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BEFORE
THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (NEPRA)

MOTION FOR LEAVE FOR REVIEW

PURSUANT TO RULE 16 (6) NEPRA (TARIFF STANDARDS AND PROCEDURE) RULES, 1998
READ WITH THE PROVISIONS OF
NEPRA (REVIEW PROCEDURE) REGULATIONS, 2009

BY

SIACHEN ENERGY LIMITED

FOR A DECISION BY **NEPRA** IN THE MATTER OF TARIFF DETERMINATION FOR
SIACHEN ENERGY LIMITED

A POWER PROJECT OF 100 MW

AT

MIRPUR SAKRO, DISTRICT THATTA, SINDH, PAKISTAN

DATED: [14-Nov-2019]

SIACHEN ENERGY LIMITED

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1. DETAILS OF THE PETITIONER

NAME AND ADDRESS

M/s Siachen Energy Limited

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REPRESENTATIVES OF SIACHEN ENERGY LIMITED

MR. SOHAIL SHAMSI
CHIEF EXECUTIVE OFFICER

MOTION FOR LEAVE FOR REVIEW

SIACHEN ENERGY LIMITED (THE "PROJECT COMPANY") HEREBY APPLIES UNDER RULE 16(6) OF THE NEPRA (TARIFF STANDARDS & PROCEDURE) RULES, 1998; REGULATION 3(2) OF THE NEPRA (REVIEW PROCEDURE) REGULATIONS, 2009 AND ALL APPLICABLE PROVISIONS OF OTHER NEPRA LAWS FOR THE MOTION FOR LEAVE TO REVIEW THE AUTHORITY'S DECISION NO. NEPRA/TRF-437/SCEL-2018/17979-17981 DATED 19 NOVEMBER 2018 ("TARIFF DETERMINATION").

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2. GROUNDS FOR MOTION FOR LEAVE FOR REVIEW

BACKGROUND INFORMATION

The Project Company was issued the Generation License by the National Electric Power Regulatory Authority (the “**Authority**”) on 10 October 2017 and the Tariff Determination on 19 November 2018 in respect of a 100MWp solar power project to be developed in Taluka Mirpur Sakro, Gharo, District Thatta, Sindh (the “**Project**”).

As per the terms and conditions (Paragraph 55(C)) set out in the Tariff Determination, the Project Company has to achieve financial close within one year of the date of issuance of the Tariff Determination (i.e. by 18 November 2019):

“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.”

Whilst, as per the decision of the Cabinet Committee on Energy (“**CCOE**”) dated 29 March 2019 and 04 April 2019 (the “**CCOE Decision**”), projects that had been issued an Letter of Intent and had been granted a tariff and issued a generation license by the Authority were allowed to proceed ahead towards achievement of the requisite milestones as per the Policy for Development of Renewable Energy. However, the Project was not allowed to continue (in spite of the Project having been issued a ‘Letter of Intent’ and having been granted a tariff and issued a generation license by the Authority) as the Project was erroneously omitted from the list of “*Projects with LOI and Tariff Determination but no LOS*” and was instead listed in “*Projects at LOI stage*”, with both lists being attached as annexes to the CCOE Decision.

REQUEST FOR CONDONATION OF THE DELAY IN FILLING THIS MOTION FOR LEAVE FOR REVIEW

Given the above and the grounds set out below, the Project Company hereby requests the Authority for condonation of delay¹ in the submission of this Motion for Leave for Review on the following grounds:

- In spite of the Project Company’s efforts, from 29 March 2019 (the date of the CCOE Decision) to date, the error has not been rectified²;

¹ The Authority has previously confirmed that a “*a petitioner may, at the time of filing review motion, request for condonation of actual delay occurred in submission of the said review stating therein the reasons of delay*”.

