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National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/DG(M&E)/LAG-01/7786

April 3, 2023

Chief Executive Officer,
Central Power Generation Company Limited,
GENCO-II, Guddu Thermal Power Station,
Guddu, Tehsil Kashmore,
District Jacobabad.

Subject: Order of the Authority in the matter of Show Cause Notice issued to the Central Power Generation Company Limited under Section 27B of the NEPRA Act read with relevant Rules and Regulations

Please find enclosed herewith Order of the Authority dated 03.04.2023 (11 pages) in the subject matter for information and compliance.

Encl: Order of the Authority (11 Pages)

(Engr. Mazhar Iqbal Ranjha)



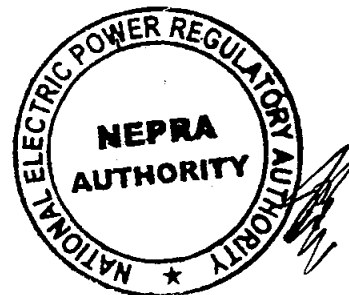
National Electric Power Regulatory Authority

In the matter of Show Cause Notice issued to the Central Power Generation Company Limited under Section 27B of the NEPRA Act read with relevant Rules and Regulations

Order

1. The National Electric Power Regulatory Authority (hereinafter referred to as the "Authority" or "NEPRA") established under Section 3 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act") is mandated to regulate the provisions of electric power services.
2. Pursuant to Section 15 of NEPRA Act (now section 14B after promulgation of Regulation of Generation, Transmission and Distribution of Electric Power Amendment Act 2018), the Authority has granted a Generation License (No. GL/02/2002 dated 01.07.2002) to the Central Power Generation Company Limited (CPGCL, GENCO-II) (hereinafter referred to as the "Licensee") for thirteen (13) power generation units of TPS Guddu with total installed capacity of 1,655 MW to engage in the generation business as stipulated in its Generation License.
3. The Central Power Purchasing Agency-Guarantee Limited (CPPA-G) (hereinafter referred to as the "Power Purchaser") is a Company incorporated under the Companies Ordinance, 1984 and is functioning as the market operator to carry out market operations under the NEPRA (Market Operator Registration, Standards and Procedure) Rules, 2015 (hereinafter referred to as the "Market Rules") since June 2015.
4. The tariff of the Licensee was determined by the Authority vide Determination dated 24.02.2006.
5. The Power Purchaser executed a Power Purchase Agreement (hereinafter called the "PPA") with the Licensee on 20.09.2015 for procurement of power on terms and conditions stipulated in the PPA.
6. Pursuant to Section 7(3)(a) of the NEPRA Act, the Authority shall determine tariff, rates, charges and other terms and conditions for supply of electric power services by the generation, transmission and distribution companies and recommend to the Federal Government for notification.
7. Pursuant to Section 48 of the NEPRA Act, the Authority shall have the power to issue such directives, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Act and the rules and regulations made hereunder.
8. The available record revealed that Units 1, 2, 3, 4 and 13 of TPS Guddu remained on forced outage since 28.08.2015, 13.05.2013, 02.08.2018, 23.05.2013 and 24.03.2013 respectively.

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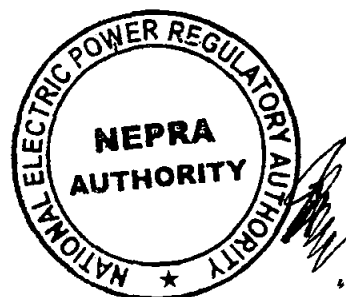


However, the Licensee, vide its letter No. CPGCL/CEO/MIS/21/11478-81 dated 16.07.2021 submitted that it raised invoices in respect of capacity payment for above-mentioned units amounting to Rs. 0.738 billion, Rs. 1.142 billion, Rs. 0.454 billion, Rs. 2.763 billion and Rs. 2.546 billion respectively since their outage date. In view of the above, the Authority observed that the Licensee, as per its Tariff Determination dated 24.02.2006, was required to conduct Net Dependable Capacity Test within six months of the notification of tariff rates as determined by the Authority vide the said determination. However, the Licensee failed to fulfill its obligation to carry out the Net Dependable Capacity Tests required under Tariff Determination to establish the actual Net Dependable Capacity for the purpose of charging the capacity payments. Hence, the capacity payments claimed by the Licensee without establishing Net Dependable Capacity through Net Dependable Capacity Tests is unjustified and unlawful.

