



Registrar

# National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/R/LAG-18/7064-71

September 08, 2022

**Mr. Aftab Mahmood Butt**  
Chief Executive  
Kot Addu Power Company Limited  
5 B/3, Gulberg-III, Lahore

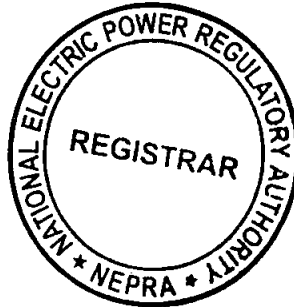
Subject: **Renewal of Generation Licence No. IPGL/020/2004**  
**Licence Application No. LAG-18**  
**Kot Addu Power Company Limited (KAPCO)**

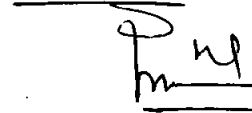
Reference: *KAPCO letter No. KAPCO/CEO/2021/423 dated 24.06.2021*

It is intimated that the Authority has approved renewal in Generation Licence No. IPGL/020/2004 dated September 22, 2004 in respect of Kot Addu Power Company Limited (KAPCO) pursuant to Section 26 of the NEPRA Act read with Rule-5(2) of the NEPRA Licensing (Generation) Rules, 2000.

2. Enclosed please find herewith determination of the Authority in the matter of Renewal of Generation Licence No. IPGL/020/2004 dated September 22, 2004 granted to KAPCO.

Enclosure: As Above



  
08 09 22  
(Syed Safer Hussain)

Copy to:

1. Secretary, Power Division, Ministry of Energy, 'A' Block, Pak Secretariat, Islamabad
2. Managing Director, Private Power & Infrastructure Board (PPIB), Ground & 2nd Floors, Emigration Tower, Plot No. 10, Mauve Area, Sector G-8/1, Islamabad
3. Managing Director, NTDC, 414 WAPDA House, Lahore
4. Chief Executive Officer, CPPA(G), 73 East, A.K. Fazl-ul-Haq Road, Blue Area, Islamabad
5. General Manager, National Power Control Centre (NPCC – NTDC), Faiz Ahmed Faiz Road, H-8/1, Islamabad
6. Chief Executive Officer, Multan Electric Power Company, MEPCO Headquarters, Khanewal Road, Multan
7. Director General, Environmental Protection Department, Government of the Punjab, National Hockey Stadium, Ferozpur Road, Lahore

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

Islamabad – Pakistan

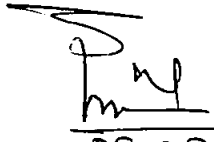
**GENERATION LICENCE**

**IPGL/020/2004**

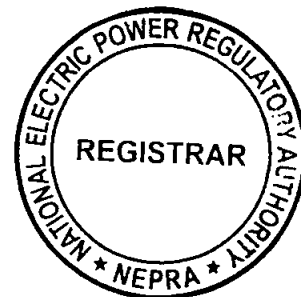
In exercise of the powers conferred under Section-26 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, as amended or replaced from time to time read with Rule-5(2) of the NEPRA Licensing (Generation) Rules, 2000, the Authority hereby renews the Generation Licence [No. IPGL/020/2004 dated September 22, 2004] granted to KOT ADDU POWER COMPANY LIMITED to the extent mentioned as here under:-

- (a). The expiry date mentioned in **Face Sheet** of the original **Generation Licence** has been changed from **September 21, 2021** to **September 21, 2024**; and
- (b). The **Term** of Licence mentioned in **Article-4** of the original Generation Licence may be considered as **twenty (20) years**;
- (c). In **Article-5** of the Generation Licence, **NEPRA (Fee) Rules, 2002** may be replaced with **NEPRA (Fees) Regulations, 2021**;

This **Renewal/Extension** in Generation Licence is given under my hand on 8<sup>th</sup> day of September Two Thousand & Twenty Two

  
08 09 22  
Registrar



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

**Determination of the Authority**  
**in the Matter of Application of Kot Addu Power Company Limited**  
**for Renewal of its Generation Licence**

**September 8, 2022**  
**Case No. LAG-20**

**(A). Background**

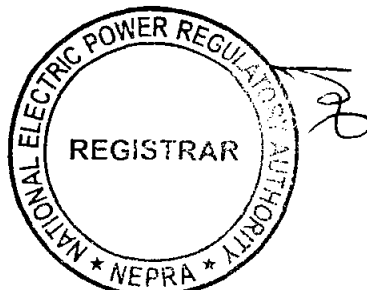
(i). The Authority in terms of Section-15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "NEPRA Act") granted a Generation Licence (No. IPGL/020/2004 dated September 22, 2004) to Kot Addu Power Company Limited (KAPCO)/the "Licensee" for its 1600.00 MW multi-fuel [natural gas, Low Sulphur Furnace Oil (LSFO) and High Speed Diesel (HSD)] based generation facility/combined cycle thermal power plant.

(ii). According to the above generation licence, the generation facility/thermal power plant consist of ten (10) gas turbines, five (05) steam turbines and ten (10) Heat Recovery Steam Generators (HRSG). The generation facility is located at approximately 90 km north-west of Multan, Muzaffargarh, in the province of Punjab. The generation licence was granted for a term of seventeen (17) years from the date of its issuance i.e. September 22, 2004.

**(B). Filing of Application**

(i). KAPCO in accordance with Regulation-13 of the NEPRA Licensing (Application, Modification, Extension and Cancellation) Procedure Regulations, 2021 (the "Licensing Regulations"), submitted an application for renewal in term of its generation licence on June 24, 2021.

(ii). Regarding the proposed time period of renewal, KAPCO has informed that its existing Generation Licence had a term of seventeen (17) years which will expire on September 21, 2021. Therefore, it has requested to renew the term of licence for another ten (10) years.



