



National Electric Power Regulatory Authority

Islamic Republic of Pakistan

Registrar

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No. NEPRA/UTS-01/15956-15958
December 5, 2014

Subject: Decision of the Authority in the matter of Extension in Date of Financial Close for Solar Power Projects under Upfront Solar Tariff

Dear Sir,

Kindly refer to this office letter No. NEPRA/TRF-UTS-01/777-779 dated 21.01.2014 whereby determination of National Electric Power Regulatory Authority in the matter of Upfront Tariff for Solar Power Plants was communicated to Federal Government for notification in the official Gazette and subsequently notified vide SRO 158(I)/2014 dated 5th March 2014.

2. Enclose please find herewith the subject Decision of the Authority (05 pages) with reference to above referred Determination of the Authority dated 21.01.2014.
3. The Decision is being intimated to the Federal Government for the purpose of notification in the official gazette pursuant to Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act (XL of 1997).
4. Please note that Order of the Authority at para 8.1 of the Decision needs to be notified in the official Gazette.

Enclosure: As above

(Syed Safer Hussain)

Secretary
Ministry of Water & Power
'A' Block, Pak Secretariat
Islamabad

CC:

1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.



December 04, 2014

**Decision of the Authority in the matter of Extension in Date of Financial Close for Solar
Power Projects under Upfront Solar Tariff**

1. Background

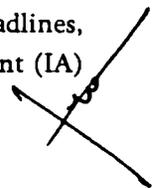
- 1.1 The Authority determined upfront tariff for solar PV power projects under the NEPRA Upfront Tariff (Approval & Procedure) Regulations, 2011 read with Section 7 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 and Rule 3 of NEPRA Tariff (Standards & Procedure) Rules, 1998 vide its decision dated 21st January 2014 which was notified in the Official Gazette on 5th March 2014. According to Para 21(V)((ix) of the determination, the applicant opting for upfront tariff was required to achieve financial close by 31st March 2015 and it was also provided that in case the applicant fails to achieve the financial close by 31st March 2015 or generation license is declined to the applicant, the approved upfront tariff will no longer remain valid.
- 1.2 The upfront solar tariff was announced for a total capacity of 50 MW for projects ranging 1MW-10MW. Following six projects with total capacity of 47.5 MW have been awarded the upfront solar tariff:
- Access Solar (Private) Limited
 - Access Electric (Private) Limited
 - Sanjwal Solar Power (Private) Limited
 - Safe Solar Power (Private) Limited
 - Bukhsh Solar (Private) Limited
 - Blue Star Hydro (Pvt) Limited

2. Request for Extension in Financial Close

- 2.1 Access Solar (Private) Limited (ASPL) vide its Letters No. Nil dated April 14, 2014 referred Para 3 of the decision of the Authority dated 28-3-2014 in the matter of approval of upfront solar tariff in the case of ASPL which states as under:

"In terms of applicable terms and conditions of Upfront Tariff determination, ASPL shall achieve the financial close by 31st March 2015 and in case of failure of ASPL to achieve financial close by 31st March 2015 or generation license is declined to the applicant, the granted upfront tariff will no longer remain applicable/valid."

- 2.2 ASPL stated that in order to meet the financial close & commercial operations deadlines, they require the Energy Purchase agreement (EPA) and Implementation Agreement (IA)





from AEDB, which at present are still under development, thus are not available to any solar project developer. ASPL further stated that in Para 21(V) of the decision of the Authority dated January 21, 2014 regarding upfront solar tariff, the Authority gave clear directives to AEDB to finalize the EPA within 45 days of the announcement of the Solar FIT which is already expired on March 7, 2014. In the light of the above, ASPL requested that the deadline for financial close, in the Solar FIT should be adjusted for the delay in finalization of the IA and EPA and that the countdown for financial close begins only once the finalized EPA and IA have been provided by AEDB. Similar request was also lodged by Access Electric (Pvt) Limited.

