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National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/R/DG(Lic)/LAG-05/193-98


May 12, 2022

Chief Executive Officer
K-Electric Limited (KEL)
KE House, Punjab Chowrangi,
39 – B, Sunset Boulevard, Phase-II
Defence Housing Authority,
Karachi.

Subject: **Order of the Authority in the matter of Review Petition filed by K-Electric Limited against the Determination of the Authority regarding Modification – XI in the Generation Licence of K-Electric Limited**

Enclosed please find herewith Order of the Authority dated May 12, 2022 (05 Pages) in the matter of Review Petition filed by K-Electric Limited against the Determination of the Authority regarding Modification – XI in the Generation Licence of K-Electric Limited. for information.

Enclosure: As above



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(Syed Safer Hussain)

CC:

1. Secretary, Ministry of Energy, Power Division, 'A' Block, Pak Secretariat, Islamabad.
2. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
3. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.
4. Secretary, Privatization Commission, 4th Floor, Kohsar Block, Constitution Avenue, New Secretariat, Islamabad
5. Chief Executive Officer, Central Power Purchasing Agency Guarantee Limited (CPPA-G), Shaheen Plaza, 73-West, Fazl-e-Haq Road, Islamabad

Nation Electric Power Regulatory Authority
(NEPRA)

Order of the Authority
in the Matter of Review Petition filed by K-Electric Limited
Against the Determination of the Authority Regarding Modification-
XI in the Generation Licence of K-Electric Limited

May 12th, 2022
Case No. LAG-05

This order shall dispose of the review petition filed by K-Electric Limited (KEL) against the determination of the Authority dated September 15, 2021 in the matter of Licensee Proposed Modification-XI (Modification-XI) in the Generation Licence of KEL.

(A). Background

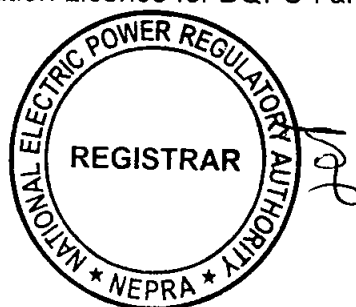
(i). The Authority under Section-15 (now Section-14B) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "NEPRA Act") granted a Generation Licence (No. GL/04/2002 dated November 18, 2002 and subsequent modifications from time to time) to K-Electric Limited (KEL) for its six (06) distinctly located generation facilities/thermal power plants.

(ii). According to the above-mentioned Generation Licence, the installed capacity of generation fleet of KEL is 2817.114 MW consisting of (a). 840.00 MW BQPS-I; (b). 247.50 MW Combined Cycle Power Plant (CCPP) at Korangi/CCPP Korangi; (c). 107.312 MW CCPP Korangi Town Gas Engine Power Station/KTGEPS; (d). 107.312 MW CCPP at SITE Gas Turbine Power Station/SGTPS; (e). 572.67 MW CCPP at Bin Qasim Power Station-II/ BQPS-II; and (f). 942.32 MW BQPS-III.

(iii). In accordance with Regulation-10(2) of the NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 (the "Licensing Regulations"), KEL communicated a Licensee Proposed Modification (LPM) in its above-mentioned Generation Licence on April 19, 2021. In the communicated LPM, it was requested that KEL be allowed to utilize Unit-3 of BQPS-I to generate power on an interim basis from May 2021 till July 2021 and addition of Pakistan LNG Limited (PLL) as backup RLNG supplier in its Generation Licence for BQPS-I and BQPS-II, in







addition to Sui Southern Gas Company Limited (SSGC), the main fuel supplier for (Natural Gas and RLNG).

(iv). In this regard, the Authority through its determination dated September 15, 2021 inter alia allowed interim utilization (i.e. from May 01, 2021 to August 15, 2021) of Unit-3 (210.0 MW) of BQPS-I. Further, the Authority decided that the cost of interim operation of Unit-3 of BQPS-I be passed on to the consumers to the extent of fuel cost component of BQPS-III and any incremental/additional cost incurred should be borne by KEL itself.

