



Registrar

**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/R/DL/LAD-18/20311-17

December 15, 2017

Mr. Tauqir Tariq  
Director  
Quetta Textile Mills Limited  
Nadir House G/FL,  
I.I. Chundrigar Road,  
Karachi-74000

Subject: **Modification in Distribution Licence No. 16/DL/2006, dated 14.11.2006, Quetta Textile Mills Limited (QTML)**

Reference: *Your letter No. nil dated February 13, 2017.*

It is intimated that the Authority has approved "Licensee Proposed Modification" in Distribution Licence No. 16/DL/2006 in respect of Quetta Textile Mills Limited pursuant to Regulation 10(11) of the NEPRA Licensing (Application & Modification Procedure) Regulations, 1999.

2. Enclosed please find herewith determination of the Authority in the matter of Licensee Proposed Modification along with Modification-II in the Distribution Licence No. 16/DL/2006, as approved by the Authority.

**Enclosure: Determination of the Authority  
Modification-II (16/DL/2006)**

(Syed Safer Hussain)

Copy to:

1. Secretary, Ministry of Energy (Power Division), 'A' Block, Pak. Secretariat, Islamabad.
2. Chief Secretary, Government of Sindh, Sindh Secretariat, Karachi
3. Chief Executive Officer, NTDC, 414-WAPDA House, Lahore
5. Chief Operating Officer, CPPA-G, Enercon Building, Sector G-5/2, Islamabad
6. Chief Executive Officer, Hyderabad Electric Supply Company (HESCO), WAPDA Water Wind Complex, Hussainabad, Hyderabad
7. Director General, Sindh Environmental Protection Agency, Plot No. ST 2/1, Sector 23, Korangi Industrial Area, Karachi

**National Electric Power Regulatory Authority**  
**(NEPRA)**

**Determination of Authority**  
**in the Matter of Licensee Proposed Modification in the**  
**Distribution Licence of Quetta Textile Mills Limited**

**December 15, 2017**  
**Case No. LAD-18**

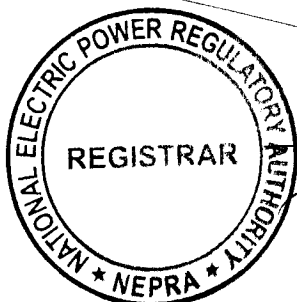
**(A). Background**

(i). The Authority granted a generation licence (No. SGC/014/2002 dated January 31, 2002 and subsequently modified through Modification-I dated July 23, 2008) to a SPP in the name of Quetta Textile Mills Limited (QTML), in terms of Section-15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("the NEPRA Act"). The said generation licence was granted to QTML for its two distinct HFO/Gas based generation facilities i.e. Plant-I of 8.1 MW and Plant-II of 22.706 MW with accumulative installed capacity of 30.806 MW located at B-4, SITE Kotri, district Jamshoro, in the province of Sindh and 47.5 KM, Lahore-Multan Road, Bhai Pheru, district Kasur, in the province of Punjab, respectively.

(ii). Based on the Article-7 of the abovementioned generation licence, the Authority also granted a distribution licence (No. 16/DL/2006, dated November 14, 2006), in terms of Section-20 and 21 of the NEPRA Act for its distribution facilities in district Jamshoro, in the province of Sindh and district Kasur, in the province of Punjab, for supplying power to its seven (07) self-units.

**(B). Communication of Modification**

(i). QTML communicated a Licensee Proposed Modification (LPM) in its distribution licence on February 14, 2017, as stipulated in Regulation-10 of NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 (the "Licensing Regulations").



(ii). In the “text of the proposed modification”, QTML stated that the term of its distribution licence (No. 16/DL/2006, dated November 14, 2006), is only valid till January 30, 2017. Whereas, the remaining useful life of the units of its generation facility is beyond January 30, 2037, therefore, the term of its distribution licence may be extended up to January 30, 2037.

(iii). Regarding “statement of the reasons in support of modification”, QTML has stated that the requested modification would be beneficial as it would ensure that generation capacity continues to be available and maintained. About the “statement of the impact on the tariff, quality of service and the performance by the licensee of its obligation under the licence”, QTML submitted that the modification will not have any adverse impact on tariff, quality of service and its performance under the licence.