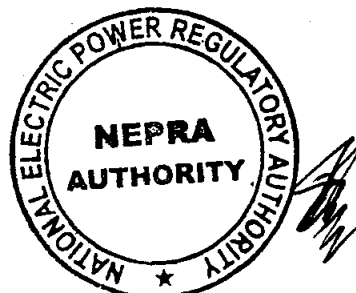
9. Moreover, the Licensee was directed vide letter No. NEPRA/D(Trf)/TRF-541/CPGCL-2020/46469 dated 24.12.2020, letter No. NEPRA/D(Trf)/TRF-541/CPGCL-2020/8837 dated 06.04.2021 and letter No. NEPRA/SA(M&E)/TRF-541/28720 dated 11.06.2021 to file a petition for re-determination of all the components of tariff, however, the Licensee failed to file the same despite a lapse of considerable time period.
10. Similarly, the Licensee was directed vide letter No. NEPRA/DG(M&E)/LAG-04/2824-27 dated 21.01.2021, letter No. NEPRA/DG(M&E)/LAG-01/15984 dated 24.03.2021 and letter No. NEPRA/DG(M&E)/LAG-01/24740 dated 06.05.2021 to submit a rehabilitation plan for Unit 13 of TPS Guddu along with specific timelines, however, the Licensee failed to submit the same despite a lapse of considerable time period.
11. In view of the foregoing, the Authority observed that the Licensee has prima facie failed to perform its operations and discharge its responsibilities in accordance with provisions of granted License, determined tariff and Section 48 read with Section 7(3)(a) and Section 31 of the NEPRA Act. Therefore, the Authority decided to initiate legal proceedings against the Licensee under NEPRA Fine Regulations, 2021 (hereinafter referred to as the "Fine Regulations, 2021").

Explanation to the Licensee:

12. Accordingly, an Explanation dated 29.12.2021 was issued to the Licensee under Regulation 4(1) of the Fine Regulations, 2021. The salient features of the Explanation are as follows:
 - i. *Through its Licensee Proposed Modification (LPM) application dated 31.07.2012, for inclusion of 747 MW CCPP in its Generation License, GENCO-II submitted that it has decided to replace the inefficient steam units 1-4 of TPS Guddu with 747 MW Combined Cycle Power Plant comprising of two Gas Turbines of 261 MW each, two HRSG and one Steam Turbine of 225 MW. Moreover, GENCO-II submitted that the proposed plant will operate on gas by diverting the gas quota of inefficient steam units of 1-4 of TPS Guddu with higher efficiency. The LPM was approved by the Authority on 26.04.2013, while the 747 MW CCPP achieved COD on 17.12.2014.*



