



Registrar

# National Electric Power Regulatory Authority

## Islamic Republic of Pakistan

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February 16, 2021

Chief Executive Officer  
Alternative Energy Development Board (AEDB)  
2<sup>nd</sup> Floor, OPF Building,  
Sector G-5/2,  
Shahrah-e-Jamhuriat,  
Islamabad

Subject: **Decision of the Authority in the matter of approval of Request for Proposal (RFP) Packages submitted for Competitive Bidding of Wind & Solar Power Projects falling under Category-III of the Decision of Cabinet Committee on Energy**

Enclosed please find herewith subject Decision of the Authority (22 Pages) for information, record and further necessary action.

Encl: As above

  
16/02/21

( Syed Safer Hussain )

CC:

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**National Electric Power Regulatory Authority**  
**(NEPRA)**

**DECISION OF THE AUTHORITY**  
**IN THE MATTER OF APPROVAL OF REQUEST FOR PROPOSAL (RFP) PACKAGES SUBMITTED**  
**FOR COMPETITIVE BIDDING OF WIND & SOLAR POWER PROJECTS FALLING UNDER**  
**CATEGORY-III OF THE DECISION OF CABINET COMMITTEE ON ENERGY**

*Feb 16*  
**January**, 2021

**(A). Introduction**

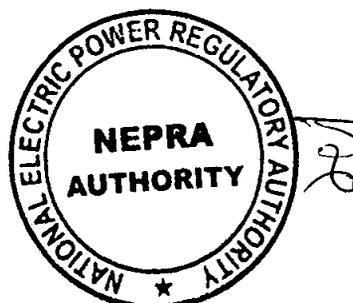
In exercise of the powers conferred under Section-47 and Section 7(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (the "NEPRA Act") read with Rule 17(3) (vi) of NEPRA Tariff (Standards and Procedure) Rules, 1998 (the "Tariff Rules"), the National Electric Power Regulatory Authority ("NEPRA" or the "Authority") on May 03, 2017 notified the NEPRA Competitive Bidding Tariff (Approval Procedure) Regulations, 2017 (the "CBTR"), to lay down the procedure for approval of tariff arrived at through a competitive bidding process.

**(B). Submission of RFP Documents**

2. Under relevant provision of the CBTR, the Alternative Energy Development Board ("AEDB") vide its letter dated May 11, 2020, submitted two Request for Proposal ("RFP") documents to carry out competitive bidding for the procurement of electricity, each from solar and wind power projects that hold Letters of Intent ("LOIs") and fall under Category-III of the Cabinet Committee on Energy's ("CCoE") decision dated April 04, 2019 (subsequently modified in June 2020). The proceedings and considerations of the Authority regarding both the RFP documents have been clubbed in the instant decision.

3. The Authority was informed that National Transmission and Despatch Company Limited ("NTDCL") is to provide the total capacity for each of wind and solar PV power projects for the subject competitive bidding. Further, it was also informed that this bidding will be undertaken on the basis of the Interconnection Ready Zones ("IRZs") about which NTDCL shall communicate details of locations and available capacity to AEDB. Only those LOI holders will be eligible to participate in the competitive bidding which will fall within the IRZs. The LOI holders who would not fall within the IRZs shall not be able to participate in the subject round of bidding and their respective LOIs will be treated as cancelled, as per the decisions of the CCoE.

4. The Authority noted that the Chairman AEDB Board/Minister for Power approved the submission of the draft RFP documents for approval by NEPRA. AEDB also informed



that once RFP documents are approved by NEPRA, the same would be submitted to the AEDB Board for approval.

