

TO BE PUBLISHED IN THE GAZETTE OF PAKISTAN
EXTRA ORDINARY PART-I

National Electric Power Regulatory Authority

NOTIFICATION



Islamabad, the 04th day of January 2024

S.R.O. 23 (1)/2024.- In pursuance of Sub-Section 7 of Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), NEPRA hereby notifies the Decision of the Authority in the matter of Motion for Leave for Review filed by Tapal Energy (Private) Limited against Decision of the Authority dated 23rd January 2023 in the matter of approval of Generation Tariff in Case # NEPRA/TRF-580/TEPL-2022.

2. While effecting the Decision, the concerned entities including K.Electric and Central Power Purchasing Agency Guarantee Limited (CPPAGL) shall keep in view and strictly comply with the orders of the courts notwithstanding this Decision.

(Engr. Mazhar Iqbal Ranjha)
Ph Registrar



**DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW
FILED BY TAPAL ENERGY (PRIVATE) LIMITED AGAINST DECISION OF THE AUTHORITY
DATED 23RD JANUARY 2023 IN THE MATTER OF APPROVAL OF GENERATION TARIFF**

1. INTRODUCTION

- 1.1. Tapal Energy (Private) Limited (TEPL), has been operating a RFO based power generation facility of 126 MW (gross) at Deh Gondpass, Tapo Gabopat, Hub River Road, Taluka & district Karachi (West), Karachi, Sindh. The project was established under 1994 Power Policy. The Project has been supplying electricity to K-Electric. The Generation License was granted on 26th August, 2003 and vide Modification II extended the term of generation license up to 19th June 2029.
- 1.2. The first PPA expired on 19th June 2019. Keeping in view the energy shortage in KE area and the request of TEPL endorsed by KE, a new tariff was approved for a term extension of 3 years with effect from 20th June 2019 vide decision dated November 20, 2019 which was reviewed on 9th June 2020 with a reference tariff of Rs. 15.5421/kWh. The indexed tariff as per invoice for the month of April 2023 is Rs. 28.65/kwh which is based on RFO price of Rs. 114011/ton.
- 1.3. Before expiry of the term of 3 years referred above, TEPL requested for a further term extension of 2 years on new tariff w.e.f. 20th June 2022. The Authority vide its decision dated 23rd January 2023 extended the term of the tariff till 30th April 2023 or lifting of the moratorium period before the stipulated date, whichever comes earlier, on the same terms & conditions approved vide decision dated 09th June 2020. It was further provided that TEPL may sell electricity under CBTCM after April 30, 2023.

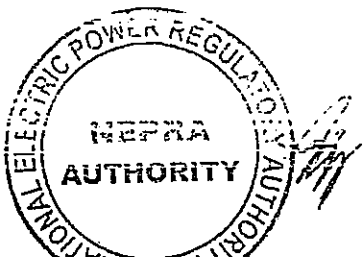
2. FILING & ADMISSION OF MOTION FOR LEAVE FOR REVIEW

- 2.1. Being aggrieved with the decision of the Authority dated 23rd January 2023 TEPL vide letter No. TEL/NEPRA/009/23 dated 23rd February 2023 filed a motion for leave for review. The Authority admitted the motion on 15th March 2023.

3. GROUNDS OF MOTION FOR LEAVE FOR REVIEW

- 3.1. TEPL filed a motion for leave for review on the following grounds:

- i. The decision of the Authority does not account for the prayers sought and contentions raised by the company in the tariff petition.
- ii. The Authority's decision is bereft of any analysis and evaluation of the facts and grounds established by the company in the Tariff Petition as well as in the hearing
- iii. The Authority has merely reproduced the issues framed by it for the hearing and has completely disregarded the respective responses presented by the company to such issues.

