



Registrar

# National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/R-SA(Tariff)/TRF-437/SCEL-2018/9421-9423  
March 27, 2020

Subject: **Decision of National Electric Power Regulatory Authority in the matter of Motion for Leave for Review filed by M/s. Siachen Energy Limited against the Tariff Determination dated November 19, 2018 [Case # NEPRA/TRF-437/SCEL-2018]**

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (05 Pages) in the matter of Motion for Leave for Review filed by M/s. Siachen Energy Limited against the Tariff Determination dated November 19, 2018 in Case No. NEPRA/TRF-437/SCEL-2018, for information.

Enclosure: As above

  
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( Syed Safeer Hussain )

Secretary  
Ministry of Energy (Power Division)  
'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 NATIONAL ELECTRIC POWER REGULATORY AUTHORITY**  
**IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY M/S**  
**SIACHEN ENERGY LIMITED AGAINST THE TARIFF DETERMINATION**  
**DATED NOVEMBER 19, 2018**

1. M/s Siachen Energy Limited ("SEL", "the petitioner", "the company") vide letter dated November 14, 2019 filed subject motion for leave for review ("review motion") with National Electric Power Regulatory Authority ("NEPRA", "the Authority") under rule 16(6) of the NEPRA (Tariff Standards and Procedure) Rules, 1998 read with Regulation 3(2) of NEPRA (Review Procedure) Regulations, 2009 and other applicable provisions of NEPRA law. In the instant review motion, the petitioner has requested the Authority to extend the time of achieving Financial Close ("FC") as specified in the Tariff Determination issued by NEPRA dated November 19, 2018 ("the Tariff Determination" or "the Impugned Determination").
2. SEL is a company setup to develop a 100 MW solar power project. The Authority awarded Generation License to SEL vide its decision dated October 10, 2017. The Tariff Determination was issued on November 19, 2018 whereby a levelized tariff of US Cents 4.8184/kWh was approved for SEL. Following term, which is relevant to the subject case, was approved in the Tariff Determination of SEL:

"The company will have to achieve financial close within one year from the date of issuance of this tariff determination. The tariff granted to the company will no longer remain applicable/valid, if financial close is not achieved by the company in the abovementioned timeline or its generation license is declined/revoked by NEPRA"
3. In view of the above term, the petitioner was required to achieve FC by November 18, 2019; failing which it is given that its tariff would have expired.

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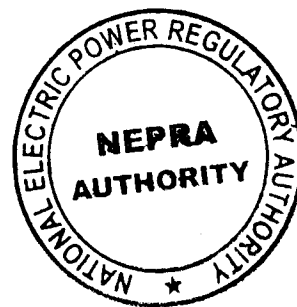


4. SEL in the subject review motion has stated that as per paragraph 55(C) of Impugned Determination, the deadline to achieve FC is November 18, 2019. SEL has referred to the decision dated April 04, 2019 of Cabinet Committee on Energy (CCOE) wherein the alternative/renewable energy projects have been divided into three categories. Category-I includes projects which have obtained Letter of Support ("LOS") by Alternative Energy Development Board ("AEDB") are permitted to proceed towards achievement of their milestones under Renewable Energy Policy, 2006. Category-II includes projects which have been issued Letter of Intent ("LOI") and have been granted Tariff and Generation License by NEPRA and are allowed to achieve milestones under Renewable Energy Policy, 2006. For category-II projects, if the tariff determination has been done since more than one year or if the tariff validity period has elapsed, NEPRA would be requested for review of the same to make it consistent with the current market environment/conditions and consumer interest. Category-III includes projects that have been issued LOI prior to the expiry of Renewable Energy Policy, 2006 on March 08, 2018 but have not received a tariff from NEPRA, may be allowed to proceed ahead subject to becoming successful in the competitive bidding process to be undertaken by AEDB specifically designed for each technology under this category based on the quantum ascertained for each technology by Indicative Generation Capacity Expansion Plan (IGCEP).
5. SEL has stated that since it had been granted LOI by AEDB as well as Tariff and Generation License by NEPRA, therefore, it falls in the Category-II of CCOE decision. However, in the list issued by CCOE with its decision dated April 04, 2019, the name of SEL was erroneously included in the Category-III due to which the project financier (International Finance Corporation) is no longer willing to continue work on its project. The petitioner informed that it has taken up the matter with the concerned departments for rectification of the error and shifting of project from Category-III to II, however, the correction is still awaited. In the meantime, the FC deadline as specified in the Tariff Determination, i.e. November 18, 2019 has approached. SEL requested to extend the FC deadline for another six months to be counted from the date the project name will be shifted to Category-II of the CCOE decision. The petitioner further submitted that it is developing the project for last five years and is now finally in the position to take it to FC,



however, it has not been empowered to proceed at all because of an inadvertent error which has the potential of wasting all its efforts and resulting the project being scrapped.