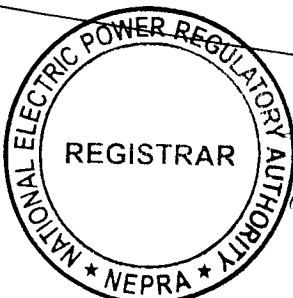
### **(C). Processing of LPM**

(i). After completion of all the required information as stipulated under the Regulation-10 (2) and 10 (3) of the Licensing Regulations by QTML, the Registrar under the Regulation-10(4) of the Licensing Regulations, published the communicated LPM in one English and one Urdu daily newspapers on February 25, 2017, to invite the general public for their comments in the matter as stipulated in Regulation-8 of the Licensing Regulations.

(ii). Apart from the notice in the press, separate notices were also sent to experts, Government Ministries and representative organization etc. on February 28, 2017 inviting their views and comments. Through the said notices, the stakeholders were informed about the communicated LPM and publication of its notice in the press. Further, the said stakeholders were invited for submitting their views and comments for the assistance of the Authority.

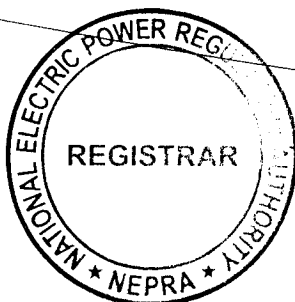
### **(D). Comments of Stakeholders**

(i). In reply to above, the Authority received comments from two (02) stakeholders including Kotri Association of Trade & Industry (KAT&I) and Anwar Kamal Law Associates (AKLA). The salient points of the comments offered by the



said stakeholders are summarized in the following paragraphs:-

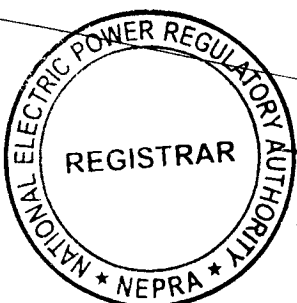
- (a). KAT&I submitted that QTML is its valued member and it has no objection for modification of the distribution licence of QTML. KAT&I strongly recommended the approval of LPM of QTML;
- (b). AKLA in its comments submitted that the Authority has issued the generation licence to QTML as SPP on January 31, 2002. Further, the Authority has also issued a Second-Tier Supply Authorization (STSA) to QTML under Section-22 of the NEPRA Act and Rule-7 of the NEPRA Licensing (Generation) Rules, 2000 ("the Generation Rules") along with the generation licence. Under the said Authorization, QTML was allowed to sell electric power to seven (07) BPCs situated at different locations. Whereas, the distribution licence was issued to QTML on November 14, 2006. From the said details, it is clear that for more than four and a half years, from January 2002 to November 2006, NEPRA illegally, in violation of Section-20 of the NEPRA Act allowed QTML to engage in the business of supply of electric power to its BPCs without any distribution licence. It is highlighted that power conferred to the Authority for the grant of STSA was given under Section-22 of the NEPRA Act. The maximum period for which the Authority could grant this Authorization was fifteen (15) years from the commencement of the NEPRA Act i.e. fifteen (15) years from December 1997, which has ended in December 2012. This means that after December 2012, the Authority has no power to grant STSA. However, the Authority did not bother to give its ruling in respect of sale of electric power by generation companies to BPCs after December 2012. The Authority has unlawfully, either extended the validity of licences which were involved in the business of sale of electricity through STSA or initiated the proceedings to extend the validity of such licences.



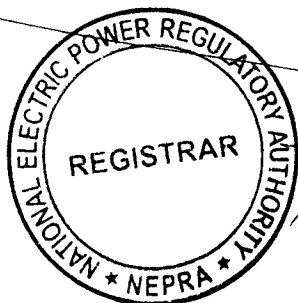
AKLA is of the considered opinion that all such acts of the Authority are illegal and unlawful. AKLA submitted that it was also part of the proceedings through which SPPs were granted the generation licence and while granting the same, the Authority decided that SPPs neither can add a new BPC nor can replace the existing consumers. AKLA argued that the Authority is making the decisions against the provisions of its own applicable documents/laws. AKLA requested the Authority to review the regime of SPPs in the light of the Determinations of the Authority given in the matter of grant of generation licences and their tariff determinations and remove the illegalities.

