



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/Dir.(CAD)/LAG-104/14546-48

October 21, 2016

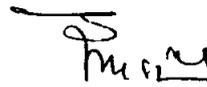
1. Syed Mumtaz Hussain
Country Manager,
Zorlu Enerji Pakistan Limited
C-117, Clifton, Block-2,
Karachi
2. Chief Executive Officer
Hyderabad Electric Supply Company (HESCO),
WAPDA Water Wing Complex,
Hussainabad, Hyderabad

Subject: **Decision in the matter of Appeal filed by Zorlu Enerji Pakistan Limited (ZEPL) against Decision of the NEPRA Tribunal in the matter of Contractual Dispute between Hyderabad Electric Supply Company Limited and ZEPL.**

Reference is made to appeal filed by Zorlu Enerji Pakistan Limited (ZEPL) against decision of the NEPRA Tribunal dated November 16, 2015 in the matter of contractual dispute between HESCO and ZEPL.

2. Please find enclosed the decision of the Authority in the subject matter for information and further necessary action.

Encl: As Above


21.10.16
(Syed Safer Hussain)
Registrar

Copy to:

Ms. Saima Akbar Khattat
Legal Counsel (HESCO)
C/o M. Fazal e Akbar & Co. Legal Advisers and Consultants,
Number 220, Street 75, F-11/1, Islamabad



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
NEPRA

Zorlu Enerji Pakistan Ltd Appellant
C-117, Clifton, Block-2 Karachi

Versus

Hyderabad Electric Supply Company Limited Respondent
(HESCO).

Date of Hearing: February 23, 2016
June 16, 2016

On behalf of

Zorlu Enerji Pakistan Ltd:-

Syed Ali Bin Maaz,	Legal Counsel,
Ms. Zara Tariq,	Legal Counsel,
Sami Oeuf,	Assistant Manager Investment,
Mr. Mumtaz Hassan,	Country Manager

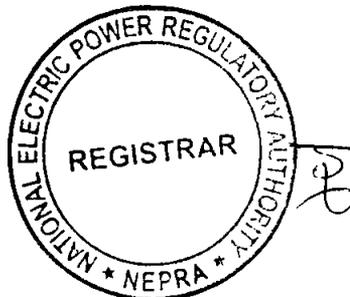
HESCO:

Ms. Saima Akbar Khattak,	Legal Counsel
Mr. Pervaiz Afzal,	Manager

Subject: **DECISION IN THE MATTER OF APPEAL FILED BY ZORLU ENERJI PAKISTAN LTD (ZEPL) AGAINST THE DECISION OF NEPRA TRIBUNAL IN THE MATTER OF CONTRACTUAL DISPUTE BETWEEN HYDERABAD ELECTRIC SUPPLY COMPANY LIMITED AND ZEPL**

Decision

1. This decision shall dispose of the appeal dated December 14, 2015 filed by Zorlu Enerji Pakistan Ltd (hereinafter referred to as "ZEPL") against the decision of NEPRA Tribunal dated November 16,



2015 in the matter of contractual dispute between Hyderabad Electric Supply Company Limited. (hereinafter referred to as "HESCO") and ZEPL.

2. The brief facts of the case are that HESCO filed an application dated June 20, 2014 to the Authority seeking constitution of a Special Tribunal under section 11 and 7(2)(h) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as the "NEPRA Act"). The request of HESCO was placed before us for consideration and after due deliberation a Special Tribunal was constituted under section 11 read with the section 7 (2)(h) of the NEPRA Act. The Tribunal framed the following issues:

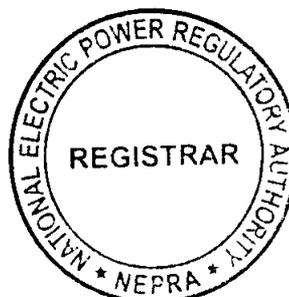
Issue No. 1	Whether HESCO could file application for resolution of contractual dispute, in view of the fact that their claim is barred by time under Limitation Act, 1908?
Issue No. 2	Whether the Energy Purchase Agreement between ZEPL and HESCO for purchase of 6 MW energy ever became effective, enforceable and binding on the parties?
Issue No. 3	Whether ZEPL failed to achieve commercial operation date (COD) in accordance with Energy Purchase Agreement?
Issue No. 4	Whether ZEPL caused losses to HESCO due to its failure to supply the contracted capacity as of the required commercial date?
Issue No. 5	Whether HESCO has established its claim against ZEPL and is entitled to claim the costs, damages and penalties as per statement of the claim?
Issue No. 6	Whether ZEPL's claim for payment on account of net electric energy supplied by it to HESCO prior to COD is valid in the light of NEPRA tariff determination and section 3.1 of EPA?