- ii. *As per the State of Industry Report published by NEPRA for the year 2019, the Utilization Factor of Units 1 to 4 of TPS Guddu remained 15.39%, 54.06%, 12.34%, 19.09% and 0.79% during the FY 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 respectively. Similarly, as per the State of Industry Report published by NEPRA for the years 2020 and 2021, the Utilization Factor of Guddu 747 remained 80%, 69.43%, 62.24%, 80.29%, 68.16% and 48.93% during the FY 2015-16, 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 respectively. This shows that the gas had been diverted to the inefficient Units 1 to 4 of TPS Guddu even after the commissioning of Guddu 747; and*
- iii. *The Licensee submitted a tariff petition on May 16, 2005 for Determination of Tariff in respect of its old blocks for a control period of three years i.e. from FY 2005-06 to 2007-08. The Determination of the Authority on the said petition of the Licensee was issued on 24.02.2006; and*
- iv. *In the tariff determination issued by the Authority on 24.02.2006, no open cycle tariff has been awarded to GENCO-II for Block-I of TPS Guddu. The Licensee submitted a Motion for Leave for Review on 07.03.2006, against the above Determination dated 24.02.2006 requesting, inter alia, to allow reference rates on simple cycle for operation of Block-I and II. The Decision of the Authority on the above mentioned Motion for Leave for Review of the Licensee was issued on 06.06.2006. The concluding para 8 of the said Decision states, inter alia, that "the Authority is of the opinion that the petitioner has not been able to establish any cogent grounds which merit a revision of any part of the costs/revenue requirements allowed in the determination of February 24, 2006. The Authority therefore finds no reason to revise its earlier decision dated February 24, 2006;" and*
- v. *The available record reveals that the Unit-13 i.e. Steam Turbine of Block-I has been under shutdown since 24.03.2013 and the units 11 & 12 of Block-I have been operated after 24.03.2013 (whenever operated), under open cycle mode without the Authority's approved tariff on open cycle. Therefore, the operation of units-11 & 12 of Block-I in open cycle since 24.03.2013 constitutes a violation of, inter alia, Section 32 read with Section 31 and Section 7(3)(a) of the NEPRA Act read with Rule 6 of the NEPRA Licensing (Generation) Rules 2000; and*
- vi. *The Licensee, as per its Tariff Determination dated 24.02.2006, was required to conduct Net Dependable Capacity Test within six months of the notification of Tariff rates as determined by the Authority vide the said Determination; and*
- vii. *The available record reveals that Units 1, 2, 3, 4 and 13 of TPS Guddu remained on forced outage since 28.08.2015, 13.05.2013, 02.08.2018, 23.05.2013 and 24.03.2013 respectively; and*
- viii. *The Licensee, vide its letter No. CPGCL/CEO/MIS/21/11478-81 dated 16.07.2021 has submitted that it raised invoices in respect of capacity payment for units 1, 2, 3, 4 and 13 of TPS Guddu after their outage date amounting to Rs. 0.738 billion, Rs. 1.142 billion, Rs. 0.454 billion, Rs. 2.763 billion and Rs. 2.546 billion respectively; and*
- ix. *The Licensee failed to fulfill its obligation to carry out the Net Dependable Capacity Tests required under Tariff Determination to establish the actual Net Dependable Capacity for the purpose of charging the capacity payments. The capacity payments claimed by the Licensee without establishing Net Dependable Capacity through Net Dependable Capacity Tests is unjustified and unlawful; and*



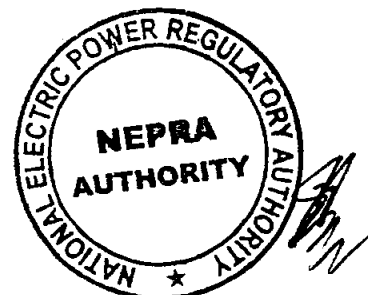
- x. *The tariff of the Licensee was determined vide Determination of the Authority dated 24.02.2006 for a period of three years i.e. from FY 2005-06 to FY 2007-08. However, the Licensee has failed to submit petition for determination of tariff beyond FY 2007-08 and still operating under the Tariff Determination dated 24.02.2006 despite expiry of its control period which is unlawful; and*
- xi. *The Licensee was directed vide letter No. NEPRA/D(Trf)/TRF-541/CPGCL-2020/46469 dated 24.12.2020, letter No. NEPRA/D(Trf)/TRF-541/CPGCL-2020/8837 dated 06.04.2021 and letter No. NEPRA/SA(M&E)/TRF-541/28720 dated 11.06.2021 to file a petition for re-determination of all the components of tariff, however, the Licensee has failed to file the same despite a lapse of more than ten (10) months; and*
- xii. *The Licensee was also directed vide letter No. NEPRA/DG(M&E)/LAG-04/2824-27 dated 21.01.2021, letter No. NEPRA/DG(M&E)/LAG-01/15984 dated 24.03.2021 and letter No. NEPRA/DG(M&E)/LAG-01/24740 dated 06.05.2021 to submit a rehabilitation plan for Unit-13 of TPS Guddu along with specific timelines, however, the Licensee has failed to submit the same despite a lapse of more than nine (09) months; and*
- xiii. *In terms of observations given above, the Licensee has prima facie failed to perform its operations and discharge its responsibilities in accordance with provisions of granted License, determined tariff and Section 48 read with Section 7(3)(a) and Section 31 of the NEPRA Act; and*
13. The Licensee was required to submit its response to the above Explanation with fifteen (15) days. However, the Licensee vide letter dated 11.01.2022, requested to extend the time in this regard till first week of February, 2022. The Authority acceded to the request of the Licensee and the Licensee was informed accordingly vide letter dated 01.02.2022. In response, the Licensee finally submitted its response to the aforesaid Explanation vide letter dated 16.02.2022. The Authority after detailed deliberations rejected the response submitted by the Licensee against the abovementioned Explanation giving reasons for such rejection vide Order dated 17.08.2022.