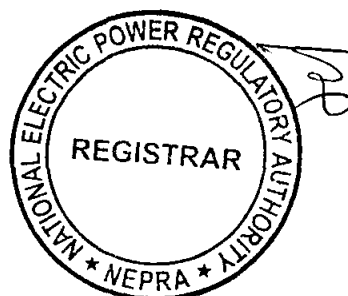
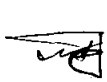
(iii). About "statement of the reason in support of extension/renewal", KAPCO submitted that it is generating around 6,427 GWh of energy per annum and has successfully met its obligations for twenty five (25) years under the Power Purchase Agreement (PPA) for supplying power to national grid. Now, the Licensee has requested to renew its generation licence due to the reasons that: (a). it will ensure that PPA is further extended after completion of its 25<sup>th</sup> Agreement year for 485 days under Other Force Majeure Event (OFME) settlement as agreed in third Amendment of PPA; (b). generating units have sufficient remaining useful life as explained in "KAPCO Plant Remaining Useful Life Assessment (RULA) Study" conducted by Ramboll Energy.

(iv). Further to the above, KAPCO has stated that operation of its generation facility is critical as power is supplied to grid stations of Multan Electric Power Company Limited (MEPCO) and National Transmission and Despatch Company Limited (NTDC). It is worth mentioning that the said facility operates as base load power plant especially during peak summer season.

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

(i). After completion of all the required information as stipulated under the Regulation-13(1) of the Licensing Regulations by KAPCO, the Authority considered it appropriate to publish the notice in the press for information and comments of general public. Accordingly, the public notice was published on July 07, 2021 in one (01) English and one (01) Urdu newspaper to inform the general public, interested/affected parties, and different stakeholders about the proposed renewal in term of generation licence.

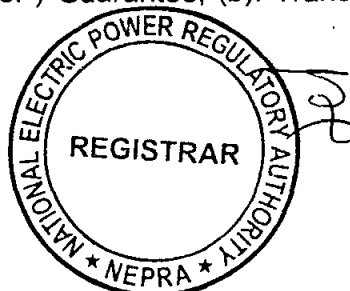
(ii). Apart from the above, separate letters were also sent to government ministries, their attached departments and representative organizations etc. on July 09, 2021. Through the said letters, the stakeholders were informed about the proposed renewal and publication of notice in the press. Further, the said entities were invited for submitting their views and comments in the matter for assisting the Authority.



**(D). Comments of Stakeholders**

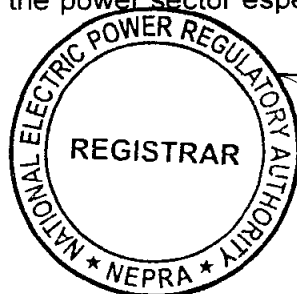
(i). In response to the above, the Authority received comments from eight (08) stakeholders. These included Pakistan State Oil (PSO), Central Power Purchasing Agency (Guarantee) Limited (CPPA-G), Saqlain & Husnain Advocates and Corporate Counsels (S&H), Water and Power Development Authority (WAPDA), Ministry of Planning, Development and Special Initiatives (MoPD&SI), MEPCO, NTDC and Petroleum Division of Ministry of Energy (PtDMoE). The salient points of the comments offered by the said stakeholders are summarized in the following paragraphs:

- (a). PSO submitted that it has had a longstanding business relationship with KAPCO and has been making fuel oil supplies to their Complex. Therefore, it has no specific comments on the proposed extension in term of licence with understanding that the Authority will process the application as per its mandate;
- (b). CPPA-G stated that pursuant to the terms and conditions of the PPA between KAPCO and CPPA-G, the term of PPA is extended due to OFME. Accordingly, the term of the PPA which was scheduled to expire on June 26, 2021 has now been extended due to OFME events by 485 days i.e. up to October 24, 2022. In consideration of the said, the generation licence of KAPCO which is due to expire in September 2021 is required to be extended at least up to October 24, 2022 to enable KAPCO to generate electricity as per the PPA. In view of the said, CPPA-G recommended that the generation license of KAPCO may be extended at least up to October 24, 2022, that period may further be extended due to OFME during this extended period, if any;
- (c). S&H submitted that under Section-26 of the NEPRA Act, the Authority is empowered to amend or vary the conditions of licence if it is in public interest. For this purpose, it is imperative that Authority should advise KAPCO to submit to NEPRA for review all five (05) of the Principal Agreements dated June 27, 1996. These Agreements include: (a). Facilitation Agreement and Government of Pakistan (GoP) Guarantee; (b). Transfer Agreement between



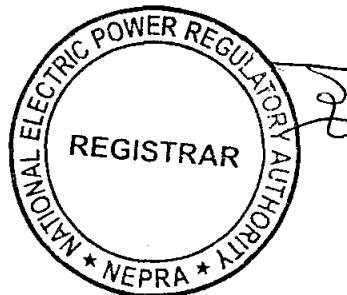
the Licensee and WAPDA; (c). PPA with the Power Purchaser; (d). Oil Supply Agreement between the Licensee and PSO; and (e). Gas Supply Agreement (GSA) between the Licensee and SNGPL. Moreover, since Principal Agreements were executed prior to enactment of NEPRA Act 1997, therefore, KAPCO had a vested right to operate the power plants without seeking approval of tariff from the Authority under Section-31 of the NEPRA Act. However, after completion of term of these agreements the Authority has an obligation to review the Principal Agreements and extend the same after ensuring public interest. In case of revisiting the tariff after expiry of the term of the licence and PPA, the Authority is empowered to determine the same under Section-7 read with Section-31 of the NEPRA Act. In this regard, the Authority is requested to consider the efficiency of the generation facilities and O&M costs among other components for allowing the extension in generation licence;

- (d). Further to the above, S&H submitted that after completion of the twenty five (25) years of PPA, the power plant is now subject to provisions of the NEPRA Act as well as Policy of the Federal Government. Clause 4.1 of the PPA deals with renewal of the PPA which also mandates the Authority to review the terms and conditions of renewal considering the same has to be finalized through good faith negotiations between the Power Purchaser and KAPCO. The power consumers have already paid for the costs of power plant except to the extent of equity of shareholders of KAPCO, being a Build Own Operate (BOO) based generation facility. Therefore, the Authority may also seek specific comments of the Federal Government and CPPA-G on technical and tariff related aspects of the extension application before making a final decision regarding extension of PPA. S&H also referred to Regulation-13(2) of the Licensing Regulations which provides grounds for extension of generation licence. In view of the above, S&H requested the Authority to decide the application in best public interest and after considering the above assertions and current crisis of the power sector especially the circular debt and



generation capacity commitments of the Government. The Authority must be cognizant of the fact that KAPCO is one of the best IPPs of Pakistan;