3. After framing the aforementioned issues both parties were heard at length in the hearings to present and plead their respective claims and stance in order to arrive at fair and just decision. The matter was finally heard by the Tribunal on July 27, 2015 in which both the parties submitted their arguments in respect of all the issues.

Issue # 1:

Whether HESCO could file application for resolution of contractual dispute, in view of the fact that their claim is barred by time under Limitation Act, 1908?

The Tribunal decided that the provisions of Limitation Act, 1908 does not apply to resolution of contractual disputes between licencees under section 11 of the NEPRA Act. Furthermore, considering the special circumstances of the case and the issues involved, the case should be decided on merits as serious rights have accrued between the parties.



Issue # 2

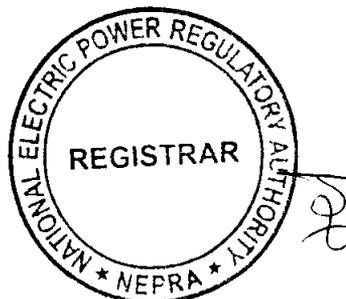
Whether the Energy Purchase Agreement between ZEPL and HESCO for purchase of 6 MW energy ever became effective, enforceable and binding on the parties?

The Tribunal observed that although the EPA for 6MW project was signed between the parties on January 17, 2009 and as per clause 2.1(b) of EPA, the EPA was to be effective from the date of the signing of IA, however, from the conduct of the parties it is implied that EPA was effective. HESCO, before signing of IA for 6MW project, took steps which were clearly for the performance of its duties under the EPA e.g. construction of inter-connection facility for the procurement of electric power from 6MW project, and on the other hand ZEPL also used the same facility to provide electric power generated by 6MW project for which it has claimed payments. Only one IA was required for the whole project and no separate IA was required for the 6MW project under GOP's Policy for Development of renewable Energy for Power Generation, 2006. Apparently the EPA for the 6MW signed between the parties, execution of which is not disputed, was drafted and signed in haste on the template of an EPA generally signed between CPPA/NTDC and a generation company, which has made performance of the same complex, if not impossible. Moreover, as per para 12 of Tariff determination dated May 23, 2008 the sale of electricity prior to the COD of entire project was allowed subject to a bilateral agreement on mutually agreed terms with the buyer, however, the same was not to be linked with the signing of the PPA/IA. The rate at which such sale was to be made vis-à-vis 6MW project was also determined by the NEPRA in para 42(vi) of the Tariff determination dated May 23, 2008. Therefore, it was concluded by the Tribunal that the EPA between ZEPL and HESCO for purchase of electricity from the 6MW project became effective, enforceable and is binding on the parties as all the legal requirements of forming an agreement were present and no formal IA was required in the circumstances of the case to make EPA effective.

Issue # 3

Whether ZEPL failed to achieve Commercial Operation Date (COD) in accordance with EPA?

Pursuant to clause 2.8(b) of EPA, COD of the 6 MW project was to be achieved within four months of signing of EPA which was signed on January 17, 2009. On the request of ZEPL the COD was further extended by period of six months and thus extended COD became due on November 16, 2009. The tribunal concluded that the COD of the 6MW project was never achieved owing to the dispute between the parties, however, the COD of whole 56.6 MW project was achieved on July 26, 2013. ZEPL could not formally achieve COD of the 6MW project.



Issue # 4 & 5

Whether ZEPL caused losses to HESCO due to its failure to supply the contracted capacity as of the required commercial date?

Whether HESCO has established its claim against ZEPL and is entitled to claim the costs, damages and penalties as per statement of the claim?