Show Cause Notice to the Licensee:

14. Accordingly, a Show Cause Notice dated 17.08.2022 was issued to the Licensee under Section 27B of the NEPRA Act read with relevant Rules and Regulations, based on violations alleged in the Explanation.

Submissions of the Licensee and Hearing:

15. The Licensee was required to submit its response to the above Show Cause Notice with fifteen (15) days. However, no response was received from the Licensee despite lapse of the stipulated time. In view of the foregoing, the Authority decided to provide an opportunity of hearing to the Licensee, under Regulation 4(11) of the Fine Regulations, 2021. Accordingly, hearing in the matter was scheduled for 05.10.2022. However, the Licensee vide letter dated 09.09.2022 (received on 19.09.2022), requested to grant an extension of thirty (30) days for submitting the reply to the subject Show Cause Notice.



Moreover, the Licensee vide letter dated 03.10.2022, requested to adjourn the above hearing on account of the vacant position of its Chief Executive Officer.

16. Accordingly, the competent Authority acceded to the request of the Licensee and adjourned the said hearing. Moreover, the Licensee was finally directed vide letter dated 31.10.2022, to submit its response to the abovementioned Show Cause Notice within seven (07) days. Furthermore, hearing in the matter was re-scheduled for 10.11.2022. The hearing was held as per above-mentioned schedule, wherein, the representatives of the Licensee participated and made their submissions. Moreover, the Licensee finally submitted its reply to the aforesaid Show Cause Notice vide letter dated 04.11.2022 (received on 10.11.2022). The salient features of the response submitted by the Licensee are as follows:

i. 747 MW CCPP was commissioned on 17th December 2014, however, the same was finally took over by CPGCL in May 2016. CPGCL thereafter submitted an LPM to the Authority which was decided by the Authority vide determination dated 10th July 2019. In the said determination, owing to the completion of their useful life, the Authority de-licensed & excluded Units 1 - 4 from CPGCL's generation license. Until such date however, Units 1-4 remained on the Economic Merit Order (EMO) issued by NPCC and were issued despatch regularly by the System Operator during times of power crisis, given that these units were producing power from local (pipe line) low calorific value gas during times of crisis. Thus, Units 1-4 were operated by CPGCL on account of the fact that:

a. These were still on CPGCL's generation license.

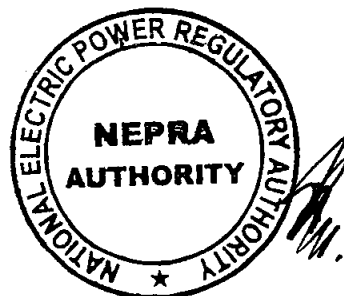
b. The despatch instruction was issued by NPCC as per the EMO.

ii. As far as the utilization of Units 1-4 is concerned, it is well conversed that for any plant the utilization factor is solely dependent of the dispatch instructions of system operator based upon the effective EMO as well as the scheduled outages/partial loading of the plant. Meaning thereby, CPGCL never stopped the efficient plant of 747 MW by diverted the Fuel Gas quota and operated inefficient Units 1 to 4 by its own. The operation/utilization of the plants is governed under the Economic Merit Order (EMO) through NPCC, Islamabad.

It is therefore submitted that CPGCL was never in violation of its generation license or other applicable documents in operating these units.

iii. Again, GT-11 and GT-12 of Block-I, TPS Guddu were operated at times by CPGCL, strictly under instructions from the System Operator from time to time, on account of the fact that:

a. The provision of the open cycle operation has been allowed in the PPA between CPGCL and CPPA-G dated 20th September 2015. The System Operator issued dispatch instruction for open cycle operation of CPGCL

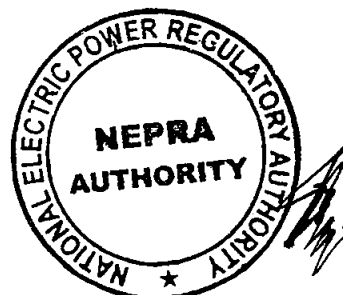


units and for which CPGCL claimed and paid the open cycle invoices as per allowed rates defined in Schedule-VI, Table-I of the PPA.

