



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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No. NEPRA/R/DL/LAG-13/16314-20

December 05, 2016

Mr. Muhammad Danish Hussain,
Chief Financial Officer,
Habibullah Coastal Power Company (Private) Limited,
C-18, Block 4,
Clifton, Karachi.

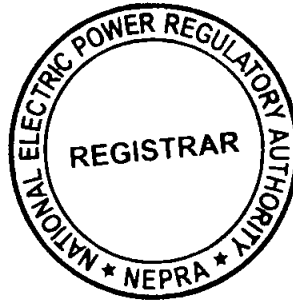
Subject: Modification-I in Generation Licence No. IPGL/012/2003
Habibullah Coastal Power Company (Private) Limited (HCPCPL)

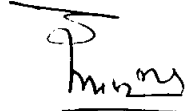
Reference: Your letter No. Nil, dated May 27, 2016 (received on May 30, 2016)

It is intimated that the Authority has approved "Licensee Proposed Modification" in Generation Licence No. IPGL/012/2003 (issued on August 26, 2003) in respect of M/s Habibullah Coastal Power Company (Private) Limited (HCPCPL) pursuant to Regulation 10(11)(a) of the NEPRA Licensing (Application and Modification Procedure) Regulations 1999.

2. Enclosed please find herewith determination of the Authority in the matter of Licensee Proposed Modification in the Generation Licence of HCPCPL along with Modification-I in the Generation Licence No. IPGL/012/2003, as approved by the Authority.

Encl:/As above




05.12.16
(Syed Safeer Hussain)

Copy to:

1. Chief Executive Officer, NTDC, 414-WAPDA House, Lahore.
2. Chief Executive Officer, CPPA-G, 6th Floor, Shaheed-e-Millat Sectariat, Jinnah Avenue, Blue Area, Islamabad.
3. Chief Executive Officer, Quetta Electric Supply Company (QESCO), Zarghoon Road, Quetta.
4. Director General, Environmental Protection Department, Government of Balochistan, Zarghoon Road, Quetta.
5. Chief Secretary, Government of Balochistan, Balochistan Secretariat, Quetta.
6. Sui Southern Gas Company Limited, ST-4/B, Block 14, Sir Shah Suleman Road, Gulshan-e-Iqbal, Karachi.

National Electric Power Regulatory Authority
(NEPRA)

Determination of the Authority
in the Matter of Licensee Proposed Modification of
Habibullah Coastal Power Company (Private) Limited

November 24, 2016
Case No. LAG-13

(A). Background

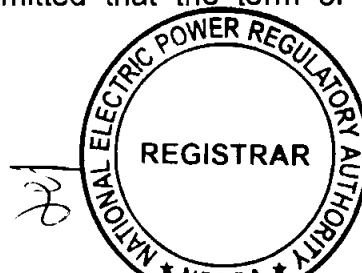
(i). Habibullah Coastal Power Company (Private) Limited (HCPCPL) has set up a natural gas based generation facility with an installed capacity of 140 MW, located at Sheikh Manda, Quetta, in the province of Balochistan as an Independent Power plant under the Power Policy of 1994.

(ii). The Authority granted a generation licence (No. IPGL/012/2003, dated August 26, 2003) to HCPCPL in terms of Section-15 of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("the NEPRA Act"), for a term of thirteen (13) years from the date of issuance of generation licence up to August 25, 2016.

(B). Communication of Modification

(i). HCPCPL in accordance with Regulation-10(2) of the NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 ("the Licensing Regulations"), communicated a Licensee Proposed Modification (LPM) on May 30, 2016 for modification of the term of its generation licence.

(ii). In the "Text of the Proposed Modification", HCPCPL submitted that it intends to modify its generation licence by extending its term from thirteen (13) years to twenty five (25) years. Regarding the "Statement of the Reasons in Support of the Modification", HCPCPL submitted that the term of its Power



Purchase Agreement (PPA) is thirty (30) years from Commercial Operations Date (COD), whereas, the term of its generation licence is thirteen (13) years ending on August 25, 2016 and the company requires further extension in the term of generation licence in order to make it consistent with the term of the PPA".

(iii). About the "Statement of the Impact on the Tariff, Quality of Service and the Performance by the Licensee of its Obligations under the licence", HCPCPL submitted that the proposed LPM will not have any adverse impact on the tariff, quality of service and its performance under the Licence.

