



**National Electric Power Regulatory Authority**  
Islamic Republic of Pakistan

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Registrar

No. NEPRA/R/TRF-106/NPGCL-2008/1666-1668  
March 10, 2011

Subject: **Decision of the Authority in the matter of Adjustment in the Energy Charge Part of the Tariff relating to Fuel for Reshma Power Generation (Pvt.) Ltd. Rental Power Plant of Northern Power Generation Company Ltd.**

Dear Sir,

Enclosed please find herewith the Decision of the Authority (04 pages) in the matter of adjustment in the energy charge part of tariff relating to fuel in respect of Reshma Power Generation (Pvt.) Ltd. Rental Power Plant of Northern Power Generation Company Ltd. in Case No. NEPRA/TRF-106/NPGCL-2008, for information and necessary action, please.

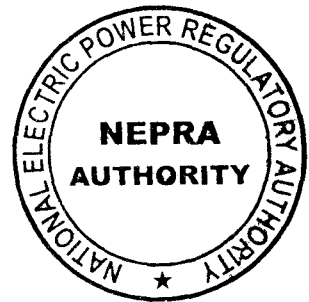
Encl: As above

( 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.

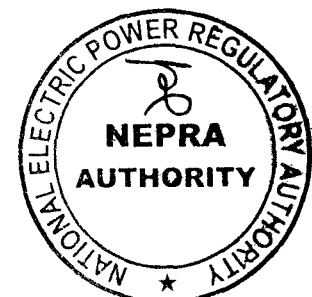


**DECISION OF THE AUTHORITY IN THE MATTER OF ADJUSTMENT IN THE  
ENERGY CHARGE PART OF THE TARIFF RELATING TO FUEL FOR RESHMA  
POWER GENERATION (PRIVATE) LIMITED RENTAL POWER PLANT OF  
NORTHERN POWER GENERATION COMPANY LIMITED**

- 1.1 Northern Power Generation Company Limited (hereinafter referred as NPGCL) vide its letter No. CEO/FD/NPGCL/RPGL/NEPRA/2645-50 dated November 4, 2010 requested to allow partial commissioning of its Rental Power Project namely Reshama Power Generation Ltd (hereinafter referred as Sponsor) for 201.3 MW (net) at Manga Raiwind Road, LESCO area. The letter was responded vide Authority's letter dated 2<sup>nd</sup> of December, 2010 wherein it observed that having considered the said letter it was noted that RPGL participated in the International Competitive Bidding (hereinafter "ICB") and accepted the terms and conditions laid down in the RFP. The evaluation was made in accordance with the bid evaluation criteria wherein certain weightage was given for earlier completion of project. Based on the evaluation criteria the RPGL was declared as qualified bidder. The Authority further observed that the terms and conditions of RFP did not provide for any partial commissioning and RPGL was required to complete its project within 180 days from the issuance date of Letter of Award (LOA). RPGL was paid an advance of 14% of the contract price on 3<sup>rd</sup> October 2009. In the Authority's considered opinion any change in the agreed term and conditions subsequent to declaring RPGL as qualified bidder would be a violation of PPRA rules. With this observation, the Authority did not approve partial commissioning.
- 1.2 NPGCL has now requested to allow adjustment in the energy charge part of tariff relating to fuel subsequent to change in the furnace oil prices for 2<sup>nd</sup> fortnight of November 2010, 1<sup>st</sup> and 2<sup>nd</sup> fortnight of December 2010 in respect of fuel consumed during testing of the plant. In this regard the proposed revised furnace oil price and the revised FCC is indicated hereunder:

Reference RFO Prices as per the Authority's determination Rs./kWh	Revised Furnace Oil Prices (Rs./M.Ton) *		
	w.e.f. 2 <sup>nd</sup> fortnight of November	w.e.f. 1 <sup>st</sup> fortnight of December	w.e.f. 2 <sup>nd</sup> fortnight of December
23,110.80	48,664	48,147	49,699
Reference FCC as per the Authority's determination Rs./kWh	Revised Fuel Cost Component (Rs./kWh)		
	w.e.f. 2 <sup>nd</sup> fortnight of November	w.e.f. 1 <sup>st</sup> fortnight of December	w.e.f. 2 <sup>nd</sup> fortnight of December
5.5124	11.6074	11.4840	11.8542

- Revised furnace oil prices are inclusive of freight amount.