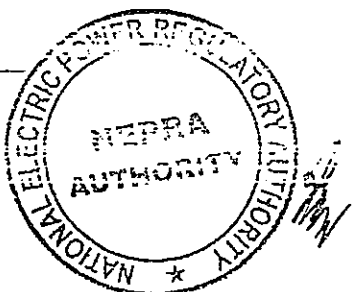




- iv. The company is severely aggrieved by the Authority's decision to extend the tariff on previously approved terms & conditions.
- v. It was adequately established in the petition that the previous tariff was resulting in short recovery of revenues due to high dispatch factor, incorrect plant efficiency, etc.
- vi. The Authority did not consider the requested capacity factors which are crucial for company's operations under take and pay regime
- vii. The decision fails to take account of demand forecast of KE. In order to meet its demand, KE agreed to purchase power for another two years. Due to unviable tariff, the power producers may be compelled to discontinue their operations which hinder KE's capacity to meet peak demand in summers.
- viii. Payment of arrears was not accounted for in the tariff.
- ix. The company also provided projected cost of maintenance based on anticipated dispatch factor of KE, however, the same was not considered by the Authority
- x. The tariff did not account for the losses resulted due to delay in issuance of determination despite being highlighted in the tariff petition.
- xi. The decision refers to draft IGCEP 22-31, however, KE vide letter dated October 18, 2022 has submitted its reservations that the timelines for KE projects in the draft IGCEP 2022-31 were inconsistent from KE submissions and that the submitted timelines be considered.
- xii. Moreover, it was highlighted by KE that *"since the data compilation exercise for the draft IGCEP 2022-31 was conducted in March 2022, certain information submitted by KE for IGCEP has been modified including but not limited to extension in supply from Tapal and Gul Ahmed which have now requested two-year extension till 2024 and have filed tariff petition accordingly"*.
- xiii. Had the Authority issued the tariff in time, TEPL would be a part of the committed projects in KE's submission for the IGCEP 2022-31.
- xiv. The Authority in its decision dated February 01, 2023 in the matter of IGCEP termed that the CTBCM is ignored and links to the CTBCM are missing.

3.2. In view of the above, TEPL requested the Authority to:

- i. Review and reverse the tariff determination in light of the above stated grounds; and





- ii. Approve the reference generation tariff requested under the tariff petition to ensure effective, efficient, and viable operations of the Facility.

4. ORDER PASSED BY NEPRA APPELLATE TRIBUNAL

- 4.1. The decision of the Authority was challenged by TEL in the NEPRA Appellate Tribunal vide Appeal No. 18/NT/2023 which was disposed by the Tribunal on April 12, 2023 by passing following order:

"The learned counsel for the parties on instructions have fairly agreed for disposal of appeal in terms referred in mark "A", salient features whereof, are reproduced for ready reference:

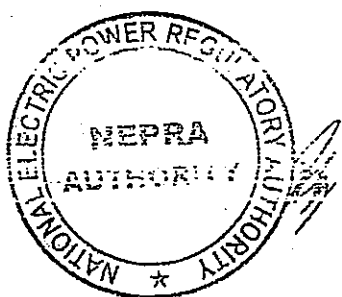
- i. *That NEPRA shall decide all the pending issues raised in the Review Application in accordance with law.*
- ii. *That NEPRA shall additionally take into account the letter dated April 03, 2023 sent by KE to NEPRA and the Power Acquisition Program furnished by KE in determining the term of the Tariff being granted to the Appellant given the power shortage in the KE system.*
- iii. *The Appellant will continue to supply electricity to KE on the existing tariff and terms and conditions and KE shall also follow the same until a decision is made by NEPRA in the Review Application.*

The request being genuine is allowed and the appeal is disposed of accordingly. The Review Petition be decided at the earliest in accordance with Law, Rules after affording right of audience to all the stakeholders."

- 4.2. KE vide letter dated May 10, 2023 submitted that in compliance to the aforementioned order, it is continuing to purchase power from TEPL and GAEL as per Economic Merit Order.

5. HEARING

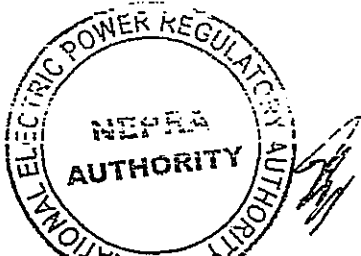
- 5.1. Pursuant to the admission of the subject motion for leave for review and NEPRA Appellate Tribunal order dated April 12, 2023, hearing on the matter was scheduled for May 24, 2023. Notice of hearing was issued to relevant stakeholders on May 15, 2023. Hearing was held as per schedule and was participated by the representatives from the Petitioner, Gul Ahmed Energy and KE.
- 5.2. During the hearing, KE reiterated its position that the current demand and supply situation requires retaining of the subject plant in KE system for two years. CEO GAEL in response to a question consented that they are willing to operate the plant on the existing tariff for the two years term extension, however, CEO TEPL did not agree to the proposal.