HESCO submitted the following claims against ZEPL as of March 07, 2015

Sr. No	ZEPL Default/Breach	Amount of Claim/L.D
a.	Deficiency in contract Capacity of 6 MW, as of the required COD	US \$ 2.10 Million(US \$ 350,000 x 6 MW)
b.	Actual costs and expenses incurred by HESCO on Interconnection	PKR 7.215 Million
c.	Delay in timely achieving COD	US \$ 1.012 Million
d.	Loss of revenue suffered by HESCO	PKR 3,358.12 Million
e.	Other costs associated with dispute resolution including legal counsel fees. TA/DA to officers for attending meetings with ZEPL and material printing/ Photostat etc.	PKR 5.0 Million

a. Deficiency in contract Capacity of 6 MW, as of the required COD

HESCO stated that pursuant to section 2.8 of the EPA, ZEPL was obligated to achieve the full contract capacity within four months of COD failing to which ZEPL must pay to HESCO liquidated damages in the sum of \$350,000 per megawatt. According to HESCO the total claim due to deficiency in contract capacity is equal to 350,000 x 6 MW= US \$ 2.1 million. In this regard the Tribunal held that the section 2.8 of EPA was enforceable after achievement of the COD. Since COD for the 6MW project was not achieved therefore, ZEPL is not liable to pay any Liquidate damages (LD) charges on this account and therefore the claim of HESCO was declined.

b. Actual costs and expenses incurred by HESCO on Interconnection

HESCO submitted that an amount of Rs. 7.215 Million was incurred for construction of interconnection facility and therefore, ZEPL was obligated to reimburse this actual expenses incurred by HESCO. On the contrary learned counsel for ZEPL denied the claim of HESCO stating that pursuant to the 6 MW project's EPA HESCO was responsible for setting up interconnection facility and therefore, ZEPL was not under obligation to reimburse the same. ZEPL further clarified that approval amounting to Rs. 7.2 million was given for the estimated cost of interconnection and



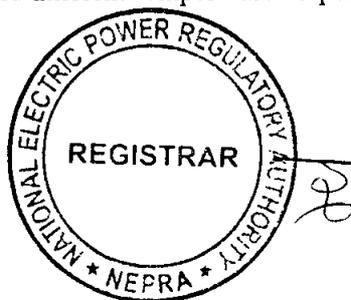
not the actual cost of the work. The Tribunal held that pursuant to section 6.2 of EPA construction of interconnection facility was the responsibility of HESCO. HESCO completed interconnection facility which was assigned to it as per EPA and therefore, ZEPL is not liable to reimburse the expenditure incurred for construction of the interconnection facility. Hence, the claim of HESCO in this regard was denied.

c. Delay in timely achieving COD

HESCO submitted that as per Article 1 of EPA signed on January 17, 2009, the COD was to be achieved on July 17, 2009 that is within 6 months of signing of EPA but since COD was not achieved by ZEPL it was liable to pay liquidated damages at the rate of US \$ 2.5 per kilowatt per month for the period of default. ZEPL submitted that as per EPA of 6 MW project (the effectiveness of which is denied), the COD could not be achieved by the extended date of November 17, 2009 however COD of the whole 56.6 MW project was achieved on July 26, 2013. Learned counsel for ZEPL asserted that claim of HESCO was time barred and therefore liable to be rejected on this ground alone. The Tribunal held that pursuant to clause 2.2 of EPA, the EPA of 6 MW project stood terminated on occurrence of the COD on July 26, 2013 as per EPA of whole project between ZEPL and NTDC. Since COD of the whole project was achieved on July 26, 2013, the EPA of 6 MW project became ineffective on the same date. ZEPL was liable to pay LD charges to HESCO due to non achievement of COD at the rate of 2.5 \$ per kilowatt per month for the period November 18, 2009 (the due date of COD) to July 26, 2013 (the date of EPA's ineffectiveness). Therefore it was concluded by the Tribunal that ZEPL is under obligation to pay LD charges to HESCO on account of non achievement of COD amounting to US \$ 0.6525 Million.

