



Registrar

# National Electric Power Regulatory Authority Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad  
Ph: +92-51-9206500, Fax: +92-51-2600026  
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

No. NEPRA/TRF-271/NPGCL-2014/12403-12405  
September 2, 2016

**Subject: Decision of the Authority in the matter of Reconsideration Request filed by GoP pertaining to the Tariff Determination dated April 14, 2015 and Review Decision dated January 27, 2016 with respect to Generation Tariff for Nandipur Block of Northern Power Generation Company Ltd. (NPGCL) [Case # NEPRA/TRF-271/NPGCL-2014]**

Dear Sir,


Reference: Ministry of Water & Power letter no. P-I-4(4)/2009 dated 21.03.2016.

Please refer to this office letters No. NEPRA/TRF-271/NPGCL-2014/5617-5619 dated 14<sup>th</sup> April 2015 and No. NEPRA/TRF-271/NPGCL-2014/1214-1216 dated 27.01.2016 whereby Determination of the Authority in the matter of Tariff Petition filed by Northern Power Generation Company Ltd. (NPGCL) for the Determination of its Generation Tariff and Decision of the Authority in the matter of Motion for Leave for Review filed by NPGCL respectively were sent to the Federal Government for notification in the official Gazette.

2. Please find enclosed herewith the subject decision of the Authority (05 pages) in the matter of Reconsideration Request filed by GoP pertaining to the Tariff Determination dated April 14, 2015 and Review Decision dated January 27, 2016 with respect to Generation Tariff for Nandipur Block of Northern Power Generation Company Ltd.

3. The subject Decision is being intimated to the Federal Government for the purpose of notification in the official gazette pursuant to Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.

Enclosure: As above

  
( Syed Safeer Hussain )

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

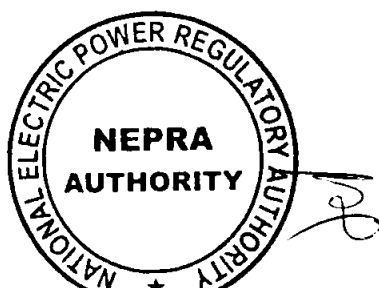
CC:

1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.



**DECISION OF THE AUTHORITY IN THE MATTER OF RECONSIDERATION REQUEST FILED BY  
GoP PERTAINING TO THE TARIFF DETERMINATION DATED APRIL 14, 2015 AND REVIEW  
DECISION DATED JANUARY 27, 2016 WITH RESPECT TO GENERATION TARIFF FOR  
NANDIPUR BLOCK OF NORTHERN POWER GENERATION COMPANY LIMITED**

1. Northern Power Generation Company Limited, (NPGCL) Nandipur power project tariff was determined in accordance with the procedure provided under NEPRA Tariff (Standards & Procedure) Rules, 1998 vide a determination No. NEPRA/TRF-271/NPGCL-2014/5617-5619 dated April 14, 2015 (hereinafter referred to as "the Determination"). The same was intimated to the Federal Government under Section 31(4) of the NEPRA Act, for its notification in the official gazette.
2. NPGCL, being aggrieved by the aforesaid determination, filed a Motion for Leave for Review (MLR) which was accordingly disposed-off vide decision No. NEPRA/TRF-271/NPGCL-2014/1214-1216 dated January 27, 2016, hereinafter referred to as "the Decision". The MLR decision was also intimated to the Federal Government under Section 31(4) of the NEPRA Act for notification in the official gazette.
3. The Federal Government through the Ministry of Water & Power (hereinafter referred to as the "Petitioner") filed reconsideration request dated March 21, 2016 against the Determination and the Decision of the Authority. Although, there is no specific requirement in section 31(4) of the NEPRA Act, 1997 to conduct any hearing for the consideration of reconsideration request, yet it was decided to conduct a hearing on 24<sup>th</sup> of May, 2016 for which notices were sent to all the parties which participated at the time of the Determination.
4. In response to the notice of hearing; only comments of Anwar Kamal Law Associated (AKLA) were received after hearing date who was party to the proceedings in the impugned determination.
5. **Anwar Kamal Law Associates**  
Relevant points of AKLA are as under:
  - i. Government of Pakistan has no locus standi to make the reconsideration request. In law, it is only NPGCL, which could approach NEPRA.
  - ii. The reconsideration has been barred by time.
  - iii. The Reconsideration request merits outright rejection and it is requested it to be rejected.
6. The instant reconsideration request was not filed within the statutory period; however, in order to meet the ends of natural justice, the delay was condoned by the Authority.