- b. In open-cycle mode, these units are more economical to operate as compared to many IPPs operating on HSD/RFO/RLNG. resume
- c. Refer to the NEPRA public hearing dated 15th April 2022, wherein, the honourable Chairman NEPRA took serious note of the non-operation/standby status of the most economical generating units of CPGCL by NPCC and issued instructions to System Operator to immediately resume the open cycle operation of CPGCL units at the rates already allowed by the Authority in its determination dated 29.03.2004. In compliance with the order of honourable Authority, CPGCL immediately started there standby Gas Turbine units in open cycle mode and injected approximately 250 MW cheap electricity into the National Grid.
- d. In the light of the Authority's order during the hearing held on 15th April 2022, CPGCL vide letter No. CPGCL/CEO/22/3932-37 dated 19.04.2022 requested the honourable Authority for restoration of its tariff on the basis of earlier determination dated 29.03.2004 but the same was not entertained by the Authority rather CPGCL was directed to file the tariff petition.
- e. CPGCL vide letter No. CPGCL/CEO/MI /22/5740-47 dated 14.06.2022 once again requested that the units are operational under the dispatch instructions and EMO of System Operator as per the honourable Authority's decision during public hearing dated 15th April 2022 but CPPA-G is not agreed to pay to CPGCL for the open cycle generation of these units. CPGCL further sought guidance from the Authority to either continue the open cycle operation of the units or stop the plant. The Authority remained silent and the plants are still in continuous operation by NPCC in open cycle mode since 15th April 2022.

It is therefore submitted that operation of the gas turbines units in open cycle mode under the System Operator's instructions, does not constitute a violation of any of the terms of CPGCL's generation license/PPA or any other applicable documents. Rather it has been proved to be economically viable to operate these units in open cycle mode as per EMO.

- iv. Since the Authority's determination dated 10th July 2019, Units 1-4 were de licensed and not further dispatched by NPCC being defunct. Therefore, as per the provisions of the PPA between CPGCL and CPPA-G, CPGCL is entitled to raise invoices for capacity payments of all units covered under its generation license and CPGCL accordingly raised the invoices of capacity payment against Units 1-4 up to July 2019. During the period i.e up to July 2019, as the units were in forced outage, CPPA-G imposed LDs against Units 1-4 on account of forced outage

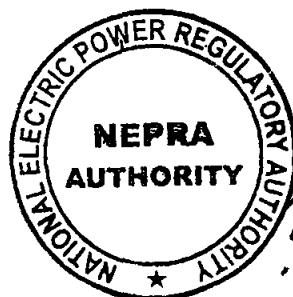


accordingly as per PPA. Henceforth, CPGCL did not raise any capacity invoice after/beyond de-licensing of Units 1-4 i.e. July 2019.

Regarding capacity payment of Unit 13 during its outage period, it is to illuminate that in January 2020, CPGCL tried to exclude the capacity payment of Unit 13 from its invoices and raised capacity payment invoice as per the available capacity of Block-I, excluding Unit 13, however this invoice was not agreed/entertained by CPPA-G and returned on 24th January 2020 with the comments that raising capacity invoices at available capacity is contradictory to PPA.

Moreover, CPGCL has already submitted to the Authority that for CPPA-G, to impose liquidated damages for outages and at the same time to deny capacity payments to CPGCL amount to double jeopardy and is therefore unlawful.

