



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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No. NEPRA/R/LAG-255/23962-67

May 05, 2021

Chief Executive Officer,
Reshma Power Generation (Private) Limited,
8th Floor, Aashiana Shopping Center, 78-D/1,
Main Boulevard Gulberg III,
Lahore.

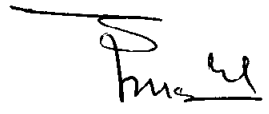
Subject: Modification in Generation Licence No. IGSPL/58/2015
Licence Application No. LAG-255
Reshma Power Generation (Private) Limited (RPGPL)

Reference: RPGPL's LPM submitted vide letter dated May 05, 2020.

Enclosed please find herewith determination of the Authority in the matter of Licensee Proposed Modification in the Generation Licence of RPGPL for your information and necessary action.

Enclosure: As above




050521
(Syed Safeer Hussain)

Copy to:

1. Secretary, Power Division, Ministry of Energy, A-Block, Pak Secretariat, Islamabad.
2. Managing Director, NTDC, 414-WAPDA House, Lahore.
3. Chief Executive Officer, CPPA-G, ENERCON Building, Sector G-5/2, Islamabad.
4. Chief Executive Officer, Lahore Electric Supply Company Limited, 22-A, Queens Road, Lahore.
5. Director General, Environmental Protection Department, Government of Punjab, National Hockey Stadium, Ferozpur Road, Lahore

National Electric Power Regulatory Authority
(NEPRA)

Determination of the Authority
in the Matter of Licensee Proposed Modification in the Generation
Licence of Reshma Power Generation (Pvt.) Limited

May 05
April, 2021
Case No. LAG-255

(A). Background

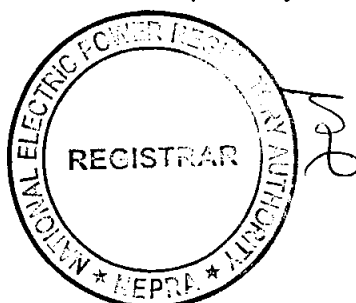
(i). In terms of Section-15 (now Section-14B) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "NEPRA Act"), the Authority granted a Generation Licence (No. IGSP/58/2015 dated April 20, 2015 and Modification-I dated January 01, 2020) to Reshma Power Generation (Private) Limited (RPGPL). The Generation Licence was granted under the Policy Framework for Utilization of the Available Power Generation Capacity, Short Term Independent Power Producers (STIPP Policy) approved by the Economic Coordination Committee of the Cabinet (ECC).

(ii). The above mentioned Generation Licence was granted to RPGPL for its 96.96 MW RFO based generation facility/thermal power plant located at 4.5 KM Link Manga-Raiwind Road, Raiwind, District Lahore, in the Province of Punjab. It is relevant to mention that RPGPL was one of the Rental Power Projects (RPPs) which started production and remained in operation for some time. However, on the order of the Supreme Court of Pakistan, the generation facility/thermal power plant had to be shut down as the Rental Service Agreement (RSA) was rescinded.

(B). Communication of Modification

(i). RPGPL in accordance with Regulation-10(2) of the NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 (the "Licensing Regulations") communicated a Licensee Proposed Modification (LPM) in its above mentioned Generation Licence on May 11, 2020.

(ii). In the "text of the proposed modification", RPGPL proposed to extend the term of its licence upto May 24, 2030. About "statement of the reasons in



support of the modification", RPGPL has stated that after expiry of existing Power Purchase Agreement (PPA) with CPPA-G, it intends to operate its plant to sell its output for which various options are under its active consideration. Therefore, it requires extension in its existing licence for its electric power generation business.

(iii). Regarding the "statement of the impact on the tariff, quality of service and performance by the licensee of its obligation under the licence", RPGPL informed that the tariff, quality of service and the performance of the company of its obligations under the Generation Licence will not be affected by the proposed modification.

(C). Processing of Modification

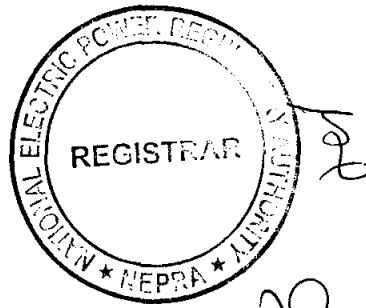
(i). After completion of all the required information as stipulated under the Regulation-10(2) and 10(3) of the Licensing Regulations by the licensee, the Registrar published the communicated LPM in one (01) English and one (01) Urdu daily newspaper on May 29, 2020 to seek comments of the general public, interested/affected parties, and different stakeholders about the said LPM as required under the Regulation-10(4) of the Licensing Regulations.

