



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/DG(M&E)/LAG-01/ 12453

August 08, 2024

Chief Executive Officer,
Central Power Generation Company Ltd. (CPGCL),
Guddu Thermal Power Station, Guddu,
Tehsil Kashmore, District Jacobabad

Subject: Decision/Order of the Authority in the matter of Review motion filed by Central Power Generation Company Limited against Fine imposed by NEPRA through its fine Order dated February 21, 2023, Due to Prolonged forced Outage on Guddu Unit 14

Enclosed please find herewith the subject Decision/Order of the Authority (total 03 pages) for information and compliance.

Enclosure: As above

Wasim Anwar Bhinder
(Wasim Anwar Bhinder)



National Electric Power Regulatory Authority

**DECISION OF THE AUTHORITY IN THE MATTER OF REVIEW MOTION FILED BY
CENTRAL POWER GENERATION COMPANY LTD. AGAINST FINE IMPOSED BY NEPRA
THROUGH ITS FINE ORDER DATED FEBRUARY 21, 2023, DUE TO PROLONGED FORCED
OUTAGE ON GUDDU UNIT 14**

Order

1. Background

- i. The Authority awarded generation license No. GL/02/2002, dated July 01, 2002 (subsequently modified through modification-I dated April 26, 2013) to Central Power Generation Company Limited (CPGCL/GENCO-II).
- ii. Unit 14 (243 MW) of Guddu 747 went under forced outage on February 12, 2021. It was observed that despite the passage of a considerable time the damaged Unit was not repaired. It is to be noted that Guddu 747 is one of the most economical plants, whereby, its outage has led to the operation of expensive power plants and resulted in a substantial financial impact. Consequently, the forced outage of Guddu 747 has led to the increase in the generation cost and ultimately the increase in consumer end tariff.
- iii. After following due legal course and procedures laid out in the NEPRA (Fine) Regulations 2021, a fine of Rs. 50 million was imposed on Central Power Generation Company Limited (CPGCL) through a fine Order dated February 21, 2023. The operative portion of the decision is reproduced below:

Keeping in view the abovementioned facts along with the available record submitted by M/s CPGCL, submissions made through its letters, response to the NEPRA's Explanation Letter, Show Cause Notice and proceedings of the hearing held on November 10, 2022, it is concluded that the M/s CPGCL has failed to satisfy the Authority with regards to violation of the Section 14(B) – (4) of the NEPRA Act, SDC 1.4.1.2 of the Grid Code, Rule 8 (3) – (b) & (f) of the NEPRA Licensing (Generation) Rules (2000) and determination of the tariff by NEPRA, therefore, the Authority decides to impose a fine of fifty (50) million Rupees on M/s CPGCL.

2. Review Motion and Hearing

Aggrieved with the decision of the Authority, M/s CPGCL filed a review motion on March 31, 2023, which was admitted by the Authority. As per the NEPRA (Fine) Regulations 2021, an opportunity of hearing was provided to M/s CPGCL on September 19, 2023. However, as per request of CEO CPGCL the hearing was adjourned and rescheduled on December 07, 2023.

During the hearing and through follow-up communication, M/s CPGCL took the following grounds and classified these reasons as the main contributing factors for the delay in restoration of the damaged Unit.



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- i. *The contract of the then Chief Executive Officer of CPGCL was terminated due to the countrywide tripping and GT-14 outage event.*
- ii. *Initially, CPGCL approached GE to restore the machine under Contractual Service Agreement (CSA). But the GE replied that the damage of GT-14 is an excluded event (Foreign Object Damage) and not covered under CSA. So, the case of restoration of GT-14 was disputed; the resolution of the dispute is still unresolved.*
- iii. *CPGCL decided to restore the unit from its own resources. However, the lengthy procedure of arranging Foreign Currency Exchange and opening of Letter of Credit as well as cash flow problem due to pending receivable from CPPA-G delayed the process.*
- iv. *CPGCL is already facing investigation by FIA and NAB.*
- v. *CPPA-G has already imposed Liquidated Damages due to forced outage of unit no. 14.*

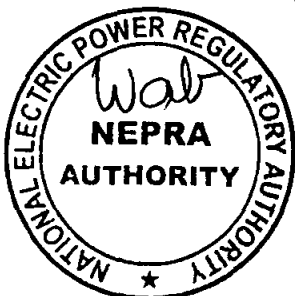
After the hearing, M/s CPGCL submitted further details regarding the incident which were received on December 26, 2023 are as follows:

