



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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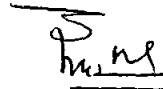
No. NEPRA/R/Director (Trf)/TRF-299/PQEPCPL-2015/42474⁻⁷⁹ November 20, 2020

Chief Executive Officer
Port Qasim Electric Power Company (Pvt.) Limited
Level 6, West Wing, Serena Business Complex, Sector G-5/1,
Islamabad
Tele: 051 – 835 7171
Fax: 051 - 835 7172

Subject: Motion for Leave for Review filed by Port Qasim Electric Power Company (Pvt.) Ltd. against the Decision of the Authority in the matter of adjustment Insurance Component of Capacity Charge part of Tariff dated 12 March 2020

Please find enclosed herewith the subject Decision of the Authority (02 pages) in the matter of Motion for Leave for Review filed by Port Qasim Electric Power Company (Pvt.) Ltd. against the Decision of the Authority in the matter of adjustment Insurance Component of Capacity Charge part of Tariff dated 12 March 2020 for information and further necessary action please.

Enclosure: As above


20 11 20
(Syed Safeer Hussain)

CC:

1. Secretary Ministry of Energy, Power Division, 'A' Block, Pak Secretariat, Islamabad
2. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad
3. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.
4. Secretary, Privatization Commission, 4th Floor, Kohsar Block, New Secretariat, Islamabad.
5. Chief Executive Officer, Central Power Purchasing Agency Guarantee Limited
Shaheen Plaza, 73-West, Fazl-e-Haq Road, Islamabad.

**Motion for Leave for Review Filed by Port Qasim Electric Power Company (Private)
Limited Against the Decision of the Authority in the Matter of Adjustment of Insurance
Component of Capacity Charge Part of Tariff Dated 12 March 2020**

1. Background

- 1.1. Port Qasim Electric Power Company (Private) Limited (hereinafter "PQEPCL") has established a coal fired power plant of 2x660 MW at Port Qasim Karachi. PQEPCL started providing electricity to the grid from November 2017. PQEPCL has achieved Commercial Operation Date on 24th April 2018. The Authority approved adjusted insurance component for the first agreement year vide its decision dated 27th September 2019 in the matter of tariff adjustment at the time of Commercial Operation Date (COD). As per the decision of the Authority, the insurance component of tariff is subject to adjustment on actual with maximum of 1% of 70% of approved CAPEX cost. The Authority vide its decision dated 12th March 2020 approved revised insurance component for 2nd agreement year.

2. Filing & Admission of Motion for Leave for Review

- 2.1. PQEPCL being aggrieved of the above decision of the Authority filed Motion for Leave for Review on 8th April 2020. The Authority admitted the subject motion on May 11, 2020

3. Grounds of Appeal

- 3.1. PQEPCL submitted that it paid insurance premium amounting to Rs 1,082,186,169/- including sales tax of Rs. 120,253,906 for the second agreement year (30th March 2019 to 29th March 2020). However, the Authority did not consider the sales tax while determining the revised insurance component and worked it out on the basis of net amount of Rs 961,932,263.
- 3.2. According to PQEPCL, the Authority considers sales tax on insurance premium as an input sales tax that can be claimed from the Federal Board of Revenue (FBR) and therefore did not allow it. However, PQEPCL is of the view that insurance component is a part of capacity charge and there is no output sales tax on capacity charges against which the input sales tax can be adjusted. Therefore, sales tax paid on insurance premium is not adjustable.
- 3.3. Based on the above, the Petitioner requested the Authority to review its decision dated 12 March 2020 and allow sales tax paid on insurance premium.

4. Hearing

- 4.1. Hearing in the matter was held on July 14th July 2020 through video link on Zoom. Hearing was attended by the representatives of PQEPCL and CPPA-G. During the hearing, the Authority directed PQEPCL to get written confirmation from the FBR that sales tax on insurance premium is not adjustable against company's output tax of the same period.

5. FBR Clarification

- 5.1. In compliance of Authority's direction, PQEPCL vide letter No. PQEPCL/NEPRA/2020-47 dated October 16, 2020 submitted clarification of FBR in respect of non-adjustment of sales tax on insurance premium paid by PQEPCL.

- 5.2. FBR vide letter No. C.No.3(15)ST-L&P/99 (Pt-I)/188848-R dated 16th October 2020 clarified that since insurance cost is part of capacity purchase price, therefore, sales tax paid on insurance premium cannot be adjusted against output tax as per the Sales Tax Act, 1990. The relevant text of the letter is reproduced hereunder:

“It may be noted that as per provisions of section 2(46)(h), value of supply of electricity by an independent power producer or WAPDA shall be the amount received on account of energy purchase price only; and the amount received, on account of capacity purchase price, energy purchase price premium, excess bonus, supplemental charges etc. **shall not be included in the value of supply.**”

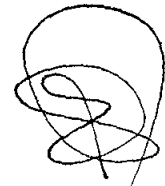
Since in this case insurance cost incurred by M/s PQPECL, forms part of its capacity purchase price, accordingly, adjustment of input tax relating to sales tax on insurance premium against the output tax is not available under the Sales Tax Act, 1990 on account of being relatable wholly to the non-taxable supplies i.e. capacity purchase price.”

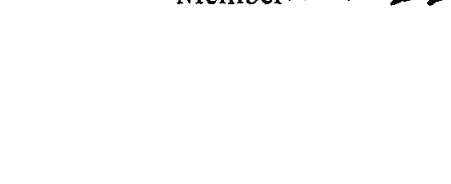
6. Decision

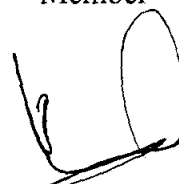
- 6.1. Based on the clarification from FBR in the matter, the Authority has decided to allow PQEPCL to recover non-adjustable sales tax paid by it on insurance premium from CPPA-G as Pass-Through item under Section 11.3(c) of Schedule 1 of the Power Purchase Agreement.

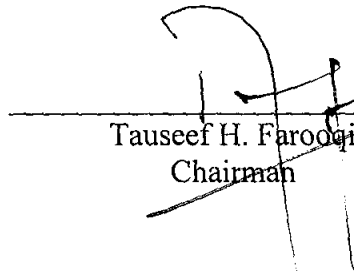
AUTHORITY


Saif Ullah Chattha
Member 12.11.2020


12/11/2020
Rehmatullah Baloch
Member


Engr. Rafique Ahmed Shaikh
Member


Engr. Bahadur Shah
Member


Tauseef H. Farooqi
Chairman