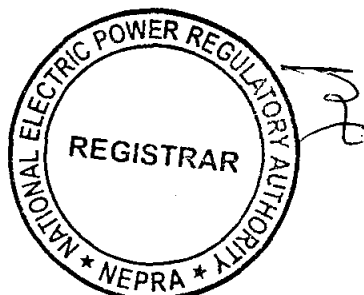
- (e). WAPDA submitted that 1600 MW Combined Cycle Gas Turbine (CCGT) based Power Plant of KAPCO was built by it and the said company is listed on the Pakistan Stock Exchange with around 56,000 shareholders. WAPDA is a public sector entity holding a shareholding of around 40.25 % and 5% by BESOS. During almost last three decades, KAPCO has a proven track record of contribution to the National Grid being operated and maintained at the highest international standards which will enable its reliable continuance for another decade. WAPDA considers KAPCO as strategic national asset that paid Rs 63.74 billion as dividend to WAPDA (public sector) since its inception. It is a Quality, Environment, and Safety conscious company with well-established Policy Guidelines and Procedures under the umbrella of the Integrated Management System "IMS" having certificates of ISO 9001, 14001, and 45001. The Complex complies with National Environmental Standards "NEQs" and Provincial Environmental Standards "PMQs". KAPCO being a responsible corporate entity, believes in serving the local community through Corporate Social Responsibility (CSR) projects which includes donations to Education and Health sector, support for victims of national disasters like earthquake, 2005 & devastating Flood of 2010. Further, KAPCO set up annual medical camp and tree plantations are done regularly. The PPA has been extended following settlement of Liquidated Damages (LDs) arbitration with CPPA-G/Power Purchaser. KAPCO has a highly skilled workforce with permanent employees around 500. The officers have an average experience of ten (10) years; and average staff experience of over twenty-eight (28) years;
- (f). In addition to the above, WAPDA stated that power plant of KAPCO is being operated and maintained with state-of-the-art, proven technology of CCGT. It has an annual Dependable



Capacity of 1345 MW at reference site conditions. The total area of Complex is spread over 385 acres out of which Power Complex covers 174 acres; and the remaining area constitutes a residential colony and other incidental amenities. KAPCO also consumes LSFO produced by Attock Refineries Limited (ARL). This not only provides backup fuel in case of gas shortage, but also ensures continuation of ARL operations. It has a key location to the National Grid with 12 Transmission Lines, six each on 132 KV and 220 KV interconnected through having a transformation capacity of 500 MVA. The Complex has maintained Black Start capability to support quick recovery in case of transmission collapse. The capability has been demonstrated successfully over the years and in the recent blackouts. The Power Complex has one of the most extensive fuel oil storage facilities in Pakistan of 156,000 Metric Tons of LSFO and 40 million liters of HSD. KAPCO obtains insurance coverage for its Power Complex, however, there have been negligible insurance losses. KAPCO being strategic asset of WAPDA, its location along with contribution to National Grid in MEPCO region, utilization of fuel oil & gas pipeline infrastructure and 10 years of Remaining Useful Life Assessment, WAPDA has strongly recommended the extension in term of generation licence for another 10 years;

- (g). MoPD&SI communicated that it does not support the expensive power generation based on RFO to ensure affordable supply of electricity in the future. Further, the extension in term of generation facility will lead to amendment in draft Indicative Generation Capacity Expansion Plan (IGCEP 2021-30) as NTDC has planned retirement of the subject facility by 2023 in the said document;
- (h). MEPCO highlighted some facts about KAPCO which include: (i). KAPCO Power House is a primary source of fifteen (15) Grid Stations owned by MEPCO, 01 No. consumer Grid Station with total installed capacity 822.5 MVA & 01 No. Grid Station of FESCO comprising of far flung area of Kot Addu, Layyah, Chowk Munda, Chowk Azam, Rang Pur, Kot Sultan, Noor Ahmad Wali, Shadan

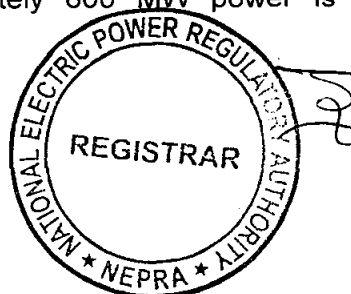
 





Lund and Tounsa Sharif; (ii). alternate source of above Grid Station is TPS Muzaffargarh & 220 KV Muzaffargarh. TPS Muzaffargarh is already abandoned and 220 KV Muzaffargarh is also overloaded. Low voltage problem may also aggravate in case of feeding from alternate source specially in summer peak; and (iii). even in present scenario MEPCO faces low voltage problem on the tail end Grid Stations connected with KAPCO Power House especially in peak season of summer, for which KAPCO be advised to supply rated voltage at MEPCO Grid stations. Therefore, MEPCO submitted that the above ground realities may be kept in view and the Authority may decide as per relevant rules & regulations;

