



# National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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Registrar

No.NEPRA/R/TRF-163/NPGCL-2010/4066-4068

November 26, 2010

Subject: **Determination of the Authority in the Matter of Tariff Petition filed by Northern Power Generation Co. Ltd. regarding Rental Power Projects – 150 MW Summundri Road Faisalabad & 150 MW Sahuwal Sialkot [Case # NEPRA/TRF-163/NPGCL-2010]**

Dear Sir,

Enclosed please find the subject Determination of the Authority (08 pages) in the matter of Tariff Petition filed by Northern Power Generation Co. Ltd. regarding Rental Power Projects (150 MW Summundri Road Faisalabad & 150 MW Sahuwal Sialkot) in Case No. NEPRA/TRF-163/NPGCL-2010, for information, please.

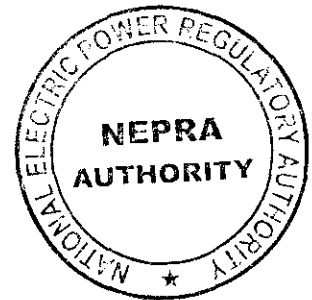
Encl: As above

( Syed Safeer Hussain )

Secretary  
Ministry of Water & Power  
'A' Block, Pak Secretariat  
Islamabad

CC:

1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, Islamabad.



**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY  
(NEPRA)**

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Case No. NEPRA/TRF-163/NPGCL-2010

November \_\_\_\_\_, 2010

**DETERMINATION OF THE AUTHORITY IN THE MATTER OF PETITION**

**FILED BY NORTHERN POWER GENERATION CO. LTD. (NPGCL)**

**REGARDING RENTAL POWER PROJECTS - 150 MW SUMMUNDRI ROAD**

**FAISALABAD & 150 MW SAHUWAL SIALKOT**

**Petitioner**

Northern Power Generation Company Limited, Mehmood Kot Road, TPS Muzafar Garh.

**Authority**

Zafar Ali Khan  
Member

*[Signature]*  
25/11/10

Maqbool Ahmad Khawaja  
Member

Ghiasuddin Ahmed  
Member

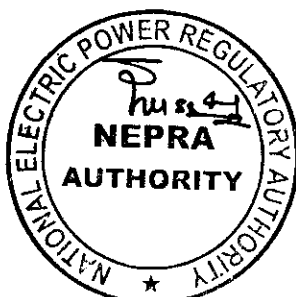
*[Signature]*  
25/11/10

Shaukat Ali Kundi  
Vice Chairman/Member

*I had even dissented on the Admission  
of the petition of NPGCL. Dated 02.08.2010*  
*[Signature]*  
25.11.2010

Khalid Saeed  
Chairman

*[Signature]*  
25/11/10





## **BACKGROUND**

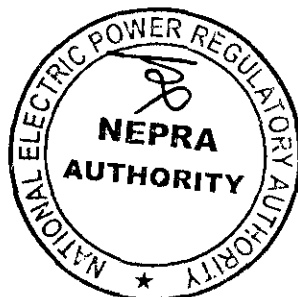
- 1.1 Northern Power Generation Company Limited (hereinafter referred as NPGCL), being generation licensee of NEPRA filed petition on June 7, 2008 for approval of generation tariff of two rental power plants i.e. 150 MW Techno-E Power (Pvt.) Ltd. at 220 kV Grid Station Summundri Road Faisalabad and 150 MW Techno Engineering Services (Pvt.) Ltd. at 220/132 kV Grid Station Sahuwal Sialkot. NPGCL stated that the tariff for both the plants had been arrived at through the process of International Competitive Bidding (ICB) conducted by PEPCO, pursuant to the Prime-Minister's decision dated June 26, 2007; and ECC's Decision No. ECC-37/2008 dated February 15, 2008.
- 1.2 Having considered all the relevant documentary evidence and after observing the due process as envisages in the NEPRA Tariff (Standards and Procedure) Rules, 1998, the Authority gave its determination on 30<sup>th</sup> October 2009 which was notified on 20<sup>th</sup> July 2010.