d. Loss of revenue suffered by HESCO

HESCO stated that the Tariff Determination dated May 23, 2008 categorically states that the debt service component of the tariff will not apply to the entire 6MW phase (HESCO's EPA). Thus, if this amount is deducted from the tariff, the rate at which HESCO would have received energy from ZEPL under the EPA would have been significantly lower than the rate at which HESCO had to procure the same from CPPA at a higher cost. The difference of the reduced rate (minus debt servicing) under the tariff and the rate actually paid by HESCO works out to be approximately Two Billion Rupees and is part of its claim for compensation under the EPA. ZEPL denied the aforementioned claim of HESCO for loss of revenue and contended that the same is not sustainable as (a) such losses are not recoverable under the applicable law, (b) there is no provision in the 6 MW EPA allowing HESCO to claim loss of revenue and (c) in any case the calculation for loss of revenue is completely incorrect and unacceptable, as the calculation is based on the assumption of 100% capacity factor, which is impossible as the generation of energy on any wind farm is totally dependent on the availability of wind and ambient temperature as per specifications of the turbines



for its output. The counsel for ZEPL pleaded that the average capacity factor accepted by NEPRA in the region is between 30% to 35%, and with availability level of 95%-97% and despite the fact that this has been communicated to HESCO, HESCO continues to make this wholly misconceived and *mala fide* claim which in any was not justified. The Tribunal observed that there was no written agreement between the parties for supply of electricity by ZEPL to HESCO on the full rated capacity i.e.6 MW. Admittedly prior to COD electrical energy was supplied by ZEPL to HESCO during the period from April 2009 to June 2013 but ZEPL was not bound to provide energy to its full capacity even after achievement of COD. The Tribunal agreed with the stance of ZEPL that energy from a wind power plant cannot be generated at its full capacity around the year as the generation is dependent upon the availability of the wind. The tribunal concluded that the claim of HESCO for the loss of revenue suffered due to purchase of electricity from CPPA at higher rate as ZEPL failed to supply requisite energy was not legally and technically justified and was therefore declined.

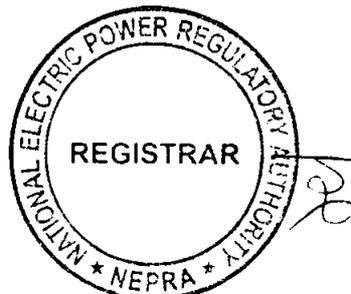
e. **Other costs associated with dispute resolution including legal counsel fees. TA/DA to officers for attending meetings with ZEPL and material printing/ Photostat etc.**

This claim of Rs. 5 million was not mentioned by HESCO in its application dated June 20, 2014 to the Authority and moreover HESCO did not press for this claim during the hearing and therefore, the claim of HESCO was dismissed by the Tribunal.

Issue # 6

Whether ZEPL's claim for payment on account of net electric energy supplied by it to HESCO prior to COD is valid in the light of NEPRA tariff determination and section 3.1 of EPA?

ZEPL contended that electrical energy amounting to Rs. PKR 92,846,661/- was supplied to HESCO and the claims were forwarded to HESCO against which no objection was raised by HESCO. According to ZEPL, HESCO was bound to make the payment for the energy which it received from ZEPL. On the contrary, HESCO objected the claim of ZEPL and stated that in the absence of any bilateral agreement on mutually agreed terms between the parties no claim is competent against HESCO under the EPA. The Tribunal considered the arguments of both the parties and observed that under para 12 of the determination of the Authority in the matter of Generation Tariff for Zorlu Enerji Pakistan Ltd. (ZEPL) (Case # NEPRA/TRF-95/ZEPL-2008) issued vide No. NEPRA/TRF-95/ZEPL-2008/7621 dated May 23, 2008, the Authority permitted sale of electricity prior to the COD if required pursuant to bilateral agreement on mutually agreed terms. Similarly according to para 42 (vi) of the said Tariff determination for procurement of power (6 MW) during interim period, the payable tariff shall not include the debt service component of tariff. Pursuant to para 17.4 of the determination of the Authority in the Matter of Tariff Petition by Zorlu Enerji Pakistan Ltd. (ZEPL) (Case # NEPRA/TRF-169/ZEPL-2011) issued vide No. NEPRA/TRF-169/ZEPL-2011/5531 dated July 19