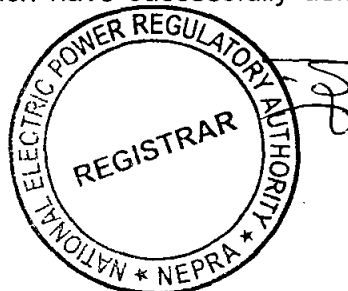
- (i). NTDC submitted that the scope of National Power Control Centre (NPCC) under its ambit is economic dispatch and system operation in safe, stable and reliable manner as well as operational planning of up to one year. Since long term generation and transmission planning is carried out by Power System Planning, therefore the impact of generation license renewal/PPA extension of KAPCO on overall demand-supply position has already been taken into consideration in IGCEP. Being System Operator, NPCC highlighted some issues that will be faced from network operation point of view, in case generation of KAPCO becomes unavailable in existing network. KAPCO consists of 10 GTs & 5 STG, having total Capacity of 1345 MW and is considered economical and efficient power plant (Quick start stop plant) as compared to Muzaffargarh, Lalpir & PakGen power plant in the same area. KAPCO Power House is located at critical location and serving as a major feeding source for MEPCO, FESCO & PESCO areas. During summer peak season, KAPCO supports overloading of 500/220 kV transformers of New Multan Grid Station. Besides the active power provision, it is also a major reactive power source helping in maintaining the voltage profile of the area. It has 500 MVA transformation capacity from 220kV to 132 KV in addition to 540 MW generation on 132 KV side, through which approximately 800 MW power is being dispersed to



MEPCO, FESCO & PESCO especially in summer season through 132 kV network. It is multi fuel power plant and can be operated on Gas, LSFO, HSD thus having operational flexibility for System Operator. It has Black start facility which is helpful in system restoration during major or partial system disturbances. KAPCO power house is interlinked with NTDC Network and Muzaffargarh power house through six (06) 220 kV transmission lines providing safe power evacuation of its own and adjacent power houses (Muzaffargarh, Lalpir & Pakgen) to the load center. Foregoing in view, NTDC is of the view that request of KAPCO be considered together with the recommendation of Power System Planning in IGCEP and NTDC Transmission Expansion Plan; and

- (j). PtDMoE commented that the matter was taken up with Sui Northern Gas Pipelines Limited (SNGPL) who has apprised that initially, it had executed GSA with KAPCO on June 27, 1996 for supply of 70 MMCFD (guaranteed delivery) of indigenous gas. The guaranteed delivery expired on December 31, 2002 while the GSA is valid purely on 'As & When' available basis till expiry of the term of initial GSA. In view of unavailability of indigenous gas, SNGPL has been supplying RLNG to KAPCO since April 2015 purely on 'As & When' basis under interim RLNG Supply Agreement executed from time & time. A tripartite RLNG Interim Supply Agreement has been executed amongst KAPCO, SNGPL & CPPA-G on April 05, 2021 for supply of 200 MMCFD RLNG to KAPCO on 'As & When' available basis. In view of the said, SNGPL has no objection for extension in term of licence of KAPCO.

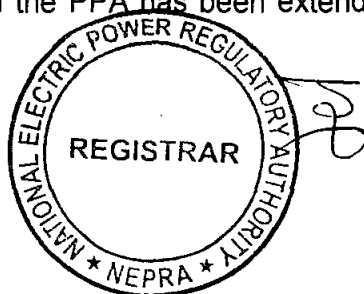
(ii). The Authority examined above comments of S&H and MoPD&SI and considered it appropriate seeking perspective of the licensee/KAPCO on the same. On the comments of MOPD&SI, it was submitted that KAPCO has a capability of running power plant on Gas, FO (Furnace Oil) and HSD. The primary or preferred fuel for the operation of KAPCO GTs is gas with flexibility of operating 8 GTs on FO from the total of 10 GTs. It is the only company in Pakistan and perhaps one of the very few companies in the world which have successfully demonstrated this capability.



KAPCO further highlighted its role in supporting the Power Purchaser and GoP during the recent gas crisis. Due to the flexibility, it generated and supplied much needed energy to the country on FO and shifted to gas when it was made available. Unfortunately, the other gas-based units were mostly unavailable due to the non-availability of the gas or could not run on even HSD for a period of time. Had it not have the flexibility to generate on FO successfully, the country would have plunged into a very serious crisis. KAPCO's first preference is to consume the indigenous LSFO produced by ARL and has been a significant consumer of its product for the last two decades. With reference to the IGCEP, KAPCO showed apprehensions that the said document did not properly consider the potential short/long term disruptions in RLNG/Gas supplies to power sector and grid constraints in the area as well as Transmission System Expansion Plan, which requires a very thoughtful review in the best interests of the country. KAPCO referred to the letter of GM System (Operations), NTDC wherein some points were highlighted by system operator which determines the significance of operation of power plant of KAPCO as explained above. It also mentioned the comments of MEPCO which are in favor of the proposed renewal.

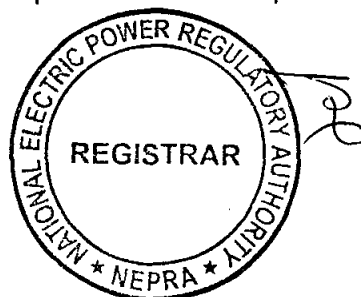
(iii). Further to the above, KAPCO submitted that the Authority may appreciate its contribution towards the National Grid as its Power Complex continues to meet requirements of the System Operator (NPCC) considering the facts that: (a). Plant utilization at 67.1% in the month of June 2021; (b). Maximum Load sharing of 1,422 MW at 06:00 on June 28th, 2021; (c). Plant utilization remained at 83.9% during July 2021; (d). Reliable support during Dry-docking of LNG terminal by operating the Complex; (e). round the clock on LSFO due to restricted RLNG supplies. KAPCO is of the view that its power plant is needed in the system not only for sustainable supply but also for the fuel related contingencies. Its project loans have already been paid off and has strong history of supporting the System/GoP not only on account of power generation but also financially.