## **2. Grounds of the New Petition**

- 2.1 NPGCL did not file any motion for leave for review with respect to determination of the Authority dated 30<sup>th</sup> October 2009. However, on 20<sup>th</sup> May 2010 NPGCL filed another petition for determination of generation tariff of 150 MW (Net) capacity (at mean site conditions) Summundri Road Faisalabad and 150 MW (Net) capacity (at mean site conditions) Sahuwal Sialkot wherein the Authority was requested to review its determination dated 30<sup>th</sup> October 2009. NPGCL requested the Authority to:
- i) Allow financial charges as has been granted to other similar Rental Power Projects (RPPs)
  - ii) Remove the requirement of conducting Heat Rate Tests at the time of commissioning of the project.

## **3 Proceedings**

- 3.1 The petition was admitted by the Authority on 2<sup>nd</sup> of July 2010 and the notice of admission was published on 19<sup>th</sup> August 2010 in the leading newspaper inviting comments/intervention request from stakeholders. In response to said notice, no reply or intervention request was filed.
- 3.2 After examining the available pleadings, the Authority considered it appropriate to conduct a hearing to arrive at a just and informed decision. Therefore, in terms of rule





9(1) of the Tariff Standards and Procedure Rules, 1998, the Authority decided to hold a hearing on 22.9.2010.

3.3 As NPGCL had requested for two reliefs from the Authority, therefore, for the purposes of hearing, the following two issues were framed for raising arguments and production of evidence:-

- 1) Whether NPGCL is entitled for the relief regarding financial charges?
- 2) Whether the requirement of conducting Heat Rate Tests at the time of commissioning of the project is to be removed or not?

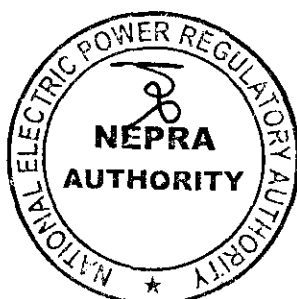
3.4 Prior to the hearing, a notice was also published in the leading national newspapers on 9.9.2010 inviting participation of the stakeholders.

3.5 On 22<sup>nd</sup> September, 2010, the hearing of the petition was conducted in the Conference Room of NEPRA Headquarters. Chief Executive Officer of NPGCL was present alongwith his professional staff as well as his Counsel Mr. Nadir Altaf. Soon after start of the proceedings, Mr. Anwar Kamal, Advocate appeared and filed an intervention request. As the intervention request was filed during the course of hearing, therefore, the Authority invited views of NPGCL before deciding the fate of the petition. The Counsel o NPGCL raised an objection that the intervention request was not filed within the stipulated time period.

3.6 Mr. Anwar Kamal Advocate during the hearing submitted;

- That the consumer should not be overburdened due to the inefficiency of the generation Company;
- That it's the prime responsibility of NEPRA to protect the consumers' rights by discouraging the inefficient generation units because this increases of tariff will ultimately passed to the end-consumer; and
- That in order to ascertain the factual position at the site of the project it is essential to conduct a physical inspection of the machinery/equipment/ engines available at the site.

3.7 The Authority having duly considered the intervention request as well as the objection as to the limitation taken by NPGCL is of the considered view that it is the discretion of the Authority to either accept or reject an intervention request which is



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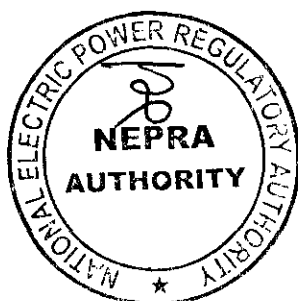
filed during the course of hearing and the Authority has considered it just that due opportunity of participation should be given to all the interested persons and that decisions should be made on merits rather than on technical grounds. Accordingly the intervention request was accepted.

- 3.8 The intervener requested the Authority that for submitting his detailed comments the NPGCL may be directed to provide the relevant documents. The Authority accordingly directed NPGCL to provide the relevant information. The information available with NEPRA was also provided to the intervener. However, the intervener did not submit any written comments/arguments.
- 3.9 Arguments heard and record perused. On the basis of record/evidence produced during the course of hearing and having considered the arguments raised on behalf of NPGCL as well as the intervener, issue-wise findings of the Authority is given as under:-

