



National Electric Power Regulatory Authority Islamic Republic of Pakistan

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Registrar

No. NEPRA/R/DG(Trf)/TRF-100/Laraib-2009/ 35934-38

October 31, 2023


Subject: **Decision of the Authority in the matter of Quarterly Indexation/Adjustment of Tariff for Laraib Energy Limited (Case No. NEPRA/TRF-100/2009)**

Dear Sir,

Please find enclosed herewith the decision of the Authority along with revised tariff components (Annex-I) (total 04 pages) regarding quarterly indexation/adjustment of tariff of Laraib Energy Limited for the quarter **April to June 2023** on account of US CPI, CPI (General) in Case No. NEPRA/TRF-100/2009.

2. The decision is being sent to the Federal Government for intimation and action, if any, by the Federal Government under Proviso (ii) of Section 31(7) of NEPRA Act, before its notification by NEPRA pursuant to the said Proviso of Section 31(7) of NEPRA Act, 1997.

Enclosure: As above


(Engr. Mazhar Iqbal Ranjha)

Secretary,
Ministry of Energy (Power Division),
Government of Pakistan
'A' Block, Pak Secretariat,
Islamabad.

CC:

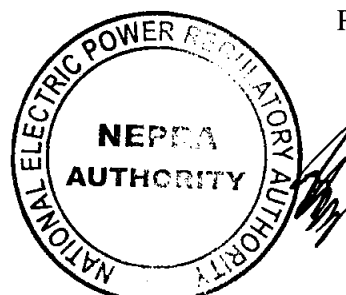
1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad
2. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.
3. Chief Executive Officer, Central Power Purchasing Agency Guarantee Limited (CPPA-G), Shaheen Plaza, 73-West, Fazl-e-Haq Road, Islamabad
4. Chief Executive, Laraib Energy Ltd., Office No. 12, 2nd Floor, Executive Complex, G-8 Markaz, Islamabad Tele: 051 – 2255 431 – 32

**DECISION OF THE AUTHORITY IN THE MATTER OF QUARTERLY
INDEXATION/ADJUSTMENT OF TARIFF FOR LARAIB ENERGY LIMITED
(LEL)**

1. Pursuant to the Decisions of the Authority dated 14th April, 2016 in the matter of tariff adjustment at Commercial Operation Date (COD) notified vide S.R.O No 585(1)/2016 dated 28th June 2016, Motion for Recalculation dated 26th May 2016 and Motion for Leave for Review filed by LEL against the Decision of the Authority at COD dated June 30th 2016, the tariff components of Laraib Energy Limited are required to be indexed quarterly/biannually on account of LIBOR, US CPI, CPI (General) & Exchange rate.
2. LEL submitted an indexation request for the Apr-Jun 2023 quarter through CPPA-G and subsequently CPPA-G forwarded the request vide letter dated May 05, 2023, with the observation not to index the O&M components.
3. The Authority vide decision dated May 26, 2022, in the matter of Motion for Leave for Review has already deliberated the alleged issue of O&M with clear directions, however, due to a lapse of considerable time, the issue was not concluded. Thus before, approving the indexation request for Apr-June 2023 quarter, the Authority decided to conduct a hearing on the matter. Accordingly, a hearing was scheduled on July 10, 2023, for which the notices were served to CPPA-G, LEL, PPIB and Chief Secretary AJ&K.
4. During the hearing, the Authority directed CPPA-G to provide written comments on quarterly indexation for the pending Apr-Jun 2023 quarter within three days indicating whether subject indexation should be allowed as per NEPRA approved determination/PPA or otherwise? Subsequently, these directions of the Authority were also conveyed vide letter dated July 26, 2023. In the said letter the Authority also showed displeasure over the non-compliance of CPPA-G to the Authority's decision dated May 26, 2023, by filing a separate petition within two weeks regarding the O&M misrepresentation issue of LEL.
5. CPPA-G submitted its response letters dated July 14, 2023, & August 07, 2023, by contending that LEL obtained a reference tariff based on O&M provision estimates of USD 4.056 million whereas the executed contract was for USD 2.527 million resulting in a saving of USD 1.529 million, however, LEL did not disclose this fact to the Authority. Thus CPPA-G requested the Authority that indexation of O&M may not be allowed, moreover, filing of a separate tariff petition in this regard is also under process.
6. The response of CPPA-G was also forwarded to LEL for comments vide the Authority letter dated July 31, 2023. LEL vide letter dated August 10, 2023, submitted that CPPA-G has mixed two separate and distinct matters having different legal bases. CPPA-G allegations on concealment of fact are baseless and out of the current scope and LEL denies and reserves the right to respond to the same in detail at the appropriate stage and if any proceedings are initiated in this respect. With regards to the indexation of the O&M component, LEL

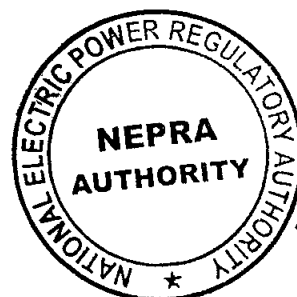
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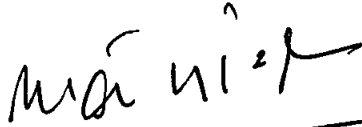
submitted that the current indexation is in accordance with legal stipulations of the Authority's approved tariff determinations/PPA of the LEL, thus any request of CPPA-G to withhold such indexation/adjustments for any particular tariff component has to be examined in the light of the provision of the Authority's approved decisions. LEL submitted that these approved decisions/PPA do not provide any provision for disallowing the indexation/adjustments of any particular tariff component even in the event of a change in the terms and conditions of the O&M agreement or the change in the O&M contract.