(iv). Regarding comments of S&H, the Licensee agreed to submit aforementioned Agreements, if so required, at the time of filing of tariff petition before the Authority for review, after expiry of current PPA whereas, the current application pertains to renewal of generation licence. The sale and purchase of electricity, after expiry of current PPA, will depend on tariff determination by the Authority and GoP Policy framework. In respect of the Term of the PPA of twenty-five years, it may be noted that the 'Expiry Date' of the PPA has been extended by 485 days as part of



settlement of disputes between the Company and the Power Purchaser. Accordingly, the new expiry date will be October 24, 2022 instead of June 27, 2021 (Third Amendment to PPA dated February 11, 2021). As part of the settlement under the Third Amendment of the PPA, KAPCO has agreed, subject to the terms of the Third Amendment to the PPA, to a tariff discount of 11% on the escalable component of CPP and VoM component of EPP. Further, indexation of 50% of reduced escalable component has been capped at PKR/USD parity of 168. Further, the discussions with the Power Purchaser on the renewal of the PPA commenced in terms of the provisions of the PPA. Unfortunately, due to COVID-19 and other related issues progress has been somewhat delayed. KAPCO is cognizant of the requirement to file a tariff petition before the Authority for tariff determination as per relevant tariff rules with comparative schedule of charges, costs, units, price and other items comprising the existing tariff and proposed tariff considering the efficiency and capacity of generation facility. It has successfully maintained both thermal efficiency and output during the 25 years of PPA. M/s Ramboll has assessed the useful life of generating units for at least ten years.

(v). It was reiterated that KAPCO is a legally compliant entity which carries out its operations within the ambit of the legal and regulatory regime. It has over the years proved its utilization in the public interest by continuing to operate under difficult circumstances and providing the much-needed power supply to the MEPCO Region in particular. Despite having completed twenty-five years of its PPA term, KAPCO Power Plant is even now being dispatched at very high levels. In the current summer season, KAPCO has supported the system through its flexibility of fuel and its financial capacity. Its privatization is a successful story of public-private partnership. KAPCO maintained and demonstrated performance, efficiency and reliability throughout its contract period which was, unfortunately, not possible for similar types of power plants owned by the public sector. KAPCO's success is no coincidence; it is due to the execution / implementation of various programmes and plans in a consorted manner for the betterment of its operations and maintenance regime. Further, KAPCO has a team of dedicated professionals who operate and maintain its Power Plant to the highest international standards in accordance with Original Equipment Manufacturers (OEMs) recommendations and best utility practices. KAPCO's skilled manpower is not only sought after by other IPPs in Pakistan but also in the Middle East Region. Year on year, KAPCO's Power Plant has successfully completed its Annual Dependable Capacity (ADC) tests over the requisite benchmark parameters. In July 2021, the ADC



tests once again demonstrated its reliability and credibility by generating 14 MW excess capacity. In view of the above, the licensee requested the Authority to extend the term of generation licence for at-least 10 years in the best interest of the system and country.

**(E). Framing of Issues**

(i). The Authority considered the comments of the stakeholders, replies of the Licensee and observed that PPA of KAPCO was unilaterally extended without its approval. Accordingly, the Authority decided to deliberate the matter further by holding a public hearing in terms of Rule-3 of the NEPRA Licensing (Generation) Rules, 2000 (the "Generation Rules"). In this regard, following issues were framed:

(a). Why the parties have agreed to an extension/amendment in Power Purchase Agreement (PPA) for 485 days and what were the circumstances which have led to the same? Elaborate in detail covering all the events.

(b). Why did KAPCO and CPPA-G not approach the Authority for making amendment in the PPA?

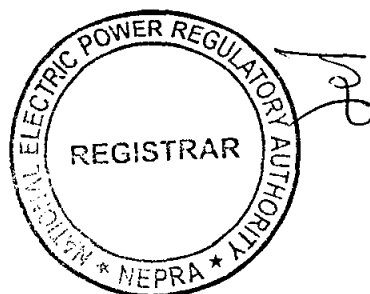
(c). Whether CPPA-G was required to report certain event declared as 'Forced Majeure' to the Authority or not? And if CPPA-G was required to report it, whether the same was reported to the Authority?

(d). Why the PPA was amended without approval of extension in generation licence?

(e). Is extension in the generation licence justified considering the average Utilization Factor of around 47% for the last four years?

(f). The NEPRA Act envisages cessation of generation licences by 2023. Will it be legally tenable/prudent extending the term beyond the said period?

(g). What are the financial implications of the amendment in the PPA signed between KAPCO and CPPA-G regarding extension of its term by 485 days?



(ii). In order to encourage the participation of the general public, interested/affected parties and other stakeholders, notices were published in two (02) different newspapers including the Dawn (English) and daily Express (Urdu) on March 11, 2022.

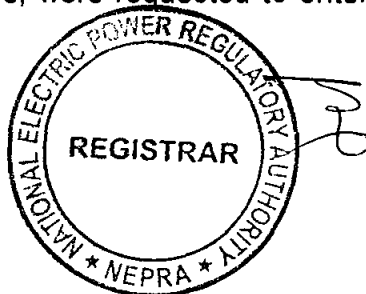
(iii). Apart from the above, separate letters were also sent to relevant Govt. ministries, their attached departments, representative organizations and individual experts etc. informing them about the date, time and venue of the proposed public hearing.

#### **(F). Public Hearing**

(i). The public hearing in the matter was held on March 31, 2022 at NEPRA Headquarter, Islamabad which was attended by various stakeholders including CPPA-G, WAPDA, KAPCO and other participants.

(ii). The management of KAPCO gave a detailed presentation on the "Issues of Hearing" and elaborated its point of view on the same. In the said hearing, KAPCO explained the events which led to extension/amendment in Power Purchase Agreement (PPA) for 485 days. It was submitted that from 2006 onwards CPPA-G did not make timely payments considering the circular debt issues due to which working capital lines of KAPCO started exhausting and banks were reluctant to enhance the said limits. Consequently, the company could not make payment to PSO under the terms of its Fuel Supply Agreement (FSA) to procure fuel which in return limited the supply of oil. Therefore, KAPCO could not generate electric power due to non-availability of fuel and the Power Purchaser/CPPA-G treated this non-availability as 'Forced Outages' under the PPA and raised the Liquidated Damages (LDs) invoices during the period 2009 to 2016. The total receivable from the Power Purchaser surpassed Rs. 130 billion (with overdue of over Rs. 110 billion) which was not envisaged under the PPA. KAPCO also highlighted that the receivables exceeded many times the credit days allowed under the PPA.