- v. As per SOPs for conducting the Annual Dependable Capacity Test (ADCT), the metering systems (primary and backup energy meters) should have been calibrated less than one year prior to the date of conducting the test. For this purpose, TDCs TSG Group have been repeatedly asked by CPGCL for calibration of the meters for Units 6 - 10 (Block-II) of TPS Guddu, however, their response is still pending. Furthermore even CPPA-G wrote to the Chief Engineer (TSG South), NTDC on 6th October 2020 asking for calibration of the meters, however the matter is still pending. Moreover, CPGCL is currently in the process of procuring consultancy services for major maintenance and rehabilitation of Block-I (Units 11-13) of TPS Guddu and once these are carried out, the ADCT of these units as well will be conducted.
- vi. It is to reiterate that CPGCL has been operating its plants on the basis of rates determined earlier in the older tariff dated 29.03.2004 which has lowest heat rate calculated years back when the plants were on newer condition and the efficiencies were far better than present when plants have already completed its maximum useful life span. Hence, the Honorable Authority is of no loss if paying for older plants for greater efficiencies and better heat rates. However, as communicated earlier to the Authority, due to the aforementioned pending items such as the pending dependable capacity tests and rehabilitation of Block-II and de-licensing of certain units by the CCoE/NEPRA, CPGCL has not been able to gather the firm data required to file a consolidated tariff petition yet to address the pending issues. Work on gathering the required data, and carrying out these tests is ongoing and CPGCL undertakes to file the requisite petition imminently as per the Authority's directions.
- vii. The update status and progress of Unit 13 rehabilitation has been communicated to the Honorable Authority from time to time vide. Thus, as per the Authority's directions, rehabilitation works have already been commenced and updates in this regard will be duly shared with the Authority.



17. During the hearing, the Licensee was directed to provide its comments in writing within seven (07) days. Accordingly, the Licensee submitted the same vide letter dated 18.11.2022 (received on 24.11.2022), wherein, the Licensee reiterated most of the submissions of its response to the subject Show Cause Notice. In addition to this, the Licensee submitted that agreement with M/s. NESPAK was signed on 07.04.2022 for Consultancy Services for assessment of existing machinery & Engineering. Preparation of Basic Designing of ST-13, Preparation of EPC document, floating & evaluation of Tender and execution of project for revival of complete Block-I (GT-11, GT-12 and ST-13). Presently, the assessment of existing machinery has been completed and preparation of front-end engineering design (FEED). PC-I, basic/tender level engineering and finalization of bidding documents for EPC Contractor is in progress. The tentative date for completion of project is 02nd August 2025.

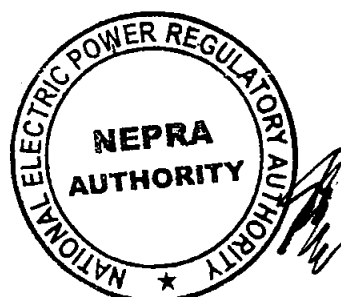
Analysis/Findings of the Authority:

18. The submissions made by the Licensee in its response to the Show Cause Notice and during the above hearing are analyzed as follows:

- i. Through its LPM application dated 31.07.2012, for inclusion of 747 MW CCPP in its Generation License, the Licensee submitted that it has decided to replace the inefficient steam Units 1-4 of TPS Guddu with 747 MW CCPP. Moreover, the Licensee submitted that the proposed plant will operate on gas by diverting the gas quota of inefficient steam Units 1-4 of TPS Guddu with higher efficiency. The LPM was approved by the Authority on 26.04.2013 and the 747 MW CCPP achieved COD on 17.12.2014. However, the Authority observes that the gas has been diverted to the inefficient Units 1 to 4 of TPS Guddu until their de-licensing on 10.07.2019, even after the commissioning of Guddu 747. The same is illustrated as follows:

Period	Utilization Factor	
	Units 1 to 4 of TPS Guddu	Guddu 747
FY 2015-16	54.06%	80%
FY 2016-17	12.34%	69.43%
FY 2017-18	19.09%	62.24%
FY 2018-19	0.79%	80.29%

- ii. Currently, the old blocks of the Licensee are being governed under the tariff determination dated 24.02.2006. Under the said determination, the Authority, inter-alia, determined the tariff of Block-I of TPS Guddu (Units 11-13) in combined cycle mode and tariff of this block in open cycle mode was not determined by the Authority. Rather in the review motion decision dated 08.06.2006, despite request of the Licensee for open cycle tariff for its different blocks including Block-I, the Authority did not determine the open cycle tariff for any block.