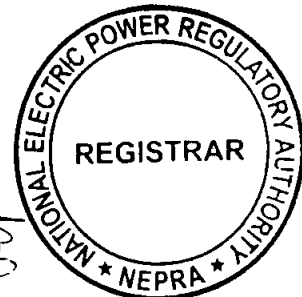
(C). Processing of LPM

(i). After completion of all the required information as stipulated under the Regulation-10(2) and 10(3) of the Licensing Regulations by HCPCPL, the Registrar published the communicated LPM on June 11, 2016 in one (01) English and one (01) Urdu newspaper, informing the general public about the communicated LPM and inviting their comments within a period of fourteen (14) days from the date of the said publication.

(ii). Apart from the above, separate letters were also sent to other stakeholders including Government Ministries and their attached departments, various representative organization and individual experts etc. to seek their views and comments in the matter for assistance of the Authority.

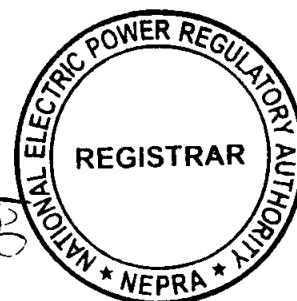
(D). Comments of Stakeholders

(i). In reply to the above, the Authority received comments from only one (01) stakeholder. This included Sui Southern Gas Company Limited (SSGC). The salient points of the comments offered by the said stakeholder are summarized in the following paragraphs:-



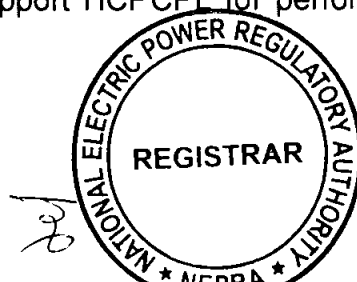
(a). SSGC in its comments has submitted that it executed a Gas Supply Agreement (GSA) with HCPCPL on March 31, 1996 for a period of 20 years. Under the said GSA and the gas allocation letter of Ministry of Petroleum and Natural Resources, Government of Pakistan annexed to the GSA, HCPCPL was allocated a delivery priority gas allocation (of 21 MMSCF plus 4 MMSCF as and when available per day) on a Take or Pay basis. Based on the above mentioned letter gas allocation to HCPCPL will lapse in the year 2018. After expiry of gas allocation letter SSGC will not be in a position to continue supplying gas to HCPCPL on the allocated delivery priority basis and SSGC may not be able to renew or extend the GSA with HCPCPL beyond the year 2018. Further, SSGC also informed that currently HCPCPL and SSGC are involved in International Court Arbitration proceedings in Singapore for disputes arising under the GSA, specifically regarding entitlement of HCPCPL to delivery priority (which HCPCPL contends is 25 MMSCF instead of 21 + 4 MMSCF) and the claim of SSGC for substantial outstanding payments under the Take or Pay arrangements as well as for unpaid gas bills and insufficient gas security deposit, being the breaches under the GSA. Moreover, SSGC suggested that HCPCPL may operate its plant on HSD or make alternate arrangements for the period beyond 2018 instead of relying on natural gas in order to maintain its production capacity.

(ii). The above comments of SSGC were examined and it was observed that the said stakeholder has raised certain observations regarding communicated LPM of HCPCPL. In view of the said, HCPCPL was directed to submit its reply to the observations of SSGC.



(iii). In its reply to the comments of SSGC, HCPCPL submitted the following:-

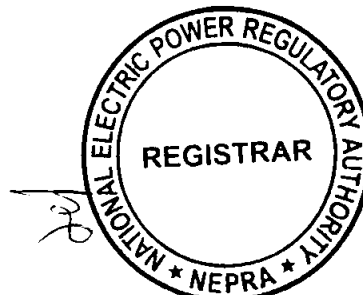
- (a). Existence and contents of arbitration proceedings between HCPCPL and SSGC are strictly confidential and HCPCPL is not in a position to comment on the same. However, HCPCPL denied being in breach of any payment or other obligation to SSGC. HCPCPL contended that apart from being confidential, the arbitration proceedings in Singapore are a separate matter between the two companies that does not affect existing or future contractual obligations. HCPCPL is the owner and operator of a power plant in Quetta, Balochistan province. The plant became operational on 11 September 1999. Since then the plant has supplied electric power to WAPDA pursuant to a PPA.
- (b). The initial term of the said PPA was twenty (20) years from the COD. This was the same as the initial term of the GSA entered into between HCPCPL and SSGC and the Implementation Agreement (IA) entered into between HCPCPL and the GOP. Under the terms of the IA, GOP promised to support and make all reasonable efforts to expedite the consideration of applications of HCPCPL for the consents or re-issuance thereof. The consents defined in the IA include all approvals, licenses and permits required to be obtained by HCPCPL from a relevant governmental authority in order to operate the plant. The generation license is one of these consents and is accordingly subject to the promised support of GOP.
- (c). Moreover, under the terms of the IA, the GOP promised to use its good offices to support HCPCPL for performance of