#### **4 Summudnri Road Faisalabad Rental Power Project**

##### **4.1 Issue No. 1 - Financial Charges**

- 4.1.1 NPGCL submitted that the Authority made certain adjustments in the calculations vis-à-vis the application of financial charges on mobilization advance. NPGCL contended that no such adjustments had been made by NEPRA while determining the tariff for other Rental Power Projects. NPGCL stated that it was advised by the Ministry of Water & Power vide its letter dated 31<sup>st</sup> March 2010 to approach NEPRA requesting therein for removing the aforementioned disparity to bring it in conformity with its contractual arrangements and with the actual cost incurred.
- 4.1.2 The Authority in its determination dated 30.10.2009 gave the rationale for adjusting financing cost pertaining to 14% advance rental on the ground that NPGCL's borrowing requirement to this extent would be reduced and the sponsor of the project would accordingly obtain less amount of loan. The Authority considered it appropriate to pass on the benefit of the saving in the interest cost by the sponsor to the consumers. In so far as the contentions as to giving similar incentive to some other Rental Plants, the Authority modified its decisions with respect to Guddu and Naudero-I Rental Power Plant and allowed them 14% advance without adjusting its cost from the sponsor due to GOP policy issued vide letter No. P-II/15(25)2009 dated 31<sup>st</sup> March 2010 wherein it was clearly decided that while approving/determining the tariff of all RPPs no adjustment of any interest charges be made on the mobilization advance given to RPPs.





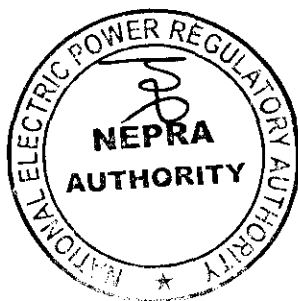
- 4.1.3 The instant case cannot be treated at par with the referred projects for the reason that in this case 14% advance payment was made to Techno-E-Power (Seller) based on the mutual terms and conditions agreed between the Buyer (NPGCL) and the Seller. The advance payment was required to be adjusted after COD in monthly rental amount. The Seller was required to complete its partial installation of 60 MW before 30<sup>th</sup> June 2009 while the remaining 90 MW was required to be installed after 30 days. The Seller could only achieve its partial commissioning of 60 MW after a delay of over one year on 11<sup>th</sup> June 2010, while it has not been able to fulfill its commitment with respect to the completion of remaining 90 MW.
- 4.1.4 The Authority also carried out the physical verification of the RPPs to whom advance payment was made. According to the reports of the inspection team:
- i) Practically there was no further progress on installation of remaining 90 MW of Summundri Road Faisalabad
  - ii) Even the partially commissioned 60 MW was not operative since 11<sup>th</sup> August 2010. As per the information provided by the CPPA Summundri Road Faisalabad generated/delivered 13.886 GWh from its operation till to date.
- 4.1.5 The Authority considers that the sponsor has violated its contractual obligation with respect to achieving its COD even after receiving advance payment. Due to such default on the part of the Sponsor in not achieving the COD in a timely manner, the consumers of the country had to suffer severe load shedding.

### DECISION

In view of the above reasons the Authority is of the view that notwithstanding GOP's guidelines, the violations of contractual obligations on the part of power seller makes it ineligible to claim any further benefit till it establishes its bona-fide by commissioning the plant on the full capacity as contracted.

### **4.2 Issue No. 2- Heat Rate Test**

- 4.2.1 NPGCL contended that it was discriminated by imposing a condition for conducting the Heat Rate test at the time of COD. While justifying its contention NPGCL stated that it's both projects have old equipment and the efficiency of the old equipments cannot be consistent throughout the period. Therefore, it would not be practical to conduct the heat rate test at the time of commissioning of the projects. The



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Petitioner further submitted that Ministry of Water & Power vide letter dated 13<sup>th</sup> April 2010 has directed it to approach NEPRA to dispense with the requirement of conducting Heat Rate Test at the time of COD for providing level playing field.

4.2.2 NPGCL was unable to substantiate its claim through documentary evidence. During the hearing, CEO of NPGCL was asked by the Authority as to why he was in favour of removing the heat rate test whereas as a Buyer he should be in favour of conducting heat rate test. CEO of NPGCL, however, was unable to give any suitable reply. In response to a query as to why this petition had been filed, the response of CEO of NPGCL was that they were asked to do so by the Sponsors. The CEO was also questioned as to who had vetted the Rental Service Contract and in response it was explained that the tenders and bids were invited by PEPCO and NPGCL was simply directed to issue the Letter of Interest and to sign the agreement. The Authority was of the view that NPGCL being a Company did not take independent decisions rather it entered into and signed the contract as per directions of PEPCO and filed the tariff petition before NEPRA as desired by the Sponsor. In the given situation, seeking a relief by NPGCL which prima facie was not in its favour was not understandable.