(ii). Apart from the above notice in the press, separate letters were also sent to Government Ministries/attached departments and other representative organizations and others on June 08, 2020. Through the said letters, the stakeholders were informed about the communicated LPM and publication of notice in the press and 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 National Accountability Bureau, Rawalpindi (NAB) and Central Power Purchasing Agency (Guarantee) Limited (CPPA-G). The salient points of the comments offered by the said stakeholders are summarized in the following paragraphs: -

(a). NAB in its comments intimated that the matter of RPGPL

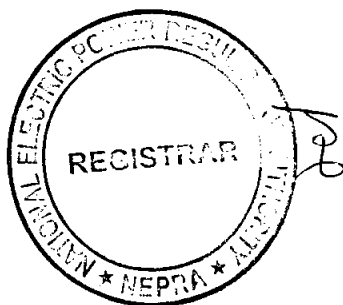


(reference no. 14/2017) is subjudice before Accountability Court, Islamabad.

(b). CPPA-G in its comments submitted that under the STIPP policy of the Government, RPGPL and Gulf Powergen (Pvt.) Limited (GPGPL) were allowed to operate their plants for three (03) years term starting from their CODs i.e. May 25, 2017 and expired on May 24, 2020. As such the term of aforesaid STIPPs have been expired, however, considering requests made by the STIPPs for extension in the term for another three years, BoD of CPPA-G vide its board resolution dated April 08, 2019 agreed *inter-alia*, to extend the agreement for three (03) years under same terms and conditions on Take and pay mode subject to the approval from ECC. Pursuant to the aforementioned board resolution, CPPA-G, vide letters dated April 10, 2019 & September 25, 2019 requested MoE (Power Division) to seek necessary approval from ECC in the matter. In view of the said, CPPA-G has already given its consent in the matter of extension subject to approval of ECC, therefore, no further comments are needed.

(ii). The Authority examined the above comments of NAB and CPPA-G and considered it appropriate to seek prospective of RPGPL on the comments of NAB. In response, RPGPL submitted that NAB has already closed inquiry against the company. In support of its stance, RPGPL provided copies of document including (a). Inquiry closure letter issued by NAB dated August 07, 2012 for closure of proceedings against RPGPL; (b). Consent/NOC of NAB dated August 12, 2012 to NEPRA for grant of Generation Licence to RPGPL; and (c). Consent/NOC of NAB dated April 15, 2016 to CPPA-G for utilization/operation of plant of RPGPL.

(iii). The above submissions/reply of RPGPL to the comments of NAB have been examined and found satisfactory. Further, the reply/clarifications submitted by RPGPL were forwarded to NAB, however, no further observations/comment were received from NAB.

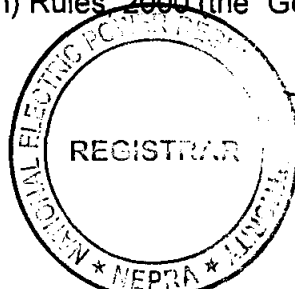


(iv). On the observations of CPPA-G, the Authority considered it appropriate (a). to seek specific response from Ministry of Energy (MoE) regarding current status of the STIPP Policy and the proposed extension in the term of Generation Licence of RPGPL; and (b). to seek explanation from CPPA-G for giving consent to extend the PPA with RPGPL for purchasing expensive electricity whereas at many forums it has opposed purchase of cheaper energy from RE projects.

(v). In response, CPPA-G submitted that RPGPL was allowed to operate under STIPP Policy for three (03) years term which expired on May 24, 2020. On the extension request of RPGPL, MoE asked CPPA-G to look for the possibilities to extend the term of these plants. Considering the absence of policy/guidelines of GoP, the BoD decided to consider the request of RPGPL on same terms and conditions i.e. take and pay basis subject to the approval from the ECC. CPPA-G further stated that its above mentioned consent is conditional and subject to the approval of ECC, however, the Authority may deliberate upon it while summary of the ECC is circulated and shared with all the stakeholders for comments.

(vi). Regarding opposing the cheaper RE projects, CPPA-G submitted that its stance is based on the fact that Generation Licence and tariff should be granted to only those plants which have firm commitments under IGCEP, irrespective of fuel & technology etc. More importantly, as RE projects fall in the category of MUST RUN plants for which certain liabilities like NPMV have to be paid off regardless of their requirement. CPPA-G being power purchaser is committed to its obligations under Market Operator Rules, 2015 conferred by the regulator based on which it honors and acknowledges only those projects which are part of IGCEP, to avoid capacity trap in the system.