(ii). The Authority has duly considered the comments of the stakeholders, the rejoinder filed by QTML and has observed that apart from AKLA all the stakeholders have supported the communicate LPM. In its comments, AKLA has highlighted observations focusing mainly on the licences and STSA granted to SPPs, interpretation of the relevant Sections (Section-21 & 22) of the NEPRA Act and relevant rules etc.

(iii). Regarding the observations of AKLA, the Authority has observed that Section-21 of the NEPRA Act deals with the rights and liabilities of a distribution licensee and states that the Authority may, subject to conditions specified in the NEPRA Act grant distribution licence and the licensee shall possess exclusive right to provide distribution and to make sale of electric power to consumers in the territory specified in the licence. Further, Section-21 carves out an exception to aforementioned exclusivity of a distribution licensee and allows a generation company to make sales to a BPC within the territory of distribution licensee. The exclusive distribution right granted to distribution licensees is subject to conditions specified in the NEPRA Act. The NEPRA Act imposes certain conditions on a distribution licensee and that licensee cannot enjoy exclusivity without corresponding obligations to provide safe, continuous and reliable electricity to consumers. Thus a distribution licensee cannot claim the exclusive right as an absolute right for the reason that the NEPRA Act does not intend to create a



monopoly to sell electricity to consumers being bonded consumers. Moreover, proviso to Section-21 of the NEPRA Act further clarifies the intention of the legislature by carving out an exception to aforementioned exclusive right of a distribution licensee. The said Proviso categorically states that a generation company may make sales of electric power to BPCs within such territory as the Authority may allow, subject to Section-22 for a period of fifteen (15) years. Proviso to Section-21 explicitly bifurcates sales of electric power from delivery of electric power and allows sales of electric power by another licensee to BPC in the territory of a distribution company, thereby negating the exclusivity of a distribution licensee with respect to sales of electric power. That if any generating company intends to sell power to a BPC located within service territory of a distribution company, it will seek STSA from the Authority under Section-21 of the NEPRA Act read with Rule-7 of the NEPRA Licensing (Distribution) Rules, 1999 ("the Distribution Rules"). That the abovementioned Rule-7 of the Distribution Rules read with Proviso to Section-21 of the NEPRA Act make it abundantly clear that the Authority may allow, for a period of fifteen (15) years from the commencement of NEPRA Act, a generation company to supply electric power to BPC in the territory of a distribution licensee. Proviso seeks to achieve an objective that since BPCs are prized consumers and in case of losing BPCs, distribution licensee might incur economic loss, therefore Section-21 and 22 of the NEPRA Act has regulated the sale to BPC by generation companies. It may however be clarified that such restriction was for fifteen (15) years from the commencement of the NEPRA Act and that after December 16, 2012 BPCs are free to get supply of electricity from any source without re-coursing to Section-21 and 22 of the NEPRA Act. It is clarified that time period mentioned in Proviso to Section-21 read with Section-22 of the NEPRA Act does not restrict the powers of the Authority to allow a generation company to supply electric power to a BPC in the territory of a distribution licensee only for the fifteen (15) years from the commencement of the NEPRA Act. Such restrictive interpretation of period of fifteen (15) years mentioned in the Proviso is against the spirit of the NEPRA Act, undermines the competitive environment and discourages the investment in private sector resulting in enhanced demand and supply gap. It is a settled principle of law that a



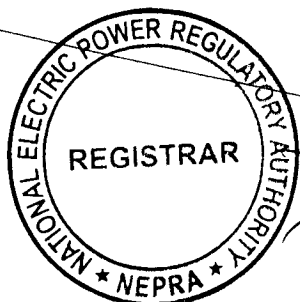
statute has to be read as whole and no single provision can be read to arrive at a just and correct interpretation. Therefore, period of 15 years cannot be read in isolation, it has to be interpreted in the context of scheme of the law. The NEPRA Act envisages a competitive market which was duly translated in the licence of NTDC setting year 2012 as Commercial Market Operation Date, meaning thereby after fifteen (15) years of commencement of the NEPRA Act power market will be opened for bilateral contracting. Therefore, fifteen (15) years mentioned in the Proviso cannot be read as to disallow sales of electricity by a generation company to BPCs in the territory of a DISCO rather that no such permission will be required after 15 years of commencement of 15 years of the NEPRA Act.

(iv). In view of the above, the Authority considered it appropriate to process the LPM of QTML as stipulated in the Licensing Regulations and the Distribution Rules.