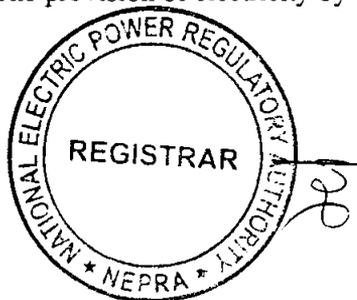
2011 pre COD sale of energy was authorized to ZEPL to the purchaser at the NEPRA approved tariff minus debt services component mentioned therein and pursuant to bilateral agreement on mutually agreed terms. Further there was no written agreement for pre COD sale of energy between ZEPL and HESCO but ZEPL supplied electrical energy to HESCO from April 2009 to June 2013. The joint readings by the Power producer (ZEPL) and the Power purchaser (HESCO) were recorded at common delivery points and accordingly the invoices at the rate of US cent 4.5567 per kWh were raised by ZEPL and submitted to HESCO, but there was no payment by HESCO. Detail of invoices transpired that ZEPL claimed an amount of PKR 92,846,661 for supply of electrical energy to HESCO during the period from April 2009 to June 2013. ZEPL stated that invoices were duly acknowledged by HESCO but no payment was made. The counsel for HESCO averred that Article 3.1(b) of EPA provides that unless permitted by the tariff determination in no event shall HESCO have any obligation to pay for the energy supplied prior to COD. Counsel for HESCO argued that since there was no agreement for pre COD sell/ purchase of electricity therefore, ZEPL was not entitled to lodge any claim for pre COD sell of energy and accordingly HESCO was not obligated to pay for pre COD supply and energy. The Tribunal concluded that although there was no formal written agreement between the parties for pre COD sales of energy but the fact remains that ZEPL provided electricity to HESCO and consistently sent invoices for such sales from 2009 to June 2013, having a considerable value i.e. PKR 92,846,661 and HESCO received the electricity without rejecting any of such invoices at the relevant time and this fact therefore, cannot be ignored in the circumstances of the case. The Tribunal held that the conduct of the parties showed that there was an agreement between the parties; provision of electricity by ZEPL being an implied offer and consistently receiving the same without any refusal by HESCO at the price stated in invoices in accordance with para 42(vi) of the Tariff determination dated May 23, 2008. Hence it was held by the Tribunal that, the claim of ZEPL for sale of energy to HESCO during the period April 2009 to June 2013 was valid and justified and HESCO was liable to pay for the same.

4. In consideration of foregoing, the Tribunal rendered its decision on November 16, 2015 as under:

- (i) ZEPL is liable to pay to HESCO an amount of US \$ 0.6525 Million and
- (ii) HESCO is liable to pay to ZEPL an amount of PKR 50.027,463 Million.

5. Being aggrieved with the above decision of the Tribunal, ZEPL filed an Appeal dated December 14, 2015 before the Authority under Section 12-A of the NEPRA Act. ZEPL, in its Appeal submitted as under:

- (i) The impugned order of the Tribunal acknowledges that the conduct of the parties shows that there was an agreement between the parties. The provision of electricity by ZEPL being an implied offer



and the consistent receipt of the same without any refusal from HESCO at the price stated in the invoices to be construed to mean implied acceptance. The Tribunal disallowed the calculation made by ZEPL and the amount claimed by it. It was determined by the Tribunal that for the energy supplied by ZEPL to HESCO, the applicable rate would be 2.5493 Rs/kWh (total tariff excluding debt service component). However, when calculating the amount payable by HESCO to ZEPL, the Tribunal have erroneously applied the rate determined under 2008 Tariff i.e 2.5493 Rs/kWh (total tariff excluding debt service component) for the entire period of supply of electricity from April 2009 to June 2013, whereas the rate applicable for the electricity supplied for the period from July 2011 to June 2013 should have been on the basis of revised tariff determined by NEPRA on July 19, 2011 as per which revised rate was applicable on the electricity supplied by ZEPL to HESCO i.e. 5.2555 Rs/kWh (total tariff excluding the debt service component) through 2011 Tariff. ZEPL requested for application of revised rates for the period from August 01, 2011 to June 07, 2013.