its obligations to construct and operate the plant. Thus the contents of the letter of SSGC do not, in any way, concern or can affect the LPM application of HCPCPL before the Authority. In response to the observation of SSGC regarding lapse of obligations under GSA, HCPCPL submitted that the expiry date of the GSA is a commercial matter between HCPCPL and SSGC and the same is not relevant to the communicated LPM of HCPCPL. HCPCPL has communicated the LPM to enable it to continue the generation of electricity for supply to WAPDA in accordance with its ongoing contractual commitments which plays an important part to meet the electricity needs of the consumers of Baluchistan province.

- (d). Further the stance of SSGC regarding expiry of its obligations under the GSA is plainly wrong. SSGC remains obligated to provide gas to HCPCPL pursuant to the terms of the delivery priority set out in the GSA until the expiry of the GSA and the expiry date of the GSA is clearly defined as being "the date following the expiration of 20 years after the COD and is therefore in September 2019. This obligation supersedes and is not affected by the earlier gas allocation letter referred by SSGC. HCPCPL contended that in light of its submissions, it is clear that the observations of SSGC regarding its communicated LPM do not, in any way, concern or can affect its communicated LPM.

(iv). The above submissions of HCPCPL were examined and found to be satisfactory. In view of the said, it was considered appropriate to proceed further with the communicated LPM as stipulated in the Licensing Regulations and the NEPRA Licensing (Generation) Rules, 2000 ("the Generation Rules").



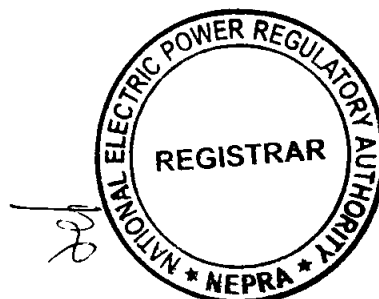
(E). Analysis of the Authority

(i). The Authority has examined the entire case in detail including the already granted generation licence, communicated LPM, comments of the stakeholder, provisions of PPA & GSA, and relevant Rules and Regulations.

(ii). In terms of Regulation-10(5) of the Licensing Regulations, the Authority is empowered 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.

(iii). The Authority has observed that originally HCPCPL was granted the generation licence for a period of thirteen (13) years. Now, HCPCPL intends to modify its above mentioned generation licence by extending its term till the validity of its PPA and HCPCPL has submitted that the term of its PPA is thirty (30) years from the COD.

(iv). In this regard, the Authority examined the provisions of the PPA which transpired that HCPCPL entered into PPA with the Pakistan Water And Power Development Authority (WAPDA) on March 25, 1996 for a period of twenty (20) years from the COD of the project which is September 11, 1999. Therefore, the said PPA is valid for twenty (20) years only (i.e. till September 10, 2019) and not for thirty (30) years as contended by HCPCPL.



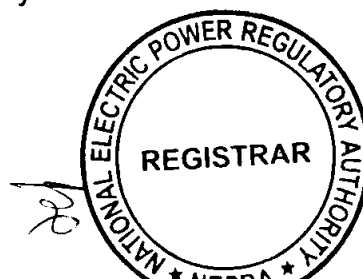
(v). Regarding the comments of SSGC, the Authority has observed that as per provisions of GSA entered into by HCPCPL and SSGC on March 31, 1996, the term of the same is also twenty years from COD of the project. Therefore, the said GSA is also valid till September 10, 2019.

(vi). The term of a generation licence under Rules-5(1) of the Generation Rules is to commensurate with the maximum expected useful life of the units comprised in a generating facility, except where an applicant consents to a shorter term. In this regard, the Authority has observed that though the useful life of the generation facility is valid for another thirteen years, the Licensee has requested for extension in the term of generation licence till the expiry of PPA which is valid till September 10, 2019. Further, it is also observed that GSA entered into between the Licensee and SSGC is also valid till September 10, 2019. Therefore, term of the licence can be extended till September 10, 2019.