- 2.3 AEDB vide its letter No. U.O.No.B/3/2/SPV/GC/14-9630 dated August 28, 2014 submitted that NEPRA may consider suitable extension in deadline of Financial Close in order to provide sufficient time to the IPPs to achieve the same.
- 2.4 The Authority considered the request of ASPL and decided to initiate review proceedings in terms of section 7(2)(g) of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 read with regulation 3(1) of NEPRA (Review Procedure) Regulations, 2009 and decided to hold a public hearing in the matter. Notice of hearing was published in newspapers on 13th September 2014 and September 19, 2014. Individual letters were also sent to all concerned. General public and stakeholders were invited to submit comments in the matter and participate in the hearing.

3. Issues Framed for the Hearing

3.1 The following issues were framed for consideration in the hearing:

- Whether to extend the date for financial close?
- What will be the reasonable time for financial close after the availability of the EPA and IA?

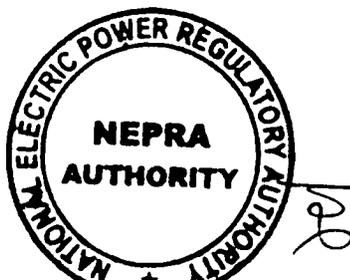
4. Filing of Comments

4.1 In response to the Notice of Hearing, comments were received from the following:

- Blue Star Electric (Private) Limited
- Horae Energy(Private) Limited.
- Sanjwal Solar Power (Pvt) Limited

4.2 Blue Star Hydel (Pvt.) Limited did not offer comments on the framed issues, however, requested if the date of financial close is extended due to delay by AEDB then the deadline for opting for upfront tariff may also be extended wherein delay was caused by AEDB in issuing the LOI to us.

4.3 Horae Energy (Pvt.) Limited submitted that they oppose the extension for financial close, inter alia, on the ground that prices of solar have declined sharply after grant of Upfront





Tariff, grant of high costs are unjustified considering the share decline globally and requested not to grant extension in financial close. The commentator further recommended that if the financial close must be extended, it should be on a reduced tariff, as applicable under new proposed tariff, to be fair to the consumer.

4.4 Sanjwal Solar Power (Pvt.) Limited submitted following comments:

- The date of financial close should be extended for a minimum of twelve (12) months after receipt of ECC approved EPA and IA from AEDB.
- AEDB may be asked to get the approval of EPA and IA from the GOP as soon as possible to avoid the delay in execution of project.
- The Energy Purchase Agreement (EPA) may be signed between NTDC and the Seller instead of DISCOs.

5. **Public Hearing**

5.1 Public hearing in the matter was held on 29th September 2014 in NEPRA Tower. The hearing was participated by the representatives from Access Solar (Pvt) Limited, Sanjwal Solar Power (Pvt) Limited, RIAA Law, Asia Petroleum, IESCO, PPDB and MEPCO.

6. **Discussion of the Issues**

Discussion of the issues is provided in the succeeding paragraphs.

6.1 **Whether to extend the date for financial close?**

The representative of Access Solar (Pvt) Limited in the public hearing made submission that even after the lapse of 8 months the standard EPA and IA are not available which means they are left with only 6 months for financial close which for any project is impossible particularly the first of its kind solar project. According to access solar, most of the IPPs projects in Pakistan are developed on project financing basis. There are two main requirements of a project finance mode development of a project. The first is the availability of the project documents i.e. EPC Contract and O&M Agreement. These documents have to be backed by EPA and IA requirements, in particular the technical schedules and requirements of the EPA. Therefore, unless we have the EPA including the technical annexures, we are unable to sign any EPC documents. Secondly in a project financing mode of a project, the lenders conduct an extensive due diligence process whereby they review all of the project documents including the EPA, IA, EPC Contract and O&M Agreements, the land documents among any other documents they want to see. They evaluate the risks in the project based on the project documents after that they provide their recommendations to the credit committees of their respective financial institutions. Then certain time is required to satisfy the lenders about the risks contained in the projects. After which we need to renegotiate some of the documents in order to make them





bankable and to satisfy the lenders. Therefore unless we have EPA and IA, we are unable to begin the process. Sanjawal Solar (Pvt) Limited also requested for extension of the financial close date. Horae Energy (Pvt) Limited strongly opposed the extension in time for financial close due to sharp decline in the prices of solar panels and recommended that if the financial close must be extended, it should be on a reduced tariff, as applicable under new proposed tariff, to be fair to the consumer.