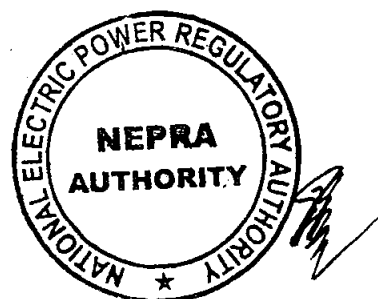
However, the Authority observes that since Unit 13 of TPS Guddu is under shutdown since 24.03.2013, therefore, operation of Block-I after 24.03.2013 (whenever in operation) remained in open cycle mode. In this regard, the Licensee has submitted that the provision of open cycle operation is given in the PPA executed between the Licensee and the Power Purchaser on 20.09.2015. In this regard, the Authority observes that a PPA should always be consistent with the tariff determination approved by the Authority and a PPA cannot be executed beyond the terms and conditions of the tariff determination approved by the Authority. Moreover, the tariff as expressed by the Authority always takes precedence over the provisions of the agreements executed. Hence, the open cycle operation of Units 11 & 12, without having the approved NEPRA tariff, is unjustified.

- iii. Units 1, 2, 3, 4, and 13 of TPS Guddu remained on forced outage for a longer duration during the period FY 2012-13 to FY 2019-20, however, the Licensee claimed capacity payment for the entire complex of TPS Guddu (including the above-mentioned units) during the said period. The detail is as under:

Unit No.	Net Capacity (MW)	Outage Date	Capacity Payment (Rs. Billion)
1	70	28.08.2015	0.738
2	70	13.05.2013	1.142
3	170	02.08.2018	0.454
4	170	23.05.2013	2.763
13	130	24.03.2013	2.546
Total	610	-	7.643

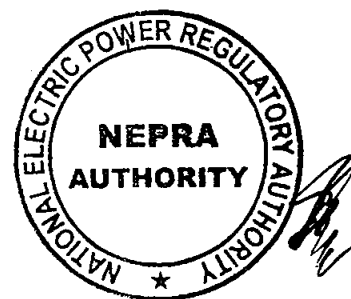
In this regard, the Licensee has submitted that as per the provisions of the PPA, the Licensee is entitled to raise invoices for capacity payments of all units covered under its generation license and the Licensee accordingly raised these invoices with the Power Purchaser. In this regard, the Authority observes that currently the old Blocks of the Licensee are being governed under the tariff determination dated 24.02.2022, wherein, CPP is determined on estimated Net Dependable Capacity of 1400 MW. The Net Capacity was due to be adjusted (onetime adjustment) after Net Dependable Capacity test to be carried out within six months of the notification of tariff rates determined by the Authority. However this Net Dependable Capacity test has not yet been carried out by the Licensee. While it is a fact that the Net Dependable Capacity of old block of the Licensee has been decreased considerably not only on account of deletion of various units from its generation license as a result of APM and LPM but also due to degradation of the operating units which are still in operation. Hence, the stance adopted by the Licensee is unjustified.

- iv. Moreover, the Licensee has submitted that as per SOPs for conducting the ADCT, the metering systems (primary and backup energy meters) should have been calibrated less than one year prior to the date of conducting the test. In this regard, NTDC has been repeatedly asked by the Licensee for calibration of the meters for



Units 6-10 (Block-II) of TPS Guddu, however, the matter is still pending. In this regard, the Authority observes that the matter was taken up with the Power Purchaser. In response, the Power Purchaser has submitted that the reasons given by the Licensee for not carrying out the ADCT of TPS Guddu are against general norms or practices. Furthermore, the Power Purchaser has submitted that the Licensee has not shown any intention or made serious effort to date for carrying out the ADCT of TPS Guddu. In addition to this, the Power Purchaser has submitted that apparently, there is no hindrance in planning the ADCT of TPS Guddu and on receiving tentative schedule from the Licensee, all other matters, if any, could be sorted out with mutual understanding and in line with set practices. Therefore, the argument put forward by the Licensee does not merit consideration.