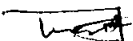
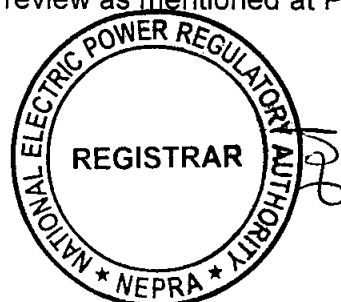
(B). Review Petition Filed by the KEL

(i). KEL, being aggrieved of the said decision of the Authority, filed a motion on September 28, 2021 for review under Regulation-3(2) of the Review Regulations. In its review petition, KEL requested the Authority to review its decision regarding linking the payment of fuel cost component of interim operation of Unit-3 of BQPS-I with Commercial Operation Date (COD) of BQPS-III and to allow full cost of operations of the said unit, highlighting different grounds for review.

(ii). The grounds of review submitted by KEL mainly included that (a). KEL executed the option of interim operation of Unit-3 of BQPS-I in the best interests of the consumers to avoid additional load management during summer months; (b). as per its Generation Licence, the anticipated COD of BQPS-III is July 31, 2021 and hence the deductions for operations of Unit-3 of BQPS-I during June and July 2021 have no nexus with the commissioning of BQPS-III; (c). it pursued BQPS-III on a fast-track basis; however, the project got delayed due to reasons beyond its control; and (d). there is no precedence of disallowance of fuel cost of operations of other plants based on Economic Merit Order (EMO) and there is no such condition or mechanism for adjustment mentioned in its MYT for delay in COD.

(C). Admission of Review Petition and Opportunity of Hearing

The Authority considered the matter in its Regulatory Meeting and admitted the review petition filed by KEL for further proceedings under the Review Regulations. Accordingly, the Authority provided an opportunity of hearing to KEL, under Regulation 3(9) of the Review Regulations which was held on November 23, 2021. In the said hearing, the representatives of KEL presented the case before the Authority. In its presentation, KEL reiterated the grounds of review as mentioned at Para-B(ii) above.



(D). Observation/Analysis

(i). The Authority has examined the entire case in detail, including Generation Licence of KEL, relevant Modification in the Generation Licence of KEL, review petition filed by KEL, relevant rules and regulations and other facts related to the case.

(ii). In this regard, the Authority has considered the submission, including other relevant facts of the case and observed that under Section-15 (now Section-14B) of the NEPRA Act, it granted a Generation Licence (No. GL/04/2002 dated November 18, 2002 and subsequent modifications from time to time) to KEL for its six (06) distinctly located generation facilities/thermal power plants.

(iii). As per the Generation Licence, the generation fleet of KEL currently consists of (a). 840.00 MW BQPS-I; (b). 247.50 MW Combined Cycle Power Plant (CCPP) at Korangi/CCPP Korangi; (c). 107.312 MW CCPP Korangi Town Gas Engine Power Station/KTGEPS; (d). 107.312 MW CCPP at SITE Gas Turbine Power Station/SGTPS; (e). 572.67 MW CCPP at Bin Qasim Power Station-II/ BQPS-II; and (f). 942.32 MW BQPS-III.

(iv). Regarding BQPS-I, it is relevant to mention that initially its capacity was 1260 MW (6x210 MW) however, through Modification-IX dated December 07, 2020, Unit No.3&4 (2x210 MW) of BQPS-I were excluded from the Generation Licence of KEL on account of low plant availability owing to frequent forced outages, high cost of fuel and low efficiencies. Further, through the said modification, an efficient plant in the name of BQPS-III was included in the Generation Licence of KEL.

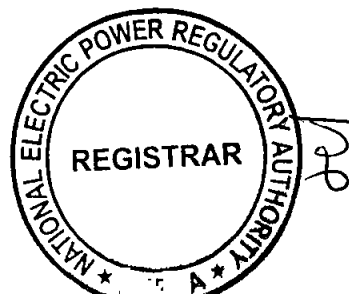
(v). The Authority has reviewed/examined the grounds of review filed by KEL. Regarding submission of KEL that it executed the option of interim operation of Unit-3 of BQPS-I in the best interests of consumers to avoid additional load management during summer months, the Authority has observed that contrary to the facts, Unit-3 of BQPS-I which KEL excluded from its Generation Licence through LPM declaring it to be inefficient, unviable and unreliable, at once became the best possible option because there was no other option available. Had KEL commissioned BQPS-III within the stipulated timelines, the utilization of the inefficient Unit-3 of BQPS-I would not have been the best option.