11



7. **Hearing**

7.1 On the date of hearing, i.e. May 24, 2016, Mr. Sheikh Muhammad Ali Legal Advisor, Syed Mateen Ahmad Section officer appeared on behalf of the Federal Government. Representative from NPGCL and NTDCCL also participated.

7.2 Having considered the available record and hearing of the parties present on 24<sup>th</sup> May, 2016, it may be observed that the Federal Government's request for reconsideration of the tariff determination dated April 14, 2015 and review decision dated January 27, 2016 is primarily due to the following grounds:-

- a. **Delay Cost:** The cost not allowed by the Authority for the delay period may be allowed.
- b. **Efficiency:** The efficiency of the power plant determined on higher side by the Authority may be reconsidered.
- c. **Other Cost:** Certain other cost disallowed by the Authority may be allowed.

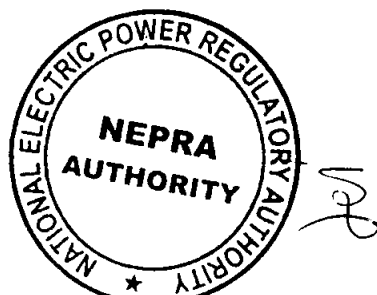
8. **Delay Period Cost**

8.1 The Federal Government, in its reconsideration request stated that as per the Determination and the Decision of the Authority, the period from April 2010 to October 2013 was considered as 'delayed period' (i.e. total period of about 1268 days or about 3.5 years). The Petitioner stated that the Authority treated the issue of delay for tariff treatment in Nandipur power project on similar grounds as with the decision made by the Authority in the case of other IPPs i.e. Orient, Sapphire and Halmore etc. who also were delayed. According to the Petitioner, Nandipur project is not comparable with IPPs. The delay in achieving RCOD in the case aforementioned IPPs was after the Financial Close that had not occurred in case of Nandipur. Moreover, in case of Orient, the EPC contractor became insolvent only after Orient failed to achieve COD by the RCOD. In case of Sapphire, the insolvency of EPC Contractor triggered before the RCOD and therefore, after legal opinion, NPGCL and PPIB extended RCOD. The Petitioner concluded that these cost if not allowed will make the project financially unviable.

9. **Efficiency**

9.1 The Federal Government in its reconsideration request stated that the Authority determined the efficiency of the Power Plant of Nandipur on the higher side, i.e. 45% on RFO against 44% requested and 49% on gas 48% against requested. At allowed efficiencies, operation of the plant becomes unviable and there is every likelihood of continuous loss in operation and

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exposure of the huge investment on the CCPP Nandipur of being wasted. The Federal Government also stated that the Authority has allowed the cushion of 6% in efficiency of plant for impact on weather and conditions at the port, but has taken the benchmark efficiency by 52.7%, which needs to be revised because the efficiency of the plant is affected by various reasons including the weather conditions, altitude, site configuration etc. The petitioner further submitted the EPC contractor has agreed an efficiency of 44.3%.

10. **Other cost disallowed by the Authority**

10.1 The Petitioner in its reconsideration request also pointed out that certain other portions specifically with regard to certain costs not allowed by the Authority in its decisions needs reconsideration. Others cost claimed are as under:

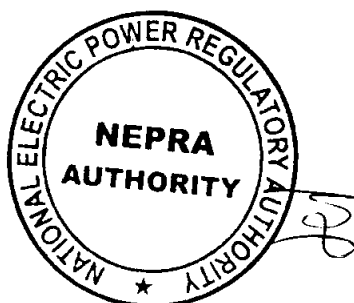
**Other Cost Summary**

S.No	Descriptions	Rs in Millions
1	15% Surcharge paid on income tax	2.5
2	Contractor Delayed Payment	5.5
3	Land Preparation and building	123.63
4	Delay Period Admin & Overhead Expenses	205.024
5	Employer Engineers Cost	26.22
6	Demurages and Detention Charges	718.13
7	FOTP Equipment	Not Provided
8	Insurance During Construction	Not Provided
9	Gas Pipeline Charges	Not Provided

10.2 GoP stated that, NPGCL will incur huge losses if delay related costs and these above mentioned costs are not allowed.