4.2.3 On behalf of the Power Purchaser, Rana Amjad GM WPPA appeared and submitted that the subject project was arrived at through competitive bidding, therefore, the petition may be accepted. The Authority inquired from him as to what effort as to due diligence, being a prudent purchaser was made because whatever price for power so procured was ultimately passed on to the end-consumers. As no plausible reply was given, hence the Authority expressed its view that as a prudent purchaser, it was the responsibility of the power purchaser to see that the rate and terms and conditions being agreed were market based and in the larger interest of the consumers.

#### DECISION

The Authority while determining the generation tariff of Summundri observed that the efficiency indicated by the RPP was the lowest as compared to other RPPs to whom 14% advance was paid. The Petitioner during the course of proceedings was unable to satisfy the Authority the rationale for removal of the requirement of heat rate test. The Authority considers that the lower efficiency will increase the generation tariff which will ultimately affect the end-consumer and it is Authority's responsibility to protect the consumers' interest. In view, thereof, to protect the consumers from the additional burden due to lower efficiency of the plant the condition for conducting heat rate test at the time of COD was imposed. The



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Authority still feels that the requirement of conducting heat rate test is justified and therefore it finds no reason to review its earlier decision in this respect.

**5 Sahuwal Sialkot Rental Power Project**

**5.1 Issue No. 1 - Financial Charges**

5.1.1 NPGCL during the hearing submitted that the 7% advance payment was made to Techno Engineering Services (Pvt.) Ltd. (Seller) on 4.6.2008 based on the mutual terms and conditions agreed between the Buyer (NPGCL) and the Seller in the Rental Service Contract dated 4.6.2008. NPGCL further submitted that in accordance with the 1<sup>st</sup> amendment in the RSC (dated 11.6.2009) additional 7% advance payment was required to be made.

5.1.2 The Authority carried out the physical verification of the RPPs to whom advance payments were made. According to the report of the inspection team:

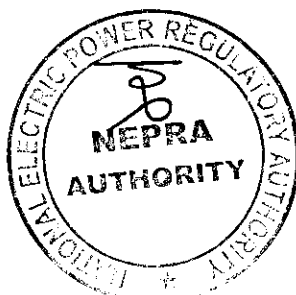
- There is no physical progress with respect to 150 MW Sahuwal Sialkot and no power plant equipment was found at the proposed site. According to NPGCL the reason in delay of achieving COD of Sahuwal Sialkot is the remaining 7% advance which has not been paid to the Seller.

5.1.3 The Authority considers that the objective of rental power generation was to induct additional capacity within 150 – 180 days in the system in order to reduce the demand supply gap. The Economic Coordination Committee (ECC) therefore in its decision dated 10<sup>th</sup> September 2008 decided that:

*“In case any of the approved projects under Packages A & B fail to achieve crucial milestones as per agreements towards timely project implementation, then the project be immediately cancelled with penalties.”*

**DECISION**

According to the report there was no progress on ground despite the fact that 7% advance was paid on 4.6.2008. It may be observed with concern that the very purpose of induction of power through Rental power Plants was to bridge the gap of supply and demand on urgent basis but unfortunately, in this case despite ~~of~~ giving an advance of 7% in June, 2008, no progress whatsoever was made. After a lapse of one year, when the Seller failed to fulfill its obligation, NPGCL instead of invoking penal clauses of the contract again agreed to amend the contract on 11.6.2009 whereby it



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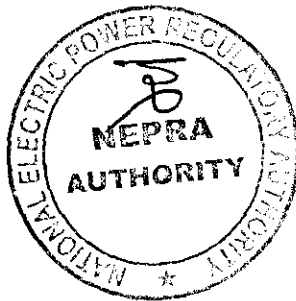


agreed to pay additional 7% advance. Despite all that, it remains an admitted position on record that till now, there is no physical progress of the Rental power Plant at site, therefore, the very objective of the RPP has been defeated. The Authority is of the considered opinion that under the prevailing circumstances there exist no requirement of the Sahuwal project because it will not be in consumer's interest to continue this project having lost its utility and there is absolutely no justification for the relief being claimed by NPGCL regarding its Rental power Project for Sahuwal.

## 5.2 Issue No. 2- Heat Rate Test

NPGCL have similar submission as given at Para 4.2.1. The Authority finds no justification to waive the heat rate test in the instant case.

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