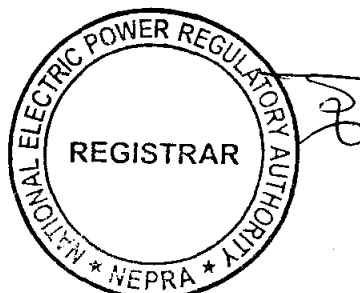
(iii). In view of the above, KAPCO approached International Chamber of Commerce (ICC) against the Power Purchaser for arbitration proceedings on imposition of LDs. Meanwhile, Government of Pakistan (GoP) had constituted a Negotiation Committee on June 03, 2020 to negotiate with IPPs for, *inter alia*, tariff reduction. KAPCO, like other IPPs, were requested to enter into negotiations with



the Government Negotiation Committee, which resulted in signing of the Memorandum of Understanding dated August 19, 2020 which stated that GoP and the Power Purchaser would work towards resolution of the LDs arbitration dispute. Following detailed negotiations in the presence of GoP's appointed Implementation Committee, the Master Agreement and the Third Amendment to the PPA ("Third PPA Amendment") were signed between KAPCO and WAPDA on February 11, 2021, after being duly approved by the Cabinet Committee on Energy (CCoE). Further, KAPCO signed a "Novation Agreement" on February 15, 2021 to transfer the rights, obligations and liabilities of WAPDA under the PPA (as amended by the Third PPA Amendment) in favor of CPPA-G being the Market Operator/Power Purchaser.

(iv). KAPCO further submitted that under the settlement terms of the Third PPA Amendment, it was agreed that the disputed outage period (financial years 2009 to 2016) due to fuel shortage will be treated as 'Other Force Majeure Event ("OFME")' under the PPA as stipulated in Article 13.1(c) of the PPA and the total number of days on account of OFME will be 485 days. As part of the settlement terms, KAPCO and the Power Purchaser agreed that: (a). the Power Purchaser will irrevocably forego and waive all of its liquidated damages and interest disputed by KAPCO in totality; (b). KAPCO will not charge the Power Purchaser any Capacity Payments for making its complex available for dispatch for an extended period of 485 days; (c). KAPCO will forego its claim of late payment interest (approx. Rs. 41.1 billion as of Dec-2020) on late payment interest; (d). Both parties would jointly approach the Arbitration Tribunal of ICC to submit settlement agreement with a request to close the case as per the agreed terms.

(v). Regarding the issue of not approaching the Authority for making amendment in the PPA, it was submitted that KAPCO was privatized in 1996 through International Competitive Bidding and its PPA was signed on June 26, 1996. The tariff, terms and conditions of PPA were also agreed by GoP (through Privatization Commission), which were primarily in line with the 1994 Power Policy and no IPP under the said Policy has obtained approval of the Authority for reduction in tariff as have been agreed between KAPCO and the CPPA-G. Further, CPPA-G had a uniform treatment with all IPPs regarding extension/amendment in PPA which were signed before establishment of NEPRA. KAPCO is of the view that there is no compulsory requirement to approach NEPRA before amending the PPA. The said

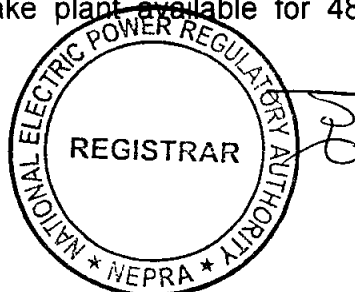


amendment is made under the provisions of the existing PPA, which provides a separate mechanism to amend PPA and states no requirement of seeking approval from NEPRA.

(vi). On amendment in PPA without approval of renewal in generation licence, KAPCO submitted that the term of the PPA was extended as per the provisions of the PPA due to invoking 'Other Force Majeure Event', and not as a separate amendment by the parties. Further, as per applicable legal framework there is no nexus between the amendment of the term of the PPA and the requirement for applying for renewal of the term of the generation licence. KAPCO highlighted that it duly complied with the relevant provisions of Regulation-13 of the NEPRA Licensing (Application, Modification, Extension and Cancellation Procedure) Regulations, 2021 by submitting its extension/renewal application dated June 24, 2021 which is 90 days prior to the expiry of its generation licence.

(vii). Regarding less utilization factor, KAPCO contested that it is contributing to National Grid by providing energy security with multi-fuel fired gas turbines and its operation is vital for stability of the system. It has significant role in supplying power to local area of MEPCO, FESCO and PESCO and runs as base load plant during peak summer season. It has also black start facility in case of country wide blackout supports the system at 220 KV level. KAPCO referred to the data given in Indicative Generation Capacity Expansion Plan (IGCEP) 2021-30 which forecasted the power generation during 2020-21 which is very much less than the actual generation.

(viii). The Licensee also pointed to Section-14B of the NEPRA Act which pertains to cessation of generation licences in 2023. In this regard, KAPCO took the stance that the Federal Government may or may not decide to notify a mechanism for gradual cessation of generation licence and even if the same decides to gradually abolish the requirement of generation licence, KAPCO will be treated like other IPPs who have a valid generation license beyond 2023. Regarding query of financial implications of amendment in the PPA signed between KAPCO and CPPA-G regarding extension, it was submitted that through the settlement agreed, KAPCO has waived its right of 'interest on interest' which was approx. Rs. 41.1 billion till Dec-2020 and it was supposed to accumulate further due to continuous delay in payments by the Power Purchaser. In lieu of adjustment of LDs claims of Rs. 27 billion, KAPCO agreed to make plant available for 485 days without Capacity





Purchase Price (CPP). Further, there is reduction in tariff as the company agreed to give discount of 11% on CPP as well as Variable O&M and rupee dollar parity has been locked at Rs. 168.60/-.

