



# National Electric Power Regulatory Authority

Islamic Republic of Pakistan

2nd Floor, OPF Building, G-5/2, Islamabad

Ph: 9206500, 9207200, Fax: 9210215

E-mail: registrar@nepra.org.pk

Registrar

No. NEPRA/TRF-151/RHPL-2010/4788-4790

June 30, 2011

Subject: **Decision of the Authority in the matter of Motion for Leave for Review filed by Rasul Hydropower (Pvt.) Ltd. against Tariff Determination of the Authority dated January 03, 2011 (Case No. NEPRA/TRF-151/RHPL-2010)**

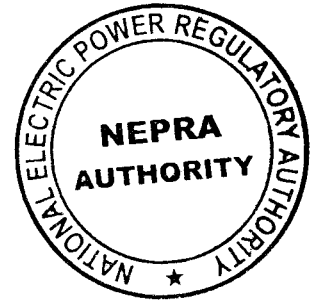
Dear Sir,

Enclosed please find herewith the Decision of the Authority (03 pages) in the matter of Motion for Leave for Review filed by Rasul Hydropower (Pvt.) Ltd. against the Authority's Determination dated 03.01.2011 regarding 20 MW Rasul Hydropower Project, Rasul Barrage, Jhelum, Punjab in Case No. NEPRA/TRF-151/RHPL-2010, for information.

Encl: As above

( Syed Safer 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 MOTION FOR LEAVE FOR REVIEW  
FILED BY RASUL HYDROPOWER (PRIVATE) LIMITED AGAINST  
TARIFF DETERMINATION OF THE AUTHORITY DATED JANUARY 03, 2011**

1. **Background**

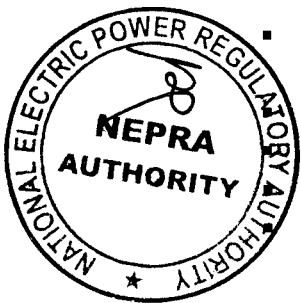
1.1 Rasul Hydropower (Pvt.) Limited (hereinafter referred to as "Rasul") vide letter dated February 26, 2011 filed motion for leave for review (hereinafter referred to as the "review motion") in pursuance of rule 16 (6) of the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998 (hereinafter referred to as the "Tariff Rules") against the tariff determination of the National Electric Power Regulatory Authority (hereinafter referred to as the "Authority") dated January 03, 2011.

1.2 As per rule 16 (6) of the tariff rules the review motion is required to be filed within ten days of service of the final order, determination or decision of the Authority, however the review motion was filed by Rasul after the lapse of ten days of service of the final determination. Rasul vide its letter no. RHPL/2011/2578 dated February 26, 2011 requested the Authority for condoning delay in submission of the review motion.

2. **Issues**

2.1 The relief sought by Rasul in the review motion was not clear on some of the issues, as some of the issues on which relief was sought in earlier part of the review motion, were completely ignored in the concluding part of the review motion or elsewhere in the review motion it was mentioned that decision of the Authority on these issues was accepted by Rasul.

2.2 Issues raised by Rasul in the review motion are summarized as follows:



- Variable & fixed O &M costs as requested by Rasul in the tariff petition may be allowed.
- Insurance cost as requested by Rasul in the tariff petition may be allowed.
- Cost of working capital may be allowed.
- Linkage of interest rate with 6 months LIBOR and KIBOR rates may be allowed.
- Engineering, administration and audit cost @ 5% of the local cost as approved by the panel of experts may be allowed.

3. **Proceedings**

3.1 The Authority considered the request of Rasul for condoning delay in submission of the review motion and decided to condone the delay. The Authority also decided to grant a pre-admission hearing to Rasul. Accordingly, a pre-admission hearing was scheduled for April 05, 2011.