- i. *The Letter of Explanation was not issued to CPGCL within the timelines specified in Regulation 4 of the NEPRA (Fine) Regulations 2021.*
- ii. *The impugned Order fails to correlate the fine imposed with the alleged offence or justify the quantum of the fine vis-à-vis the alleged violation.*
- iii. *CPGCL has already been penalized for the forced outage of GT-14 by the CPPA-G under the PPA in the shape of deduction of capacity payments and imposition of liquidated damages.*

3. NEPRA's Analysis

The submissions of M/s CPGCL as mentioned in the Review Motion, as well as, during the hearing have been reviewed and NEPRA's analysis is as follows:

- i. With regards to the Explanation being a time-barred case, it is to be noted that the directions available in the NEPRA (Fine) Regulations 2021, are directory in nature and not that of mandatory nature. Furthermore, it is not possible to determine the prolonged forced outage and non-supply of reliable power at the time of fault. A prolonged forced outage can only be determined once sufficient time has passed after the forced outage. Therefore, CPGCL's argument that the said case is not maintainable since the action was not taken within fifteen (15) days, is not acceptable.
- ii. The Co-relation of the fine imposed is a new objection raised by M/s CPGCL that was not raised during the time of the proceedings. In this regard, the Authority believes that the outage of Unit 14 has resulted in a substantial financial implication for the sector and resulted in a loss of economic generation. Furthermore, the capacity payments made to the company during the outage period also had to be passed on to the electricity consumers. Accordingly, the fine imposed by the Authority has been imposed after due deliberation and considering the gravity of the violation and the magnitude of its adverse impact on the sector.
- iii. The penalty imposed by CPPA-G is in lieu of the breach of contractual provisions under the Power Purchase Agreement, whereas, the fine imposed by NEPRA was due to the violations of the NEPRA Act, its Generation License, the Grid Code and tariff determination of the Authority. Therefore, the



applicable documents in both cases are different and hence cannot be construed as double jeopardy for the same violation.

- iv. It is pertinent to mention that the Authority through its determination of CPGCL's tariff vide decision dated April 26, 2016 had directed CPGCL to insure its complex and an insurance component was also allowed in the determination. However, CPGCL's failure to secure insurance for its complex is a grave violation of the direction of the Authority on the part of the company.

4. Conclusion

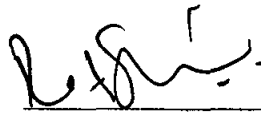
In terms of Regulation 3(2) of NEPRA (Review Procedure) Regulations 2009, a motion seeking review of an Order of the Authority is only competent upon discovery of a mistake or error apparent on the face of the record or a new and important matter of evidence. In the instant review motion, no mistake or error apparent on the face of the record has been highlighted by the CPGCL. Further the Licensee has not come up with any new and important matter of evidence which was not considered by the Authority in its earlier decision dated 21/02/2023. Therefore, there is neither any occasion to amend the impugned decision nor any error inviting indulgence as admissible in law.

5. Decision of the Authority:

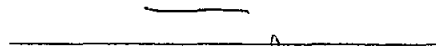
- i. Keeping in view the abovementioned facts along with the available record submitted by M/s CPGCL, submissions made through its letters, during the hearing and other means of communication during the proceeding of the case, the Authority rejects the instant review motion filed by M/s CPGCL and maintains its earlier decision dated February 21, 2023.
- ii. Accordingly, the Licensee is directed to pay the fine of fifty (50) million Rupces 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 Regulations as arrears of the land revenue.

Authority

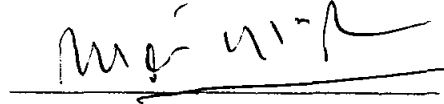
Rafique Ahmed Shaikh
Member (Technical)



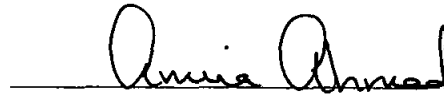
Engr. Maqsood Anwar Khan
Member (Licensing)



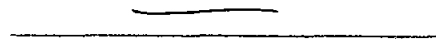
Mathar Niaz Rana
Member (Tariff ~~and Finance~~)



Amina Ahmed
Member (Law)



Waseem Mukhtar
Chairman



Announced on 08-08 July, 2024 at Islamabad.

