided to allow two weeks time to come up with a viable instalment plan for clearing the arrears. IPL vide its letter dated January 27, 2014 submitted its reply wherein, IPL submitted that its project is located in an economically backward area and facing extreme security challenges however, the project will soon achieve commercial operation.

11. The Authority considered the submissions of IPL and decided to give an opportunity of hearing which was held on December 23, 2014, however IPL did not attend the hearing.

12. The Authority observed that despite granting number of opportunities and time, IPL has failed to deposit the outstanding dues. In view of the said, the Authority declared IPL delinquent in terms of Rule-4(13) of the Fines Rules and imposed a fine of Rs. 100,000/- in addition to Rs. 8231679/- payable on account of the Fee. The Authority further decided to initiate proceedings for revocation of generation licence under Section-28 of the NEPRA Act read with Rule-8(3)(a) of the NEPRA Licensing (Generation) Rules 2000.

13. The decision of the Authority was communicated to IPL on March 18, 2015. Moreover, the Authority under Section-28 of the NEPRA Act read with Rule-8(3)(a) of the NEPRA Licensing (Generation) Rules, 2000, issued a SCN to IPL on April 07, 2015 informing about revocation of the generation licence and imposition of fine. IPL vide its letter dated April 11, 2015 requested the Authority to withdraw its decision regarding revocation of generation licence and imposing fine.

14. The Authority considered the submissions of IPL and decided to give an opportunity of hearing under Section-28 of the NEPRA Act read with Rule-8(3)(a) of the Generation Rules, 2000. The hearing was held on August 11, 2015 wherein IPL



Om

✓


requested the Authority for grant of two (02) months time for resolving the outstanding issues of allocation of natural gas for the project. The Authority agreed to the request and adjourned the hearing for two (02) months. However, IPL did not respond despite laps of considerable time.

15. Later on, the Authority considered the latest update in the matter and allowed IPL a final opportunity for clearing the dues in reasonable instalments. However, IPL failed to deposit the outstanding amount within the stipulated time.

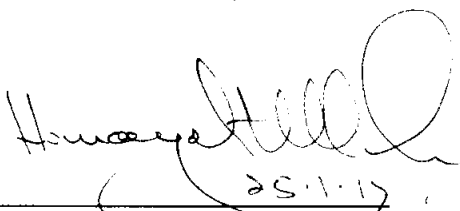
16. In view of the foregoing, the Authority decides to proceed ex-parte and holds that IPL has failed to comply with the directions of the Authority to pay fee of Rs. 8231679/- for the financial year 2007-08 to 2012-13 which is persistent failure on the part of IPL to comply with the terms and conditions of its generation licence. Total outstanding amount against IPL including fine w.e.f FY 2007-08 to 2016-17 has been accumulated to Rs. 16,772,114/-.

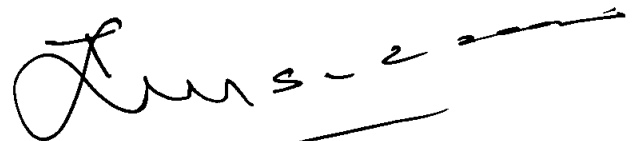
17. In view of the aforesaid, the Authority hereby revokes the generation licence of Intergen (Private) Limited and directs to initiate proceedings for recovery of outstanding amount under Section-41 of the NEPRA Act read with the provisions of the Fines Rules.

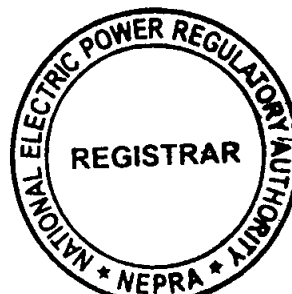
Authority

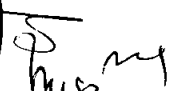

Maj. (Rtd). Haroon Rashid
(Member)


Syed Masood ul Hasan Nadeem
(Member)


Himayat Ullah Khan
(VC/Member)


Tariq Saddozai
(Chairman)




30.01.17

53