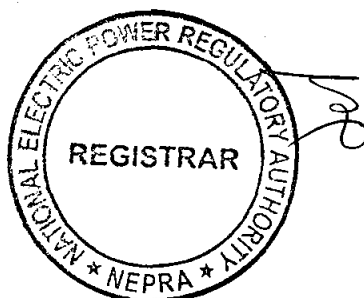
(ix). In consideration of the above, KAPCO claimed that had not been its power plant available for the period July 2021 to February 2022 (extended term) during which it generated 3,047 GWh, the additional cost to the Power Purchaser would have been more than Rs. 17 billion; thus avoiding burdening the consumers. During the hearing, the representatives from CPPA-G confirmed the stance of KAPCO and revealed that according to their calculations there was a benefit of around Rs. 48 billion which could have been passed on to the consumers on account of 'interest on interest' due to delay in payment to the company. The representative from WAPDA, being major shareholder of KAPCO (around 40%), supported the proposed extension as KAPCO is paying dividend to WAPDA since inception.

### **(G). Observation/Findings**

(i). The Authority has examined the entire case in detail including the already granted Generation Licence of KAPCO, submitted application for renewal, comments of stakeholders, rejoinders from the Licensee, discussion on Issues framed for public hearing, RULA Study and provisions of relevant rules & regulations. The observations of the Authority in the matter are summarized in the following paragraphs.

(ii). In this regard, the Authority has observed that originally KAPCO was granted a Generation Licence (No. IPGL/020/2004 dated September 22, 2004) for its 1600 MW multi-fuel (natural gas, LSFO & HSD) based generation facility/combined cycle thermal power plant located at Kot Addu, district Muzaffargarh, in the province of Punjab. The said facility comprises of ten (10) GTs (93+96+79+80x3+77+79+107x2 MW), ten (10) HRSGs and five (05) STs (89+95+80+81+118 MW) having a term of seventeen (17) years which expired on September 21, 2022.

(iii). In its submissions made, the Licensee/KAPCO has requested for extension in the term of its generation licence for another period of ten (10) years from its above expiry. The Authority has observed that in terms of Section-26 of the NEPRA Act read with Rule-5(2) of the Generation Rules it can renew the term of the licence as it may deem appropriate. In this regard, Rule-5(2) of the Generation Rules



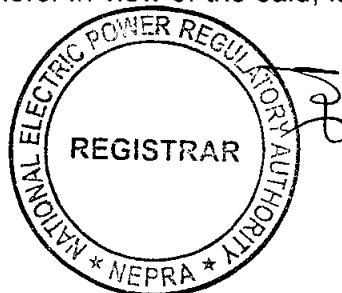
stipulates that generation licence may be renewed for such further term in the manner provided for in the generation licence keeping in view: (a). the remaining maximum expected useful life of the units comprised in the generation facility; (b). the performance of the licensee during the then expiring term; and (c). the interests of the consumers and the electric power industry as a whole.

(iv). Further, according to Regulation-13 of the Licensing Regulations stipulates that the Authority is competent to renew the term of a licence in accordance with an application duly filed under sub-regulation (1), subject to and in accordance with such further changes as the Authority may deem fit, if in the opinion of the Authority such extension: (a) is in the interests of the consumers and the electric power industry as a whole; (b) is reasonably necessary to ensure the continuous, safe and reliable supply of electric power to consumers, keeping in view the financial and technical viability of the licensee; (c) is suitable on environmental grounds; and (d) is justified keeping in view the performance of the licensee during the expiring term.

(v). The Authority has observed that in order to ascertain the remaining useful life of the Complex, the Licensee conducted a study through renowned international consultant Ramboll of UK/Denmark. The consultant carried out a detailed study of overhauling / inspection and test reports by OEMs and other reports based on tests conducted by third party consultants. It has also taken into account the worldwide experience on different technologies pertaining to useful life assessment of power plants in its RULA study.

(vi). The Authority has reviewed the RULA study which states that normally the operating life before retirement of CCGTs has been 40-50 years around the globe. The study has assumed a 40-year extended operating life based on a nominal 8,000 operating hours per year, which equates to lifetime operating hours of 320,000. The operating hours of the generating units at KAPCO range between 94,000 to 180,000 indicating that the remaining life of the KAPCO units could be in the range 17-28 years. For all Gas turbine units, hot gas path components e.g. combustors, fuel nozzles, GT blades and vanes, etc. are being replaced periodically on Hot Gas Path Inspection (HGPI) and Major Over-Hauling (MOH) as per OEM recommendations. Further, the remaining life assessment has been discussed in detail module wise (total of five modules with each module comprising two GTs, two HRSGs and one STs) for all major components of the generating units including Gas Turbine, Steam Turbine, HRSGs, generators and transformers. In view of the said, it has been recommended

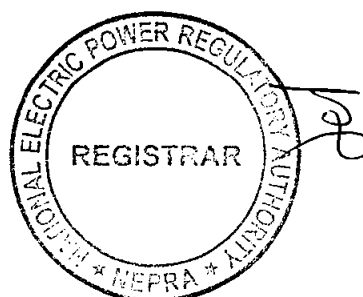


that all the generating units are in good condition and can operate for another ten (10) years.

(vii). Regarding performance of the licensee, the Authority has noted that for the last five years the average plant availability was around 87.1% and commercial availability was 96%. The average Utilization factor for the last four years was 47.05%. Further, the generating units of KAPCO have demonstrated, high plant availability and enhanced plant performance regarding plant capacity as well as efficiency. The Annual Dependable Capacity (ADC) of generating units (GTs, STs & HRSGs) was performed in the year 2020 which demonstrated that the same are operating near to or better than IDC parameters (Initial Dependable Capacity test in 1996). It is also pertinent to mention that efficiency of power plant in combined cycle mode ranges from 42-47% depending upon the fuel used for generation of electric power. A site visit was carried to inspect physical condition of different components of units and it was observed that the same were in good condition and supplying power to the national grid according to the dispatch requirements.

(viii). The Authority has observed that the power plant has capability of operating on multi-fuel and is located mid country being close to major load centers. In case of gas shortage for the power sector, the Licensee provides support to the system because of its flexibility and huge fuel storage capacity. The power is supplied to the National Grid through six (06) 132 kV transmission lines feeding the grids of MEPCO, PESCO and FESCO and six (06) 220 kV transmission lines to network of NTDC. In this regard, the relevant stakeholders including NTDC and MEPCO have strongly supported the extension in term of generation licence of KAPCO considering the power stability issues as explained in the preceding paragraphs.