² Several letters were written requesting for rectification of the mistake and inclusion of the Project in the correct list to the concerned authorities at the Ministry of Energy, the Alternative Energy Development Board and the Energy Department, Government of Sindh (as listed in **Annexure – A**). The list of eligible projects for the ‘Letter of Support’ was also circulated by the Energy Department, Government of Sindh vide Circular No. DAE/WIND/90/2015 dated 28 May 2019 to the National Transmission Despatch Company and the Central Power Purchasing Agency (Guarantee) Limited, in which they have directed these authorities for grid connectivity and power purchase consent for the listed projects including Siachen Energy Limited Phase-I (copy of the same is attached at **Annexure – B**).

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- There are less than fifteen days left by which the Project Company must achieve financial close;
- The Project Company has already begun work on the Project site, including completing all required clearing and grubbing works, land levelling and land fill works and construction of the Project site office; and
- In addition to the above, whilst the Project Company has continued developing the Project (pursuing all relevant consents, finalizing project documents, entering into discussions with the prospective financiers (the International Finance Corporation (“IFC”)), finalizing the debt terms and conditions), the prospective financier (IFC) is no longer willing to continue work on the Project as, even if the CCOE Decision is rectified in the coming weeks, it is now no longer possible to timely achieve financial close (copy of a letter signed by IFC attached at **Annexure – C**).

To be clear, the Project Company would not be filing this Motion for Leave for Review had the Project been correctly listed in the “*Projects with LOI and Tariff Determination but no LOS*” initially or even if the Project was subsequently moved to this list in the following months but at this stage, the Project Company has no choice but to request for a condonation of delay and to request an extension to the time set out in Paragraph 55(C) of the Tariff Determination. It is therefore prayed that the honorable Authority may please condone the delay in filing of this Motion for Leave for Review.

3. ISSUES FOR THE AUTHORITY’S CONSIDERATION

The Project Company has made every effort in its power to develop this Project over the years and has been hindered from doing so for one reason or the other, this time, it’s the inadvertent error in the subsequent CCOE Decision. Whilst all relevant parties have verbally confirmed that the exclusion of the Project from the “*Projects with LOI and Tariff Determination but no LOS*” list was an inadvertent error with no intent to omit the Project from those that may continue. Nonetheless, till date, this error has not been corrected and given that there is now less than fifteen days left before the Project must achieve financial close, this is no longer possible since inclusion on the list is literally the first step, after which the Project Company can then pursue the other milestones (such as the National Transmission Despatch Company evacuation letter, the Central Power Purchasing Agency (Guarantee) Limited consent, the ‘Letter of Support’, the execution of the ‘Energy Purchase Agreement’ and the ‘Implementation Agreement’, etc.).

Essentially, there is only one matter for the Authority’s consideration – on the one hand, the Project Company has been developing the Project for the last 5 years (having invested both tremendous amounts of time and money on the Project – **Annexure - D** sets out the Project chronology) and is now finally in the position to take it to financial close and on the other hand, the Project Company has not been empowered to proceed at all because of an inadvertent error which has the potential of wasting all our efforts and resulting in the Project being scrapped.

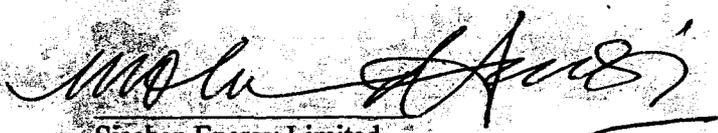
In light of the foregoing, we humbly request the Authority to review the Tariff Determination and extend the time period required to achieve financial close, as set out in the terms and conditions

(Paragraph 55(C)) of the Tariff Determination, to allow the Project Company a period of 6 months from the date of the decision of the CCOE wherein the Project is correctly listed in the "*Projects with LOI and Tariff Determination but no LOS*" for the Project to achieve financial close.

PRAYER

In light of the foregoing, it is respectfully prayed that the Tariff Determination be reviewed by the Authority in light of the above stated grounds in order to allow the Project Company a period of 6 months from the date of the decision of the CCOE wherein the Project is correctly listed in the "*Projects with LOI and Tariff Determination but no LOS*" for the Project to achieve financial close.

It is therefore prayed before the Authority that the justified consideration being requested by the Project Company through this Motion for Leave for Review may kindly be considered.



Siachen Energy Limited
Dated: [14-Nov-2019]