6.2 **What will be the reasonable time for financial close after the availability of the EPA and IA?**

Access Solar in its application for extension in the date of financial close requested at least 12 months from the availability of the standard EPA and IA. In the public hearing, the representative of Access Solar (Pvt) Limited, for the reason that extensive process is involved in finalizing all the project documents including the financing documents, recommended 12 months for local financing and 18 to 24 months for foreign financing. Access Solar also suggested that after the few projects have happened, there should be a reevaluation and time period can accordingly be reduced based on the information and feedback from the stakeholders. The representative of PPDB suggested 6 to 9 months period after the availability of the EPA and IA. AEDB requested suitable extension in deadline of financial close in order to provide sufficient time to the IPPs to achieve the same.

7. **Decision of the Authority**

7.1 The Authority considered the request made by Access Solar (Pvt) Limited and AEDB and the comments submitted by the stakeholder. In the opinion of the Authority, the purpose of announcement of the upfront tariff was to reduce the time in processing and implementing of the project and availability of the much needed electricity in the shortest period of time. This purpose has been defeated due to one or the other reason. The Authority has noted that Implementation Agreement and Energy Purchase Agreement are essential documents for achieving the financial close by any company and in the absence of these documents, it would be unjustified to expect from the companies who opted for upfront tariff to achieve their financial close within the deadline given in Upfront Tariff Determination. Since there is no default on the part of companies who opted for upfront tariff and they could not achieve financial close due to failure of AEDB to finalize the IA & EPA within the stipulated time therefore considering this, the Authority has decided to review the paragraph 21(V)(ix) of its Solar Upfront Tariff Determination and has decided to extend the period of financial close by nine (9) months i.e. till 31st December 2015.

8. **Order**

8.1 The deadline for financial close of 31st March 2015 in the Upfront Solar Tariff notified vide SRO No. 158(I)/2014 dated 5th March 2014 is being extended till 31st December 2015. The extension in date of financial close will be applicable to the following companies whose tariffs have been approved under the upfront solar tariff:



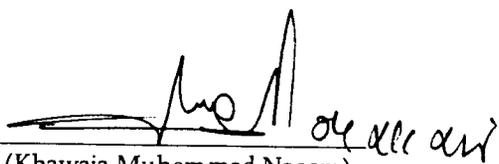


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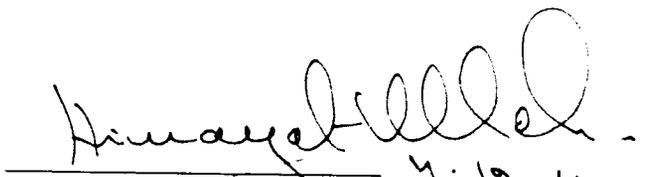
8.2 The above Order is to be notified in the Official Gazette in accordance with the provisions of Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997.

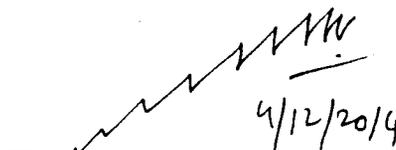
Authority


(Khawaja Muhammad Naeem)
Member

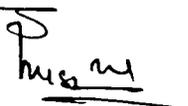
(on Tour)

(Maj. (R) Haroon Rashid)
Member


(Himayatullah Khan)
Member


(Habibullah Khilji)
Vice Chairman




05.12.14