(vii). In view of the above analysis the Authority considers that the communicated LPM will not have any adverse effect on the performance of the Licensee of its obligations as it will enable the Licensee to supply the available energy for another two years. 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 cheap electricity will be available to the power purchaser for another three (03) years. 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). Keeping in view the term of PPA and GSA, the Authority is of the considered view that the generation facility of HCPCPL can continue its

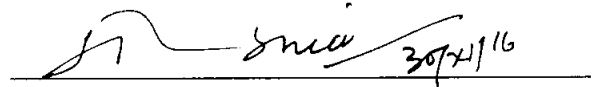


operations and inject electric power in the national grid till September 10, 2019, which will be beneficial for the consumers of the country. Therefore, the Authority hereby approves the communicated LPM of HCPCPL in terms of Regulation-10(11)(a) of the Licensing Regulations with changes and extends the term of the generation licence (No. IPGL/012/2003, dated August 26, 2003) of HCPCPL till September 10, 2019.

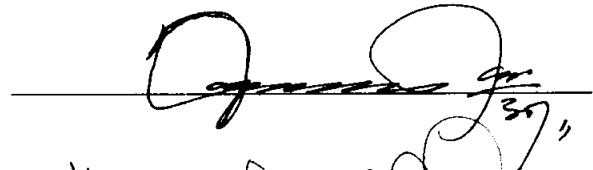
(ii). Accordingly, the generation licence (No. IPGL/012/2003, dated August 26, 2003) in the name of HCPCPL is hereby modified. The changes in "Face Sheet", of the generation licence are attached as annexure to this determination. The approval of LPM will be subject to the provisions contained in the NEPRA Act, relevant Rules & Regulations framed thereunder, terms & conditions of the generation licence and other applicable documents.

Authority:

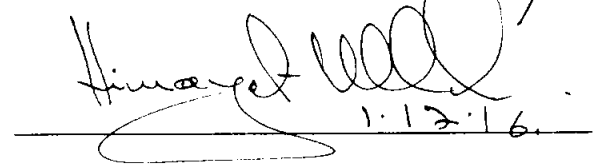
Maj. (R) Haroon Rashid
(Member)

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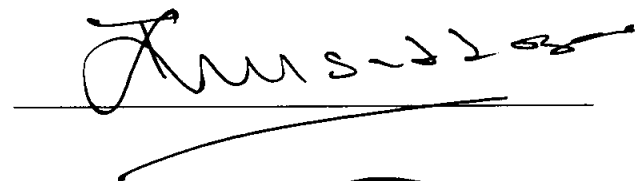
Syed Masood-ul-Hassan Naqvi
(Member)

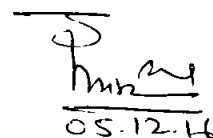
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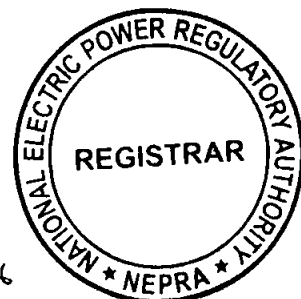
Himayat Ullah Khan
(Member/Vice Chairman)

 1.12.16

Tariq Saddozai
(Chairman)



 05.12.16



National Electric Power Regulatory Authority (NEPRA)

Islamabad – Pakistan

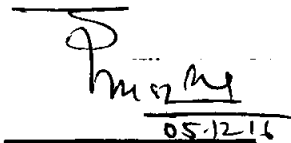
Generation Licence

IPGL/012/2003

In exercise of the Powers conferred upon the National Electric Power Regulatory Authority (NEPRA) under Section-26 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, the Authority hereby modifies the term of the Generation Licence (No. IPGL/012/2003, dated August 26, 2003) granted to Habibullah Coastal Power (Private) Company. The changes made in the Generation Licence are described in the attached Annexure-A.

This **Modification-I** is given under my hand on 5th of December ~~November~~


Two Thousand & Sixteen


05.12.16

Registrar

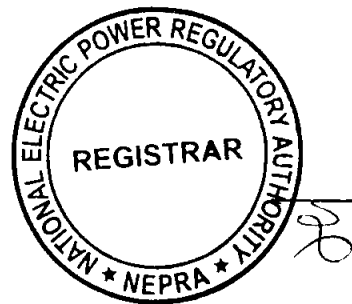








Annexure-A



Modification-I
in Generation Licence (No. IPGL/012/2003, dated August 26, 2003) of Habibullah Coastal Power (Private) Company

(A). Face Sheet

- (i). On the Face Sheet (i.e. the first page of the generation licence), in the last line the phrase "expires on 25th day of August, Two Thousand & Sixteen" is deleted and is replaced by the phrase "expires on 10th day of September, Two Thousand & Nineteen."

(B). Article-4

- (i). Article-4(1) of the generation licence is rephrased as "the term of this Licence is valid upto September 10, 2019."