(vi). On the submission of KEL regarding delay in COD against the communicated timelines and that the deductions for interim operations of Unit-3 of BQPS-I have no nexus with the commissioning of BQPS-III, the Authority has observed that through its determination dated October 09, 2017 it allowed investment of BQPS-III to KEL to complete the project according to the provided timelines. In this regard, it is observed that initially KEL vide its letter dated September 18, 2017, communicated that Unit-1 of BQPS-III will achieve CODs on July 2018 (Simple Cycle) and July 2019 (Combined Cycle). Similarly, the COD of Unit-2 of BQPS-III was communicated as April 2019 (Simple Cycle) and December 2019 (Combined Cycle). However, the same has not been made operational as per the timelines provided by KEL itself. Even after the lapse of more than years of the cost allowed to it, KEL was not sure about the COD of BQPS-III. Accordingly, at the time of issuance of Modification-X dated February 19, 2021 only an indicative COD of BQPS-III was mentioned in the Generation Licence as July 31, 2021. However, till dated KEL has failed to achieve the required COD, due to which electricity is being generated from expensive inefficient units (like Unit-3 of BQPS-I) and the impact of additional cost is reflected in the monthly FCA of KEL, burdening the consumers.

(vii). Regarding submission of KEL that there is no precedence of disallowance of fuel cost of operations of other plants based on Economic Merit Order (EMO) and there is no such condition or mechanism for adjustment mentioned in its MYT for delay in COD, the Authority has observed the exercise of EMO verification for NTDC/NPCC being carried out on a monthly basis, is based on the fact that in case expensive plants are operated out of merit order, the resulting impact is not passed onto the consumers. Since KEL is a vertically integrated utility, with autonomy in decision-making within its jurisdiction, any failure on part of KEL to provide economical electricity to its consumers cannot be passed on to the consumers.

(viii). Further, it is clarified that the Authority makes decisions in the larger public interest after prudency check and it is not necessary to have any precedence for each new decision. Similarly, in the current case, there was no precedence or specific provision in the relevant regulations regarding allowing/adding of a generating unit in a licence on short-term interim basis. However, to facilitate the consumers and to avoid load shedding in hot summer season, the Authority allowed the same. Therefore, the Authority is of the view that the position taken by KEL that there is no precedence or adjustment mechanism of disallowance of fuel cost of operation of



Unit 4

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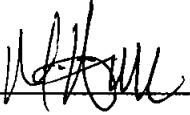
other plants based on EMO, is also not acceptable.

(ix). In view of the above, the Authority is of the considered view that delay in achieving the COD for BQPS-III and the subsequent interim utilization of the inefficient Unit-3 of BQPS-I are merely due to the poor performance of KEL and the consumers should not be charged for the inefficiencies of KEL. Further, there is no discovery of new evidence or an error apparent on the face of record which could lead to alteration/review of the Authority's decision dated September 15, 2021.


(E). Decision of the Authority

In view of the foregoing, the Authority hereby decides to reject the review petition filed by the KEL against decision of the Authority dated September 15, 2021 in the matter of LPM in the Generation Licence of KEL and decides to uphold its earlier decision dated September 15, 2021

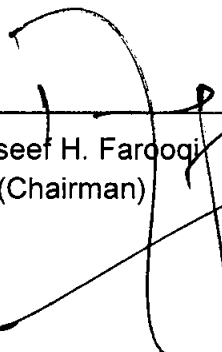
Authority



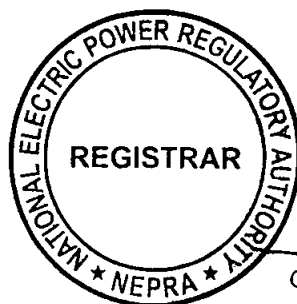
(Engr. Maqsood Anwar Khan)
(Member)

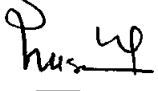


(Rafique Ahmad Sheikh)
(Member)



Tauseef H. Farooqi
(Chairman)





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