#### **(E). Evaluation of the Case**

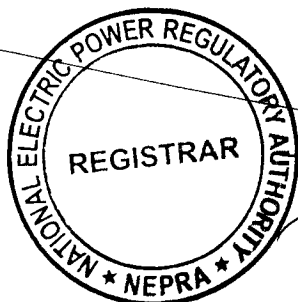
(i). The Authority has examined the entire case in details including the already granted distribution & generation licence, the communicated LPM, comments of stakeholders, replies of QTML and relevant rules and regulations. The observations of the Authority in the matter are as follows:-

- (a). In terms of Regulation-10(5) of the Licensing Regulations, the Authority is entitled to modify a licence subject to and in accordance with such further changes as the Authority may deem fit if, in the opinion of the Authority such modification (a). does not adversely affect the performance by the licensee of its obligations; (b). does not cause the Authority to act or acquiesce in any act or omission of the licensee in a manner contrary to the provisions of the NEPRA Act or the rules or regulations made pursuant to it; (c). is or is likely to be beneficial to the consumers; (d). is reasonably necessary for the licensee to effectively and efficiently perform its obligations under the licence; and (e). is reasonably necessary to ensure the continuous, safe and



reliable supply of electric power to the consumers keeping in view the financial and technical viability of the licensee;

- (b). According to Article-7 of its generation licence, QTML is required to handover ownership and control of its distribution facilities to the concerned DISCO on terms and conditions as approved by NEPRA or in the event, it wishes to retain ownership and control of its distribution facilities, it shall apply for a distribution licence within one month from the grant of generation licence, in accordance with the relevant NEPRA Rules;
- (c). QTML opted to apply for the grant of distribution licence and the Authority granted a distribution licence No. 16/DL/2006, dated November 14, 2006 for supplying power to its dedicated self-units;
- (d). According to Article-5 of the distribution licence, the term of the distribution licence was made co-terminus with the validity of generation licence (No. SGC/014/2002 dated January 31, 2002) issued to QTML or up to the date on which all the consumers mentioned in schedule-II of the distribution licence stop purchasing power on permanent basis from the licenced SPP, whichever is earlier;
- (e). The validity of the generation licence of QTML has expired on January 30, 2017. In this regard, QTML has already applied for modification/extension of the term of generation licence based on the remaining useful life of the units of its generation facility having useful life up to January 30, 2037. Further, the self-units/industrial units of QTML are still intact and have not stopped consuming power from QTML. Accordingly, QTML has filed the current LPM in its distribution licence for extension of its term, in order to make it consistent with the modification in





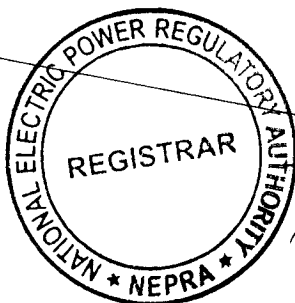
the generation licence;

- (f). The communicated LPM is in line with Rule-5 of the Distribution Rules, which mentions that (a). except where an applicant for a distribution licence consents to a shorter term, the term of a distribution licence shall not be less than twenty (20) years. (b). Upon the expiry of the term of distribution licence, unless revoked earlier in accordance with these rules or the terms of the distribution licence or unless not provided for in the distribution licence, the distribution licence may be renewed by the Authority for such further term as may be deemed appropriate by the Authority in the manner provided for in the distribution licence, keeping in view the performance of the licensee during the previous term and the interests of the consumers and the electric power industry as a whole.

(ii). In view of the above, the Authority is of the considered opinion that the LPM will not have any adverse effect on the performance of the Licensee of its obligations as it will enable it to supply the available energy for a considerable time. Further, the LPM will not cause the Authority to act or acquiesce in any act or omission of the Licensee in a manner contrary to the provisions of the NEPRA Act or the rules or regulations made pursuant to the NEPRA Act. The LPM will be beneficial to the consumers in general as relatively cheap and reliable electricity will be available to the self-units/industrial units of QTML. The LPM is reasonably necessary for the Licensee to effectively and efficiently perform its obligations under the Licence. The LPM is necessary to ensure the continuous, safe and reliable supply of electric power to the consumers keeping in view the financial and technical viability of the Licensee.