- v. The Licensee has further submitted that the Power Purchaser has imposed LDs on the Licensee on account of availing higher outages by the units/machines of TPS Guddu than allowed limit as specified in the PPA. Therefore, for the Power Purchaser, to impose LDs for outages, and at the same time, to deny capacity payments to the Licensee amount to double jeopardy and is therefore unlawful. In this regard, the Authority observes that the argument put forward by the Licensee could have been considered had the Licensee received the capacity payments on the basis of ADCT of TPS Guddu. However, in the instant case, the Licensee has received the capacity payments on the basis of estimated Net Dependable Capacity of TPS Guddu. Therefore, merely imposing LDs by the Power Purchaser on account of availing higher outages by the units/machines of TPS Guddu than allowed limit as specified in the PPA is not sufficient. Hence, the argument put forward by the Licensee does not merit consideration.
- vi. Regarding non-filing of tariff petition despite repeated directions of the Authority, the Licensee has submitted that due to the pending dependable capacity tests, rehabilitation of Block-II and de-licensing of certain units by the CCoE/NEPRA, the Licensee has not been able to gather the firm data required to file a consolidated tariff petition yet to address the pending issues. In this regard, the Authority observes that the tariff of the Licensee was determined by the Authority vide determination dated 24.02.2006 for a period of three years i.e. from FY 2005-06 to FY 2007-08. However, the Licensee has failed to submit petition for determination of tariff beyond FY 2007-08 despite repeated directions of the Authority and still operating under the tariff determination dated 24.02.2006 despite expiry of its control period which is unlawful.
- vii. As far as non-submission of rehabilitation plan for Unit 13 of TPS Guddu despite repeated directions of the Authority is concerned, the Licensee has submitted that as per the Authority's directions, rehabilitation works have already been commenced and agreement with M/s. NESPAK was signed on 07.04.2022. The tentative date for completion of project is 02.08.2025. In this regard, the Authority observes that Unit 13 of TPS Guddu is on forced outage since 24.03.2013 and the rehabilitation works have been commenced by the Licensee in April, 2022 i.e. after 9 years and still it will take around 3 years as per the Licensee to rehabilitate the



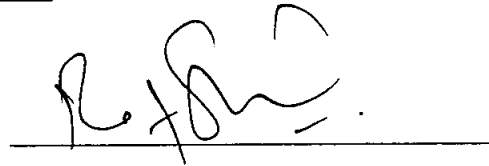
said unit. Hence, the progress of the Licensee in this regard is also quite unsatisfactory.

Decision:

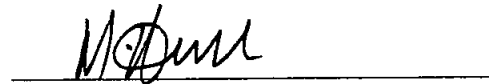
19. Keeping in view the relevant provisions of the NEPRA Act, Generation License, Tariff Determination, applicable documents, reasoned based rejection of the submissions of the Licensee and available record, the Authority observes that the Licensee has failed to perform its operations and discharge its responsibilities in accordance with the provisions of granted license, determined tariff and Section 48 read with Section 7(3)(a) and Section 31 of the NEPRA Act. Therefore, the Authority decides to impose a fine of One Hundred Million Rupees (**Rs. 100 Million**) on the Licensee.
20. Accordingly, the Licensee is directed to pay the fine of One Hundred Million Rupees in designated bank of the Authority within a period of fifteen (15) days after the date of issuance of this order and forward a copy of the paid instrument to the Registrar Office for information, failing which the Authority shall recover the amount due under Section 41 of the NEPRA Act read with relevant provisions of the Fine Rules as arrears of the land revenue.

Authority

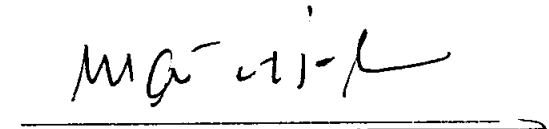
Rafique Ahmed Shaikh
Member (Technical)



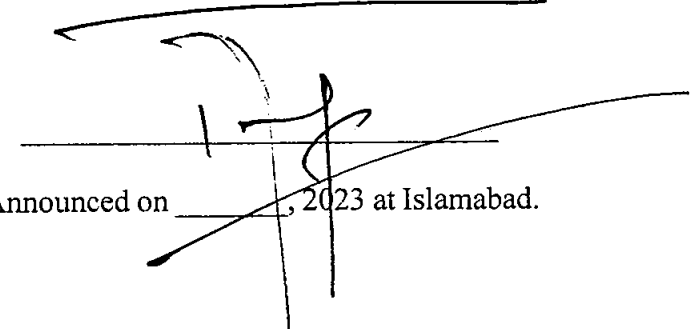
Engr. Maqsood Anwar Khan
Member (Licensing)



Mathar Niaz Rana (nsc)
Member (Tariff and Finance)



Tauseef H. Farooqi
Chairman



Announced on _____, 2023 at Islamabad.