11. Argument heard and record perused.

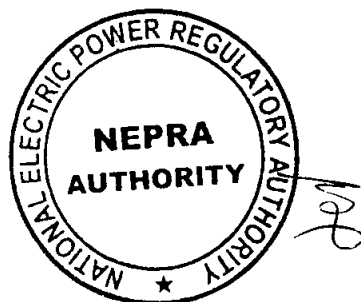
12. In the instance case, it is observed that the majority of the submissions made in the reconsideration request is already deliberated upon in the Determination as well as in the Review Decision. The GOP reconsideration request primarily reiterates the background of the case and causes of project delay. The Authority is already aware of that and considered the same while deciding on the individual cost items and technical benchmarks in the Determination and also in the Decision on the review motion. GOP stated that NPGCL requested thermal efficiency of 44%, whereas, the Authority allowed an efficiency of 45%. The Petitioner needs to be aware that performance test of the project, which was conducted on 23.07.2015 by the EPC contractor, i.e. Dongfang Electric Corporation Limited resulted in



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the net LHV thermal efficiency of 44.95% on combined cycle mode on RFO/HSD/HSFO operation, which is remarkably close to the approved efficiency of 45%. Therefore, the statement that NPGCL will incur operational loss due to efficiency difference is grossly overstated.

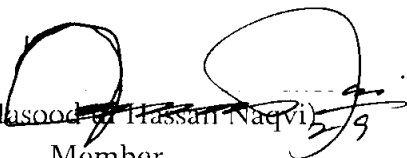
13. The Petitioner asserted that the project will incur huge losses if the delay related costs are not allowed. The Authority would like to put it on record that the allowed tariff is reasonably sufficient to not only cover all of Nandipur's fixed capacity charges (where all the delay cost is parked) but also sufficient revenues to earn profit even in the first 15 year of its operation wherein the loan is scheduled to be paid back. After the debt is paid NPGCL return is expected to increase further. The Project will only forgo some of the portion of 15% guaranteed IRR that would have been earned if the project was built within the normal time period without any delays. In view thereof, the Petitioner's request for reconsideration with respect to allowing of delay cost, revision in efficiency and allowance of other cost is rejected.
14. The Petitioner has highlighted a clerical mistake in the determination relating to the some portion of EPC cost conversion of US\$ 4.95 million to PKR. It may be noted that this typo has already been corrected in the Decision in the motion for leave for review.
15. In the Decision the Authority dated January 27, 2016, NPGCL requested for inclusion of Gas connection infrastructure and the Authority disallowed such provision on the basis that there is a separate regulatory body, i.e. OGRA which is mandated to review and approve such capex of gas utilities. Subsequent to the above decision of the Authority, OGRA vide its letter No: OGRA 9 (404) /2015 dated 8th April 2016 accorded approval to SNGPL request for infrastructure development works required to supply RLNG to the following Power Plants on a 100 % cost sharing basis which means all cost to be borne by the power plants:
  - 30" dia×18 KM Pipeline for Bhikki Power Plant.
  - 30" dia×8 KM Pipeline for Balloki Power Plant.
  - 30" dia×38 KM Pipeline for Havelli Bahadar Shah Power Plant.
  - 24" dia×85 KM Pipeline for Nandipur Power Plant.
16. Keeping in view the approval of OGRA, the Authority already approved the requested gas pipeline cost for the three LNG based power plants i.e., Bhikki, Balloki and Havelli Bahadar Shah. It was considered that since the decision of inclusion of gas infrastructure cost has already been given to LNG based power plant, therefore, as a matter of principle and in pursuance of the OGRA decision, it is decided that Nandipur power plant shall also be given the prudent cost related to gas infrastructure at the time of COD. In this regard, NPGCL shall submit verifiable documentary evidence of actual cost incurred on gas pipeline, duly verified by SNGPL.




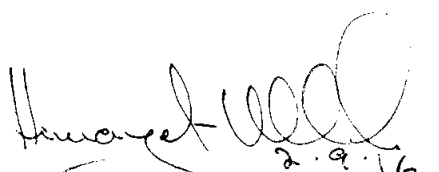


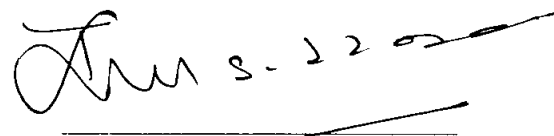
17. The above determination is intimated to the Federal Government for notification in the official gazette under section 31(4) of the Regulations of Generation, Transmission, and Distribution of Electric Power Act, 1997.

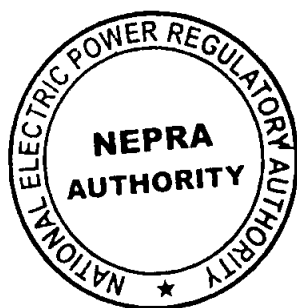
**AUTHORITY**

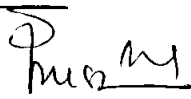
  
(Syed Masood Ali Hassan Naqvi)  
Member

  
(Maj. (R) Haroon Rashid)  
Member

  
(Himayat Ullah Khan)  
Vice Chairman

  
(Brig. (R) Tariq Saddozai)  
Chairman



  
02.09.16