(ii) Section 9.5(d) of the Energy Purchase Agreement (EPA) states that late payment by either party of amounts due and payable there under shall bear interest at the rate per annum equal to the delay payment rate (as defined in EPA). The Tribunal has failed to consider if ZEPL is entitled to receive interest at the delayed payment rates for the revised amount determined by NEPRA.

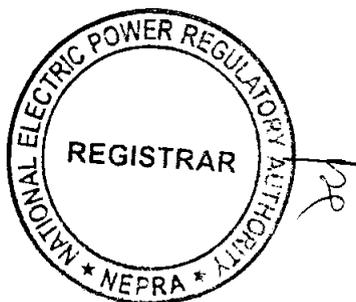
6. We have considered the appeal of ZEPL and admitted the same for hearing which was held on February 23, 2016, wherein representative of ZEPL and HESCO appeared before us and presented their case. During the hearing, HESCO representatives requested for adjournment of the hearing, upon which they were advised to submit written arguments. Subsequent to the hearing, ZEPL was also advised vide letter dated February 29, 2016 to submit the following clarifications:

(i) The invoices raised against sale of electricity to HESCO after July, 2011 were based on the tariff determined in May, 2008 or the tariff determined in July, 2011.

(ii) Did Zorlu Enerji claimed late payment charges from HESCO earlier? Did Zorlu Enerji pointed out this issue before the Tribunal?

7. In response to above queries, ZEPL vide letter dated April 04, 2016 submitted as under:

(i) The invoices issued for electricity supplied to HESCO were at the rate of 4.5567 cent/KWh for the entire period from April 2009 to May 2013. This rate is derived from the tariff determination dated May 23, 2008 ("2008 Tariff") and corresponds to the applicable rate in

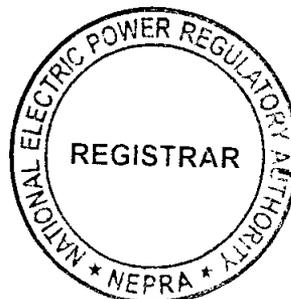


cent/kWh after the tenth year of the project (which is essential tariff minus the debt service component). They further added that the order passed by the Tribunal relied solely on the tariff in order to calculate the amount payable by HESCO to ZEPL without any reference to the invoices issued by ZEPL. Since the rate used by ZEPL under its invoices is entirely different from that determined by Special Tribunal in the order, such a determination by the Special Tribunal has rendered the invoices redundant and completely irrelevant for the purposes of determining the amount payable by HESCO to ZEPL. Therefore, any reliance by NEPRA on the invoices issued by ZEPL will not only be contrary to the terms of the order but will also be prejudice to ZEPL. NEPRA may use the calculation method preferred by the Special Tribunal in its order but modify it only to the extent that the rate of 5.2555 Rs/kWh must be levied after August 2011 which is consistent with the calculation method employed by the Special Tribunal insofar as payment prior to August 2011 are concerned.

- (ii) Pursuant to Section 9.5(d) of the Energy Purchase Agreement, HESCO is required to pay late payment charges for any delayed payments. Since no payment for sale of energy has been made by HESCO to date, late payment charges cannot be calculated and consequently no invoice for late payment can conceivably be issued. Without prejudice to the foregoing, ZEPL in its counter claim in the proceeding before the Special Tribunal has prayed Special Tribunal to grant USD 900,000 to ZEPL along with 8% interest per annum.

8. Subsequent to the hearing, HESCO vide its letter dated March 04, 2016 submitted its written arguments and also requested for an opportunity of hearing. The main contents of the written arguments of HESCO are as under:

- (i) The relationship between HESCO and Zorlu was governed by the provisions of the EPA. This has been acknowledged by the Tribunal in its Decision and not contested by Zorlu in its Appeal. Clause 3.1(b) of the EPA expressly says that no payment shall be made by HESCO to Zorlu for net energy supplied by the latter prior to the commercial operations date of Phase I. This stance is further supported by the 2008 Tariff which states that payments for pre-COD energy supplied can only be made pursuant to bilateral agreement between the parties. No such agreement was executed by the parties.
- (ii) The tariff determination reiterates that the tariff for the 6MW phase I is applicable from the date of the commercial operations date of 6MW phase. Zorlu did not achieve COD by April 2009. There also does not exist a bilateral agreement to support the claim for such payments.