6. DECISION OF THE AUTHORITY

- 6.1. The submissions of the Petitioner and KE have been examined. The decision dated 23rd January 2023 was taken after considering the prayers sought and contentions raised by the Petitioner in the tariff petition. The main contention of the Petitioner was to calculate the revised tariff on the basis of anticipated plant factors of 45% for year 1 and 37% for year 2 which was not accepted. Instead, the Authority extended the existing tariff, the basis of which was discussed and provided in the decisions dated 9th June 2020 and 20th November 2019. Since the reference tariff was calculated keeping in view the actual costs of the preceding period(s) and is subject to indexation/adjustment mechanism for relevant indices, it was considered needless to revisit the tariff again and therefore extended the existing tariff for a further period till 30th April 2023. As provided above TEL did not agree to continue on the existing tariff worked out on 71% PF against requested tariff calculated on anticipated plant factors. Later the Petitioner during discussion indicated that a minimum PF of 50% will be acceptable for them.
- 6.2. Comments were also sought from NTDC, CPPA-G and Ministry of Energy (Power Division) vide letter dated 13th September 2023. In response NTDC vide its letter dated 18th September 2023 submitted that currently, national grid can only transmit 1,100 MW max to KE network, which it already is supplying to KE. Addition of Gharro plants will add to current 1,100 MW Capacity as these plants will be connected directly to the KE System. It should also be noted that if three (03) wind plants are settled at the CPPA-G pool price, they would be much cheaper than FO based Gul Ahmed Energy & Tapal Energy Limited. CPPA-G vide letter dated 26th October 2023 submitted that query regarding supply of Power to KE from National Grid is related to NTDC, therefore, CPPA-G has no comments to offer. No comments were received from MoE (PD).
- 6.3. Another crucial factor to consider is that TEPL currently holds a higher position in KE's merit order list as compared to less efficient units of BQPS-I and closure of TEPL plant at this point of time when the same cannot immediately be replaced by an efficient power generation may result in net loss to the consumers by dispatching BQPS-I.
- 6.4. Keeping in view the demand supply situation in the KE region, inability of the national grid to provide additional equivalent power and better merit order listing of TEPL, the Authority has decided to extend the existing tariff and terms and conditions approved vide decision dated 9th June 2020 till 19th June 2024 except that the tariff shall be re-calculated on the basis of 64.2% plant factor in line with GAEL. The revised tariff shall be applicable with effect from 20th June 2022. At the same time, TEPL shall also be entitled to sell the idle capacity and energy in the market under CTBCM regime.
- 6.5. In case TEPL is not willing to sell energy on the approved tariff, it can do so and the energy delivered till the issuance of this decision shall be paid by KE on the basis of revised reference tariff subject to applicable indexation/adjustment. The revised tariff is provided hereunder:





Description	Rs./kWh	Indexation
Energy Charge:		
Fuel cost component	13.3868	Fuel Price
Variable O&M	0.6320	CPI (General)
Sub-Total	14.0188	
Capacity Charge:		
Fixed O&M	0.6124	CPI (General)
Cost of working capital	0.3002	KIBOR and Fuel Price
Insurance	0.1273	Actual subject to maximum limit
Return on Equity	0.6448	Nil
Sub-Total	1.6847	
Total Tariff	15.7035	
Reference Values:		
RFO Price (Rs./ton)	62,586.93	
KIBOR	12.97%	
CPI General June 2019	246.82	
Plant/Dispatch Factor	64.20%	

- 6.6. For adjustment of CV, TEPL (and GAEL also) shall carry out tests on shipment/consignment basis from SGS and FFBL Labs and average of the two shall be taken for adjustment in line with IPPs.
- 6.7. The above decision of the Authority shall be notified in the Official Gazette in terms of Section 31(7) of the Regulations of Generation, Transmission and Distribution of Electric Power Act, 1997.

AUTHORITY

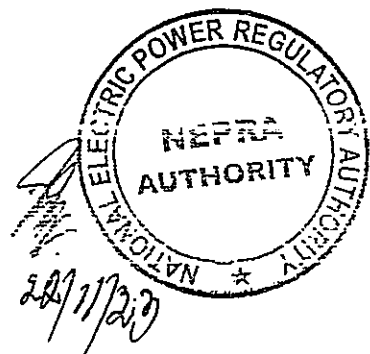
Mathar Niaz Rana (nsc)
Member

Engr. Maqsood Anwar Khan
Member

Engr. Rafique Ahmed Shaikh
Member

Amina Ahmed
Member

Waseem Mukhtar
Chairman





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MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY TAPAL
ENERGY (PRIVATE) LIMITED AGAINST DECISION OF THE
AUTHORITY DATED 23RD JANUARY 2023 IN THE MATTER OF
APPROVAL OF GENERATION TARIFF

In pursuance of Sub-Section 7 of Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), enclosed please find herewith '*Decision of the Authority in the matter of Motion for Leave for Review filed by Tapal Energy (Private) Limited against Decision of the Authority dated 23rd January 2023 in the matter of approval of Generation Tariff*' for immediate publication in the official gazette of Pakistan. Please also furnish thirty five (35) copies of the Notification to this Office after its publication.

Encl: Notification [06 pages]

(Engr. Mazhar Iqbal Ranjha)

PK

CC:

1. Chief Executive Officer, Central Power Purchasing Agency (Guarantee) Limited, 73 East, AKM Fazl-e-Haq Road, Block H, G-7/2, Blue Area, Islamabad
2. Syed Matcen Ahmed, Deputy Secretary (T&S), Ministry of Energy – Power Division, 'A' Block, Pak Secretariat, Islamabad [w.r.t. NEPRA's Decision issued vide No. 37545-37549 dated November 22, 2023]