3.2 Subsequent to the fixation of pre-admission hearing date, Rasul vide letter No. RHPL/2011/2606 dated March 30, 2011 requested the Authority that since its General Manager who is looking after the Rasul project is currently abroad therefore the pre-



- admission hearing may be scheduled in the last week of April 2011. The Authority accepted this request of Rasul and pre-admission hearing was rescheduled for April 27, 2011.
- 3.3 Subsequently, Rasul vide letter no. RHPL/2011/2701 dated April 22, 2011 again requested the Authority that the date of pre-admission hearing may be rescheduled for 2<sup>nd</sup> week of May 2011. The Authority also accepted this request of Rasul and rescheduled the pre-admission hearing to May 12, 2011.
- 3.4 The pre-admission hearing was held according to the revised schedule on May 12, 2011. The Authority explained to Rasul that its review motion has been analyzed by the Authority in terms of rule 16 (9) of the tariff rules read with regulation 3 (2) of the National Electric Power Regulatory Authority (Review Procedure) Regulations, 2009 (hereinafter referred to as the "review regulations"). In view of the issues/grounds raised by Rasul in the review motion, prima facie, it appears that there exists no legal ground to review the tariff determination. This was the reason that the Authority decided to grant pre-admission hearing to Rasul. Hence Rasul is required to argue the grounds on the basis of which leave for review should be granted. Rasul reiterated the same grounds as mentioned in the review motion.
- 3.5 Pursuant to the hearing, the Authority again thoroughly analyzed the case in the light of relevant provisions of the tariff rules and review regulations. Before discussing any further, it would be appropriate to reproduce these provisions herein below:

Tariff Rules

Rule 16(9):

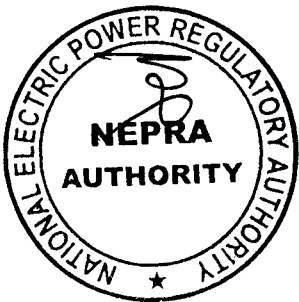
"The Authority may refuse leave for review if it considers that the review would not result in the withdrawal or modification of the final order, determination or decision."

Review Regulations

Regulation 3(2):

"Any party aggrieved from any order of the Authority and who, from the discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record or from any other sufficient reasons, may file a motion seeking review of such order."

- 3.6 As it is clear from regulation 3 (2) as afore-referred, Rasul is required to satisfy the Authority that it has: (i) discovered new and important matter of evidence; or (ii) found some mistake or error apparent on the face of record; or (iii) due to any other sufficient reason the Authority should review its order. Rasul has neither in its review motion nor during the hearing made any argument on any of that account. The points raised by Rasul have already been discussed, deliberated and disposed of by the Authority in accordance with the relevant provisions of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 and tariff rules. The Authority has very limited



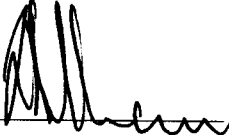


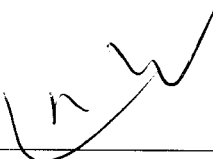
scope in the review as determined by the superior courts of Pakistan in many judgments and as required under the afore-referred regulations. The Authority finds that Rasul has failed to substantiate the discovery of any new and important matter of evidence or some mistake or error apparent on the face of record or any other sufficient reasons for admission of the review motion. Hence, in the absence of any such argument, the Authority is of the considered opinion that the review would not result in the withdrawal or modification of the final order, determination or decision.

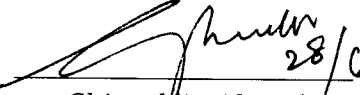
4. Decision

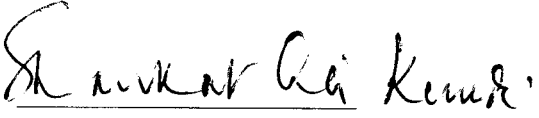
- 4.1 In view of the afore-said arguments and legal provisions, the Authority has decided not to admit the review motion of Rasul and therefore has rejected the same.

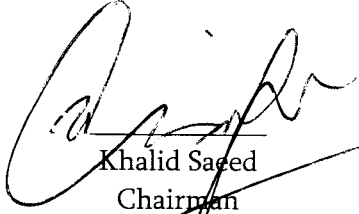
AUTHORITY

  
Zafar Ali Khan  
Member  
23/6/11

  
Maqbool Ahmad Khawaja  
Member

  
Ghiasuddin Ahmed  
Member  
28/c

  
Shaukat Ali Kundi  
Vice Chairman  
28.06.2011

  
Khalid Saeed  
Chairman