Thus, Zorlu does not have a valid claim to any payments for any energy supplied pre-COD. Zorlu has also not contested the fact that Zorlu failed to achieve commercial operations and that there is no provision for pre-COD energy supplied both under the EPA and the 2008 Tariff. The Tribunal erred in granting Zorlu payments for energy it supplied prior to COD from April 2009 till June 2011, under the 2008 Tariff. In the absence of a bilateral agreement, the EPA, the 2008 Tariff, and the 2011 Tariff did not oblige HESCO to pay Zorlu for energy supplied pre-COD. Consequently, if no payments have accrued, late payment charges on such payment also cannot exist or be claimed.

- (iii) HESCO was reluctant to facilitate interconnection between Zorlu and NTDC under their separate and distinct agreement for Phase II. On May 8, 2013, Zorlu submitted an undertaking to HESCO and on July 12, 2013, Zorlu gave a second, separate undertaking to the CPPA where-in it acknowledged its obligations towards HESCO under the EPA. HESCO incurred an actual expense of approximately Seven Million Two Hundred Thousand Rupees on the interconnection pursuant to Zorlu's undertakings. Zorlu has not paid this cost in violation of the undertakings it gave to NTDC and HESCO. The Authority is therefore requested to overrule the Tribunal's decision not to award the actual cost of 7.2 Million Rupees. This cost has been incurred by HESCO and is pending for several years despite repeated demands. Therefore it may be granted with late payment charges in accordance with the clause 9 of the EPA.
- (iv) While calculating the liquidated damages for delay in COD owed by Zorlu to HESCO under clause 2.2 of the EPA, the Tribunal did not consider the entire period of the delay. In terms of the EPA, Zorlu had to achieve COD on or before July 17, 2009. In the event it achieved 80% commissioning by that date, it would be afforded additional four months to achieve 100% commissioning by November 17, 2009 without levy of penalties or liquidated damages. The correct period for calculating liquidated damages should have commenced from July 17, 2009 whereas the Tribunal erroneously calculated it from November 18, 2009.
- (v) HESCO also requested for an opportunity of hearing. (Accordingly, hearing was held on June 16, 2016 at NEPRA Head office. The Legal Counsel of HESCO appeared before the Authority and reiterated earlier version as stated above in written arguments).

9. The Appeal filed by ZEPL has been thoroughly examined in light of documents made so available by the parties, arguments advanced during the hearings and applicable documents. We are of the opinion that the decision of the Tribunal is justified and is upheld on the following grounds:-



- (i) No new evidence has been placed on record by either party which could alter the impugned decision.
- (ii) The Authority vide tariff determination dated May 23, 2008 held that for procurement of power (6 MW) during interim period (phase-1), the payable tariff shall not include the debt service component. As per the EPA dated January 17, 2009, this phase i.e. supply of 6 MW was required to be provided to HESCO. Further, as per tariff determination of July 19, 2011, the tariff was applicable on NTDC/CPPA and not on HESCO, therefore the claim of ZEPL with respect to application of rates of year 2011 tariff is not justified. Moreover, ZEPL raised its all invoices @ 4.5567 cents per kWh based on year 2008 tariff for the entire period of claim i.e. May 2009 to June 2013.
- (iii) Both parties had counter claims. The amounts were in dispute. ZEPL did not claim late payment surcharge earlier before the Tribunal. Therefore, the Tribunal did not consider this point and no interest was allowed to either party.

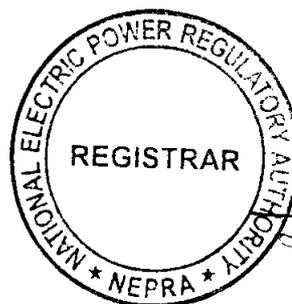
10. This Review Petition is disposed of in light of the above paragraph.


 (Syed Masood Ul Hassan Naqvi) 17/4
 Member


 (Maj (R) Haroon Rashid) 18/7/16
 Member


 (Himayat Ullah Khan) 18.10.16
 Vice Chairman

on tour
 (Tariq Saddozai)
 Chairman




 21.X.16