7. LEL further submitted that CPPA-G lacks the legal authority to withhold tariff indexation under regulations, COD Tariff, or PPA. Granting this power could enable CPPA-G to disrupt tariff adjustments using baseless claims, which contradicts tariff determination laws and fairness obligations as a public entity and this goes against its fair and just obligation as a public entity and is also causing significant financial losses to LEL. Moreover, LEL also referred Authority's earlier decision dated May 26, 2023, in the matter of Motion for Review filed by LEL, wherein the Authority allowed the indexation of the O&M component to attain its finality as it has not been challenged by CPPA-G.
8. LEL further stated that CPPA-G's submissions regarding discrediting further negotiations as futile indicate its unwillingness to amicably resolve the issue and seems pursuing an unlawful course akin to its actions in the July to September 2021 Quarter. LEL is of the view that the rationale put forth by the Authority in its decision of 26.05.2022 for O&M component indexation remains valid for the April to June 2023 Quarter. LEL opined that CPPA-G, having previously accepted the Authority's 26.05.2022 determination, cannot alter its essence by repeating unjustified and unlawful demands.
9. LEL submitted that in view of the foregoing, it is requested that CPPA-G's contentions, made through its letters dated 05.05.2023 and 14.07.2023, for excluding the indexation of the O&M Component of LEL's tariff for the April 2023 to June 2023 Quarter, as well as CPPA-G's request that the indexation of the said component be disallowed till prudence of LEL's O&M cost is established, may kindly be rejected by the Authority and the Authority may kindly allow the indexation/adjustment request of LEL, in respect of all components, for the aforesaid Quarter.
10. The Authority observes that CPPA-G, as per its recent correspondence, is in the process of initiating a tariff petition in accordance with Rule 3(1) of the NEPRA (Tariff Standards and Procedure) Rules, 1998. Once a separate petition is filed, and the outcome of the proceeding is known, the instant case will be concluded. However, until such time, the Authority has decided to provisionally allow the quarterly indexation/adjustment for the April-June 2023 quarter and onwards for LEL. Additionally, CPPA-G is hereby directed to duly submit a tariff modification petition to the Authority pursuant to Rule 3 of the NEPRA (Tariff Standards and Procedure) Rules 1998, if it intends to address any discrepancies in the O&M cost of LEL.



11. The revised indexed tariff components for the Apr-June 2023 quarter attached as **Annex-I** is to be notified in the official gazette, in terms of Section 31(7) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.
12. CPPA(G) to ensure that all payments are consistent with the tariff determination(s).

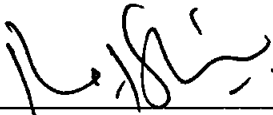
Authority



Mathar Niaz Rana (nsc)
Member



Engr. Maqsood Anwar Khan
Member



Engr. Rafique Ahmed Shaikh
Member



Amina Ahmed
Member



Waseem Mukhtar
Chairman



Laraib Energy Limited
Adjustment on Account of Quarterly Indexation

Tariff Components	Reference	April - June 2023	Indexation
	Rs./KWh	Rs./KWh	
Return on Equity	1.9113	5.1736	Rs./ US\$
Return on Equity during Construction	1.2254	3.3170	Rs./ US\$
Special Return on Equity	0.4237	1.1469	Rs./ US\$
*Debt Service-Foreign	2.5813	5.8412	Rs./ US\$ & LIBOR
Water usage charges	0.2657	0.4124	Local CPI
Variable O & M Local	0.0441	0.0685	Local CPI
Fixed O & M Local	0.5786	0.8982	Local CPI
Fixed O & M Foreign	0.4410	1.5577	Rs./ US\$ & US CPI
Total	7.4711	18.4155	
Indexation Values			
6 Monthly LIBOR	0.4479%	5.1389%	Global-rates.com
Spread on LIBOR	4.7500%		
Exchange Rate Quarterly	96.13	260.21	NBP
Exchange Rate Semi Annual (for Foreign debt servicing only)	96.13	223.77	NBP
CPI General	172.78	268.21	Pakistan Bureau of Statistics
US CPI	230.38	300.62	US Bureau of Labor Statistics
Outstanding Loan (US\$)		16,948,158	
Principal Repayment Amount (US\$)		5,649,386	
Benchmark Energy KWh (Jan-Jun Period)		248,520,000	

Based on the data declared by LEL.

For the purpose of indexation of Local O&M and WUC components for Apr-Jun 2023 quarter, CPIs of the last quarter i.e. Jan, Feb, Mar 2023 were required to be used. However, Pakistan Bureau of Statistics has discontinued the publication of CPI for base year 2007-08 w.e.f. July 2020 and replaced it with National CPI for new base year 2015-16. As per relevant provision of the PPA, the latest available CPIs of April, May & June 2020 for base year 2007-08 has been used for the instant indexation/adjustment. The indexation of Local O&M and WUC components are being made on provisional basis, subject to revision upon the request as per the decision of the Authority notified vide S.R.O 1041(I)/2023 dated August 09, 2023.

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