**(F). Approval of LPM**

(i). In view of the above, the Authority is satisfied that QTML has complied with all the requirements of the Licensing Regulations pertaining to the




modification. Therefore, the Authority in terms of Regulation-10(11)(a) of the Licensing Regulations approves the communicated LPM.

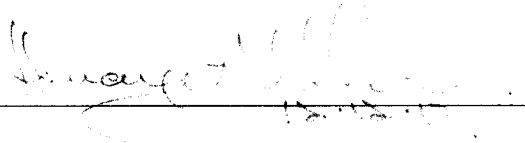
(ii). Accordingly, the distribution licence (No. 16/DL/2006, dated November 14, 2006) is hereby modified. The changes made in the distribution licence are attached as annexure to this determination. The approval of the LPM will be subject to the provisions contained in the NEPRA Act, relevant rules framed there under, terms & conditions of the distribution licence and other applicable documents.

**Authority**

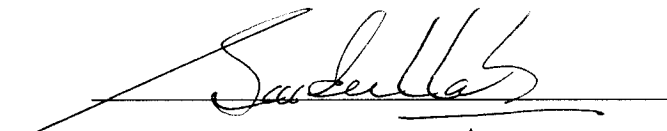
Syed Masood-ul-Hassan Naqvi  
(Member)

  
11/12

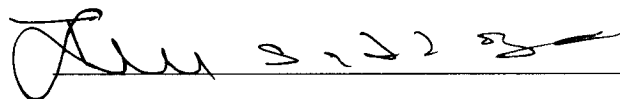
Himayat Ullah Khan  
(Member)

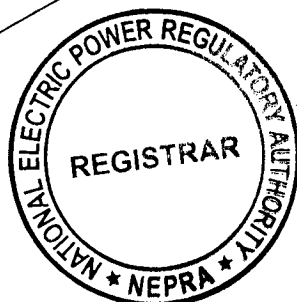
  
12/12/17

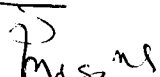
Saif Ullah Chattha  
(Member/Vice Chairman)

  
13.12.2017

Tariq Saddozai  
(Chairman)





  
15/12/17

**National Electric Power Regulatory Authority  
(NEPRA)**

Islamabad – Pakistan

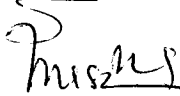
**DISTRIBUTION LICENCE**

**16/DL/2006**

In exercise of the Powers conferred upon under Section-26 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, the Authority hereby modifies the distribution licence (No.16/DL/2006, dated November 14, 2006, granted to Quetta Textile Mills Limited to the extent of changes mentioned hereunder:-

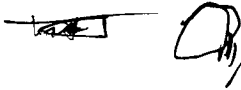
- (i). The Changes made in the Distribution Licence are described in the attached Annexure-A.

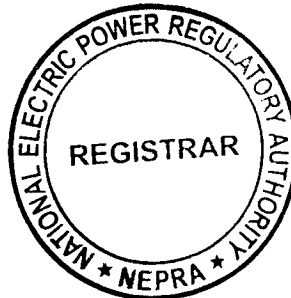
This **Modification-II** is given under my hand on 15<sup>th</sup> day of **December Two Thousand & Seventeen.**



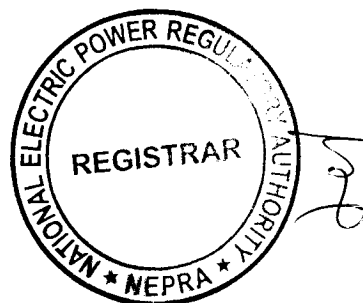
15 12 17

**Registrar**





**Annexure-A** 



**Modification-II**  
**in the Distribution Licence (No. 16/DL/2006, dated**  
**November 14, 2006) of Quetta Textile Mills Limited**

**(A). Article-5: The term and renewal of licence**

Article-5 of the Distribution Licence is modified as;

- 5.1 The term of this Distribution Licence is co-terminus with the validity of the modified term of the Generation Licence (No. SGC/014/2002, dated January 31, 2002) issued to Quetta Textile Mills Limited (QTML) or up to the date on which all the Consumers mentioned in schedule-II of the Distribution Licence stop consuming power on permanent basis from QTML, whichever is earlier.
- 5.2 Unless suspended or revoked earlier, the Licensee may apply for renewal of the Licence within ninety (90) days prior to the expiry of the term of the Licence, as stipulated in the Licensing Regulations.