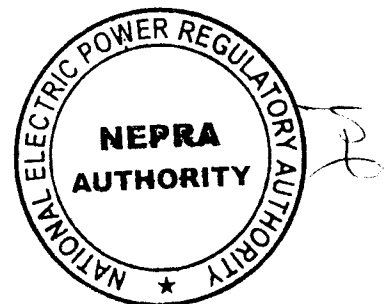
6. Subsequently, the petitioner vide its letter dated November 22, 2019 submitted that the project tariff expired on November 18, 2019 and till date the CCOE Notification of listing the project in category-II stage is pending despite its eligibility and continued efforts and follow up with concerned departments. It further submitted that this lapse has delayed the FC by a period of 6 months and therefore it has prayed in the petition a further extension of six months to be counted from the date of such Decision of the CCOE in which the project will be listed in Category II. It also stated that AEDB Review Committee constituted to review the change in Category has already recommended for listing its project in Category-II and the same will be approved in CCOE meeting through a notification.
7. The Authority considered the subject review motion on December 02, 2019. To deliberate on the merits of the case, the Authority decided to condone the delay in filing of subject review motion and admitted the same. The Authority decided to hold hearing on this matter and notices thereof were sent to SEL, Central Power Purchasing Agency Guarantee Limited (CPPAGL), Ministry of Energy (MoE), and AEDB on January 21, 2020. The hearing was held on January 29, 2020 which was attended by the petitioner and other stakeholders.
8. During the hearing, the petitioner reiterated its submissions given in the subject review motion and requested for the extension in the time of FC as specified in the Tariff Determination. During the hearing and then vide letter dated January 29, 2020, CPPAGL submitted that SEL has been enlisted in Category-III of the CCOE decision dated March 29, 2019 which states the project may be allowed to proceed ahead subject to becoming successful in the competitive bidding process to be undertaken by AEDB. It submitted that the Authority may not consider issuance/acceptance of any application for grant of tariff till the final approval of IGCEP by NEPRA which will determine additional power induction in the system by June 2023 and onward.



### Analysis and Decision of the Authority

9. The Authority has noted that SEL has filed the review motion stating that CCOE in its decision has put its project in wrong category. Here it is important to mention that CPPAGL during the proceedings of Impugned Determination opposed the award of tariff to SEL based on decision taken by CCOE in December, 2017. In that decision, CCOE had stated that all the projects based on wind, solar, small hydro and bagasse energy will be awarded through competitive bidding. The Authority considered those submissions, but awarded tariff to SEL while taking the stance that CCOE cannot make or amend policies. Now the subject review motion has been filed by the petitioner due to an alleged error that happened in another CCOE decision. The Authority is of the view that it would not be appropriate to review the Impugned Determination due to an error made in some CCOE decision when it actually awarded tariff to the petitioner while not agreeing with some other decision made by CCOE.
10. Further, the Authority has noted that the prices of solar and wind technologies have been decreasing continuously over the last few years. This is the reason that the Authority specifies the time of achieving FC in the tariff determinations (wind and solar) in order to ensure that projects are developed on prevailing prices of equipment. Projects being developed lately should be on the reduced prices of equipment prevalent at that point of time. Extension of FC time would be tantamount to granting tariff to SEL based on the equipment prices of 2018 which may not be considered prudent.
11. The petitioner may consider filing a new tariff petition with NEPRA under NEPRA (Tariff Standards and Procedure) Rules, 1998 for the determination of new tariff.

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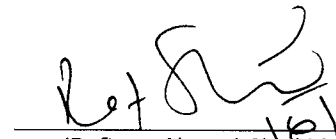



## Order


12. The Authority considers that the request of the petitioner for the extension in the timeline of achieving FC is not maintainable. In view thereof, the instant review motion is hereby disposed of.

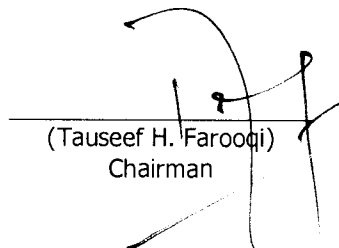
## AUTHORITY

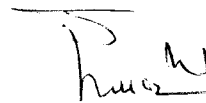
  
(Saif Ullah Chattha)  
Member 13.3.2020

  
(Rafique Ahmed Shaikh)  
Member 16/3/20

  
(Eng. Bahadur Khan)  
Member

  
(Rehmatullah Baloch)  
Vice Chairman 27/3/2020

  
(Tauseef H. Farooqi)  
Chairman

  
27.03.20