- 1.3 The tariff of RPGL determined by the Authority vide its decision dated 29.5.2009, was comprised of lump sum rental charges of US\$ 394,778,489 which were to be paid in sixty (60) equal monthly installments as per the provisions of the Rental Service Contract (hereinafter "RSC") and fuel cost on RFO 5.5124/kWh. The reference Fuel Cost Component (hereinafter "FCC") was based on RFO price of 20,393 per M.Ton (excluding freight) which was subject to indexation due to variation in price of RFO as per the provisions of the RSC.
- 1.4 It has been observed that the partial commissioning idea is foreign to the RSC and that on account of the default of Sponsor, in failing to complete the project in time, the circumstances warranting enforcement of penal clauses had accrued. The Authority has not as yet been informed of any such action taken or any plausible reason for withholding such penalty. It is also observed that the sponsor was allowed by NPGCL 14% advance on which the interest is being paid by NPGCL which is adding to the burden on the public exchequer. The 14% advance comes to US\$ 55.27 Millions (PKR 4,576 Millions), which was paid on 3.10.2009 and as per information gathered from NPGCL's record; NPGCL had managed said amount of PKR 4,576 Millions as a loan to be paid to the Sponsor, which loan was received from National Bank of Pakistan as Long Term Loan @ KIBOR+2% and that too through another legal entity, i.e., NTDC. The sponsor is enjoying the amount of 14% advance since 3.10.2009 while NPGCL is paying mark up thereon. Notwithstanding the same, the sponsor did not reciprocate by timely implementation of the project which of course frustrated the very idea of resorting to the rental projects. The object of allowing rental project was to meet the immediate deficiency and if its installation could not be achieved in the shortest period, the Authority might have declined the tariff determination and insisted to resort for the normal IPP projects.
- 1.5 In view of the failure of the sponsor to install the project within the stipulated time, at this stage, after the expiry of a considerable time, any concession for partial Commercial Operation, which is foreign to the RSC, will be lacking fairness and transparency. It is not explained by the NPGCL as to why instead of invoking the penal clause in real spirit, a request for fuel adjustment is being floated despite the observations of the Authority in letter dated 2nd of December, 2010 whereby the Authority had opined that allowing partial commissioning to RPP at this stage will amount to changing the agreed terms and conditions and will be a violation of PPRA Rules as well as contrary to the ECC decision dated 10.9.2008. The proposal for seeking fuel adjustment of an amount (Rs. 24 Millions Approximately), which is a fractional

- part of the advance already received by the sponsor (Rs. 4576 Millions), cannot be justified on the touchstone of fairness and reasonableness. The Authority also fails to appreciate as to why the NPGCL has not as yet taken step for the retrieval of 14% advance, despite knowing well that the very purpose was not achieved. The sponsor did not utilize the amount for the purpose for which it was purportedly advanced, therefore there could not be any justification for NPGCL to continue suffering in paying mark up to the bank over the 14% advance.
- 1.6 It is also a matter of record that the Sponsor failed to achieve crucial milestones as per RSC towards timely project implementation and despite ECC's decision in Case No. ECC-146/14/2008 dated September 10, 2008 to the effect that "Such a project which fails to achieve crucial milestones is required to be immediately cancelled with penalties". It appears that NPGCL has failed to follow the decision of ECC. Here it would also be relevant to mention that as per information provided by NPGCL, the performance guarantee of the sponsor amounting to US\$ 1.1 Million has already been en-cashed by NPGCL due to default of the Sponsor in February 2010. In clause 4.4(b) of the RSC dated 6.9.2009, it was specifically provided that "upon encashment of the Performance Guarantee, the Contract shall terminate and the Project stands cancelled". It has been noted with serious concern that instead of resorting to enforce the penal clause of termination of contract, NPGCL unilaterally amended the RSC on 28.5.2010 whereby the term "termination" was substituted with "re-negotiating" in the event of default. It is also an established fact that neither at the time of entering into original RSC dated 6.9.2009 nor at the time of its amendment dated 28.5.2010, the permission/approval of the Authority was ever obtained by NPGCL. The Authority did not approve the proposed idea of partial COD as it is not warranted by RSC, nevertheless the sponsor has already received 14% advance to the tune of Rs. 4,576 Millions which is much higher than the amount being claimed towards fuel adjustments and despite this the Project was neither installed nor made operational during stipulated period.
- 1.7 As far as the request for the determination for fuel adjustment, it is a matter of record that ultimate decision as to the fate of the Project has since not been taken by NPGCL as yet, hence any determination as to the subject adjustment can prejudice the course which NPGCL is entitled to take against the sponsor in the given circumstances. The Authority also expects that the NPGCL will keep in




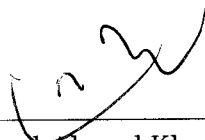


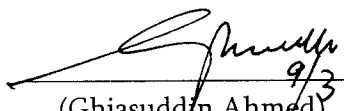
view the consumers' interest and ensure that no undue favour is extended to the Sponsor at the expense of consumers.


1.8 For the foregoing reasons, the request for fuel adjustment, cannot be entertained and considered at this stage.

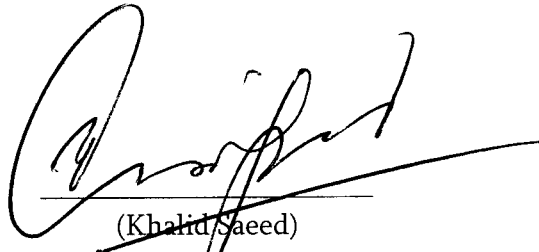
AUTHORITY

  
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(Maqbool Ahmad Khawaja)  
Member

  
(Ghiasuddin Ahmed)  
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(Shaukat Ali Kundi) 09.03.2011  
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(Khalid Saeed)  
Chairman