(vii). Regarding the issues of (a). the status of the STIPP Policy under which RPGPL was established; and (b). the proposed extension in the term of Generation Licence of RPGPL till May 24, 2030; the Authority has regrettfully observed that despite lapse of considerable period, the MoE did not provide its position. In view of the said, the Authority considered it appropriate to proceed further in the matter as stipulated in the Licensing Regulations and the NEPRA Licensing (Generation) Rules, 2000 (the "Generation Rules").



(E). Evaluation/Findings

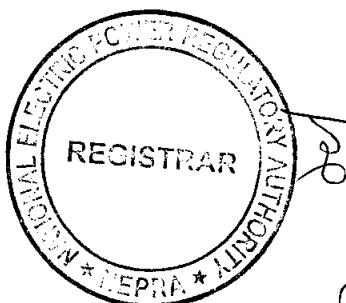
(i). The Authority examined the entire case in detail including the already granted Generation Licence, Modification-I in the Generation Licence, information submitted along with the application of LPM and relevant rules & regulations. The observations/findings of the Authority in the matter are as follows.

(ii). In this regard, it is relevant to mention that in 2015 the ECC on a summary of Ministry of Water and Power (now MoE) decided to add in the system, the available dormant generation capacity, to cater for the increasing demand of electric power in the country. The summary envisaged utilizing the dormant capacity of the previous RPPs including RPGPL duly cleared by NAB, subject to the grant of Generation Licence and approval of tariff by the Authority.

(iii). In this regard, the Authority has observed that it granted a Generation Licence (No. IGSPL/58/2015 dated April 20, 2015 and subsequently modified through Modification-I dated January 01, 2020) to RPGPL for its 96.96 MW thermal generation facilities located at 4.5 KM Link Manga-Raiwind Road, Raiwind, District Lahore, in the Province of Punjab.

(iv). The above mentioned Generation Licence was granted explicitly under the STIPP Policy which was enacted vide the decision taken by the ECC under case No. 02/01/2015 dated January 10, 2015. The ECC approval of the STIPP Policy prescribes a time limit of three (03) years for the projects enacted thereunder. Accordingly, the Authority granted a Generation Licence to RPGPL in 2015 for a period of three (03) years commencing from COD of the generation facility/thermal power plant. In this regard it is relevant to mention that initially the expected COD of the project was set as April 30, 2015 based on which the expiry date of the Generation Licence was set to April 29, 2018.

(v). Further, the Authority determined up-front tariff for the projects to be implemented under the STIPP Policy on April 17, 2015 for supplying power to CPPA-G/Power Purchaser on take and pay basis. RPGPL applied for unconditional acceptance of the said tariff and the Authority through its determination dated February 04, 2016 granted up-front tariff to RPGPL. However, RPGPL was able to

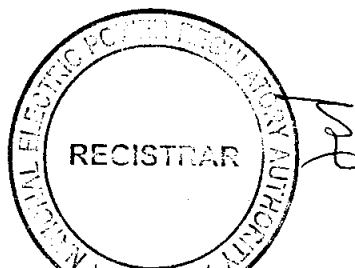


start operation only after signing/entering PPA with CPPA-G on May 25, 2017. Accordingly, through Modification-I dated January 01, 2020, term of the Generation Licence was extended till May 24, 2020.

(vi). Now, through the communicated LPM under consideration, the Licensee/RPGPL intends to extend the term of its Generation Licence for another ten (10) years. Regarding LPM in the Generation Licence, the Authority has observed that Regulation-10(2) of the Licensing Regulations stipulates that a licensee may, at any time during the term of a licence, communicate to the Authority an LPM setting out (a). the text of the proposed modification; (b). a statement of the reasons in support of the modification; and (c). a statement of the impact on the tariff, quality of service and the performance by the licensee of its obligations under the licence.

(vii). Regarding criteria of modification in licence, the Authority has observed that in terms Regulation-10(5) of the Licensing Regulations, the Authority is empowered to modify a licence in accordance with an Authority Proposed Modification (APM) or LPM, 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.

(viii). According to the submitted modification, the main features of the application under consideration are that RPGPL intends to extend the term of its Generation Licence upto May 24, 2030. Further, after expiry of existing PPA with CPPA-G/power purchaser, RPGPL intends to operate its plant to sell its output for which various options are under its active consideration including (a). supplying to CPPA-G as a short term IPP for another 3-5 years; (b). supplying power to Sundar Industrial Estate under long term PPA for 10 years for which RPGPL has already

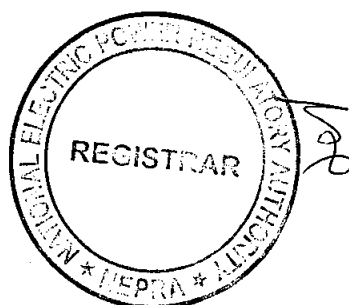


responded to the expression of interest; (c) sale/supply of entire/part of production to any interested BPC; and (d). sale power by participating/competing in the upcoming competitive market as envisaged by the Authority. Hence, it requires extension in its existing licence/valid generation licence for its electric power generation business.