(ix). About suitability of power plant on environmental grounds, the Authority has observed that KAPCO has recently submitted an Environment Monitoring Report to comply with all regulatory requirements. The review of the same reveals that all emissions of air, water and noise relating to plant operations are within limits established by Environment Protection Agency, Punjab. Further, KAPCO has been awarded Certificate of Appreciation from National Forum for Environment and Health in 17th Annual Environment Excellence Awards, 2020.

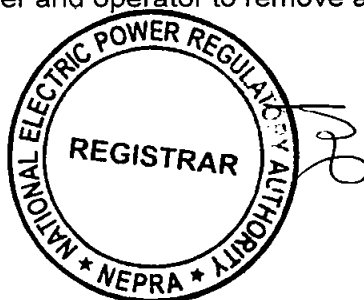


(x). Notwithstanding the above, the Authority has noted with grave concern that CPPA-G and KAPCO have mutually extended the PPA for 485 days on account of non-availability of fuel treated as OFME events without its approval. Accordingly, the Authority has initiated legal proceedings against both the parties which are being carried out separately as the PPA extension was being done for a period beyond its generation licence and KAPCO should have filed its application for licence renewal as per the spirit of the applicable documents. However, in the instant case KAPCO first extended the term of its PPA (which was scheduled to expire on June 26, 2021) by 485 days i.e. beyond its generation licence (which was going to expire on September 21, 2021) and then submitted an application on June 24, 2021 for renewal of its generation licence. However, taking lenient view in the matter the Authority considers that renewal of generation licence of KAPCO, *inter alia*: (a). is in the interests of the consumers and the electric power industry as a whole; (b). is reasonably necessary to ensure the continuous, safe and reliable supply of electric power to consumers, keeping in view the financial and technical viability of the licensee; (c). is suitable on environmental grounds; and (d). is justified keeping in view the performance of the licensee during the expiring term as explained above.

#### (H). Decision of the Authority

(i). In view of the above, the Authority is satisfied that KAPCO has complied with all the requirements of the Generation Rules and Licensing Regulations pertaining to renewal in term of its generation licence therefore, it has case for it to be considered. The Authority has observed that the independent consultant hired for the purpose of assessment of the remaining useful life of the generation facility has concluded that the plant and the other related equipment can be used for another period of ten (10) years.

(ii). In consideration of the above, the Authority has deliberated the issue at length and has observed that most of the important relevant stakeholders including WAPDA, MEPCO and NTDC have highlighted the significance of KAPCO in the system and also based their arguments for extension in the term of the licence that there are certain constraint of system for which operation of the KAPCO is essential. The Authority does not endorse such arguments of MEPCO and NTDC for the operation of an old plant though relatively efficient. The Authority has been directing NTDC being a system planner and operator to remove all such constraints on priority.



However, it is regretted that despite the lapse of more than four (04) years the situation has not changed much as these entities are still pressing for the availability of KAPCO in the system.

(iii). The Authority hereby like to reiterate that the in terms of Section-7(6) of the NEPRA Act, safeguarding the interest of the consumer is one of its prime responsibility. Further, provisions of the electric power to consumers at reasonable and affordable prices is essential which can only be possible if there are little or no system constraints. In consideration of the said, the Authority hereby extend the term of the generation licence of KAPCO for a period of three (03) years and directs NTDC and MEPCO to resolve the referred technical issues within three (03) years as such constraints are resulting in operation of KAPCO in violation of Economic Merit Order.

(iv). As explained in the preceding paragraph, the Authority has allowed the extension in the term of the licence of KAPCO for a period of three (03) years for supplying to the National Grid however, KAPCO will be at liberty to operate for supplying to National Grid if it is in the IGCEP and conforms to the Least Cost Option Criteria (LCOC). Further to the said, KAPCO will also be at liberty to operate as a merchant plant in the Competitive Trading Bilateral Contract Market (CTBCM) in the balancing market subject to the provisions of the approved Market Code.

(v). Notwithstanding the above, the Authority hereby clarifies that under Section-7(3)(a) of the NEPRA Act, determining tariff, rate and charges etc. is its sole prerogative. In this regard, the existing PPA dated June 27, 1996 between KAPCO and WAPDA/NTDC/CPPA-G was executed prior to the promulgation of the NEPRA Act that is why the Authority at the time of grant of generation licence of KAPCO protected its PPA. However, the Authority directs KAPCO and other related entities to submit the next PPA if executed after the expiry of the current one, for its consideration and approval before the start of supply to the National grid.

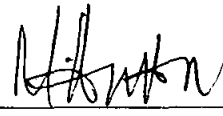
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(vi). In consideration of the above, the Generation Licence (No. IPGL/020/2004 dated September 22, 2004) is hereby renewed for a term of three (03) years from the date of expiry of the same without prejudice to already initiated legal proceedings against KAPCO and CPPA-G on the issue of extension in PPA. The changes made in the Generation Licence are attached as annexure to this determination. The said renewal will be subject to the provisions contained in the NEPRA Act, relevant rules and regulations framed there under, terms & conditions of the Generation Licence and other applicable documents.

**Authority**

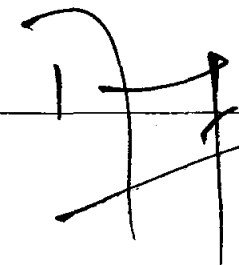
Engr. Maqsood Anwar Khan  
(Member)

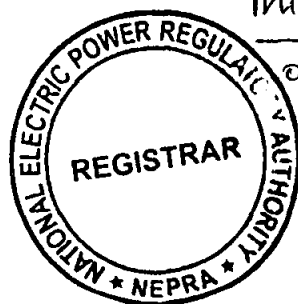
  
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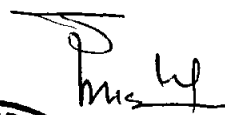
Rafique Ahmed Shaikh  
(Member)

  
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Tauseef H. Farooqi  
(Chairman)

  
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