(ix). Regarding renewal/extension of term of a Generation Licence, Rule-5(2) of the Generation Rules stipulates that upon the expiry of the term of the Generation Licence, unless revoked earlier in accordance with these rules or the terms of the Generation Licence, the Generation Licence may be renewed by the Authority for such further term as it may deem appropriate in the manner provided in the Generation Licence keeping in view the remaining maximum expected useful life of the units comprised in the generation facility, the performance of the licensee during the then expiring term and the interests of the consumers and the electric power industry as a whole.

(x). In this regard, the Authority has observed that the Generation Facility/Power Plant of RPGPL consists of nine (09) thermal generating units (7x10.56 MW + 2x11.52MW reciprocating engines). According to the original Generation Licence of the RPGPL, the remaining useful life of the units was considered as thirteen (13) years. In this regard, it is relevant to mention that according to the available benchmarks and general practice in vogue, the useful life of a thermal generating unit is normally taken as thirty (30) years from COD. In this regard, the data provided by RPGPL reveals that the said units have been operated in the range of 4.5 years (Unit-5) to 11.2 years (Unit#7) and have remaining useful life in the range of 17 to 24 years. On this ground, the Authority considers that the generating units of RPGPL can safely be operated up to 2029 i.e. for the proposed extension in the term of the Generation Licence.

(xi). However, regarding performance of the Licensee/RPGPL during the expiring term i.e. from 2017-2020 and interests of the consumers and the electric power industry as a whole, the Authority has observed that generation of power from the facility of RPGPL is very costly. Due to the said reason, during the expiring term these units were utilized very less as the same did not fall in the merit order.



(xii). Regarding impact of the proposed modification, it is clarified that under Section-7(3)(a) of the NEPRA Act, determining tariff, rate and charges etc. is the sole prerogative of the Authority. It is relevant to mention that the RPGPL was granted upfront tariff which expired on May 24, 2020 and currently RPGPL has no valid tariff.

(xiii). The Authority has observed that the Generation Licence of RPGPL was granted explicitly under the STIPP policy which was enacted vide the decision taken by the ECC under case No. 02/01/2015 dated January 10, 2015. The ECC approval of the STIPP Policy prescribes a time limit of three (03) years for the projects enacted thereunder. In view of the said, the Authority granted a Generation Licence to RPGPL for a period of three (03) years commencing from COD of the project and the same has completed on May 24, 2020.

(xiv). Regarding the STIPP Policy under which the Generation Licence was granted to RPGPL, the Authority has observed that there is no clarity about the existing status of the said Policy. The Authority has further observed that regarding re-export of machinery of the project, the approval/summary of the ECC and the Policy provisions are in direct conflict. The ECC has prohibited re-export of machinery and equipment imported under the STIPP Policy, while the Policy provisions themselves obligate re-exportation.

(xv). In this regard, it is relevant to mention that the main custodian/Sponsor of the STIPP Policy was MoE. Accordingly, the Authority through its various correspondences took up the matter with MoE seeking clarification/consent regarding the existing status of the STIPP Policy and the proposed extension in the generation licences granted to the projects established under the said Policy, however, MoE did not provide the required consent/clarification in this regard.

(xvi). Foregoing in view and considering (a). the higher per unit generation cost from RPGPL; (b). availability of efficient, sustainable and cheaper generation facilities; and (c). lower demand and surplus capacity in the system, the Authority considers that the proposed extension in term of the Generation Licence of RPGPL is reasonably not necessary for the benefit of the consumers and the power



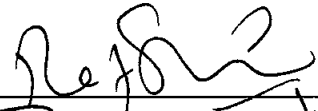
system of the country as whole.

(F). Decision of the Authority

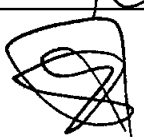
In view of the above, the Authority did not agree to the proposed extension in term of the Generation Licence (No. IGSPL/58/2015) of RPGPL and hereby rejects the communicated LPM. Accordingly, the Generation Licence of RPGPL stands expired since May 24, 2020.

Authority

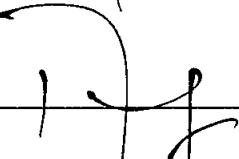
Rafique Ahmed Shaikh
(Member)


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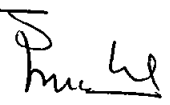
Rehmatullah Baloch
(Member)


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Tauseef H. Farooqi
(Chairman)


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