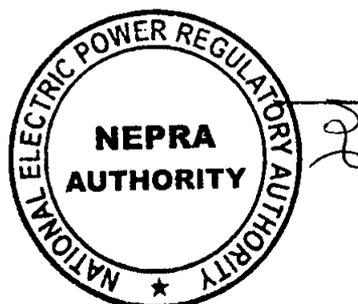
**(C). Decision for Holding a Public Hearing**

5. The Authority considered the RFP documents and after detailed deliberations decided to hold a public hearing in the matter and the same was scheduled for October 28, 2020. In this regard, the notice was published in the daily newspapers (Jang and Dawn) on October 17, 2020 informing about the schedule of public hearing while also seeking comments and interventions from the interested/affected parties and general public. Additionally, separate notices were also sent to stakeholders, considered relevant by NEPRA, on October 20, 2020.

**(D). Issues framed for Public Hearing**

6. Following is the list of issues that were framed by NEPRA for the proceedings of the subject case:

- i. The tariff competition among the LOI holders having different capacities and falling under different IRZs has been prescribed in the RFP documents. Whether this method give fair opportunity to the bidders to compete?
- ii. The total capacity (for Wind & Solar PV Projects) for competitive bidding has not been provided in the RFP documents. Whether the process of bidding can be undertaken in the absence of this information?
- iii. The details of IRZs coupled with confirmation of NTDC for constructing interconnection facilities in those zones have not been provided. Whether the process of bidding can be undertaken in the absence of this information?
- iv. The voltage levels as stated in the RFP documents do not conform to the capacity of all the LOI holders. For instance, the stated 132KV level shall not be sufficient for the evacuation of power from a 250 MW project. Whether the stated voltage levels are in conformity with NEPRA (Interconnection for Renewable Generation Facilities) Regulation, 2015?
- v. The conventional tariff structure and indexation thereof, as applied under cost-plus and upfront tariff regime, has been proposed in the RFP documents. Whether there should be some innovative and simple method in place for the bidding regime?



- vi. Whether the constitution of committees for the evaluation of bids is in accordance with Regulation 3(1) of CBTR.
- vii. Any other issue with the approval of the Authority.

**(E). Comments/observation of Stakeholders**

7. In response to the public notice, the Authority received written intervention requests from the following:

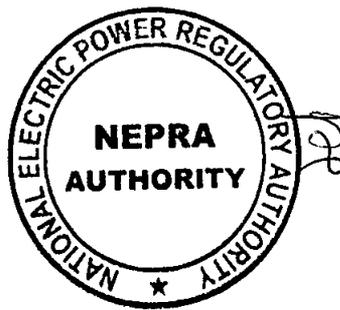
- i. Sino Well (Pvt.) Ltd.
- ii. Moro Power Company (Pvt.) Ltd.
- iii. Iran-Pak Wind Power (Pvt.) Ltd.
- iv. Norinco International Thatta Power (Pvt.) Ltd.
- v. Mr. Abdul Basit Javed
- vi. IB VOGT GMBH
- vii. Javed Solar Park (Pvt.) Ltd. and
- viii. Kulachi Solar Power (Pvt.) Ltd.

8. In addition to the intervention requests, following parties/individuals submitted the comments on the subject matter:

- i. Asia Energy (Pvt.) Ltd.
- ii. RE Solar (Pvt.) Ltd.
- iii. Zonergy Company Ltd.
- iv. Energy Department, Government of Sindh
- v. Pakhtunkhwa Energy Development Organization, Khyber Pakhtunkhwa
- vi. Cacho Wind Energy (Pvt.) Ltd.
- vii. Cacho 2 Wind Energy (Pvt.) Ltd.
- viii. Burj Capital
- ix. Engr. Aziz Raza Malik
- x. Engro Energy Ltd. and
- xi. Vestas

**(F). Public Hearing Proceedings and Considerations of the Authority**

9. On October 28, 2020, the public hearing was conducted which was attended by AEDB, NTDC, Central Power Purchasing Agency Guarantee Limited ("CPPAGL"), Government of Sindh ("GoS"), Government of Khyber Pakhtunkhwa ("GoKPK"), Government of Punjab ("GoPb"), interveners, commentators and others.



10. Following is the issue wise summary of the discussions held during the proceedings followed by analysis and decisions of the Authority:

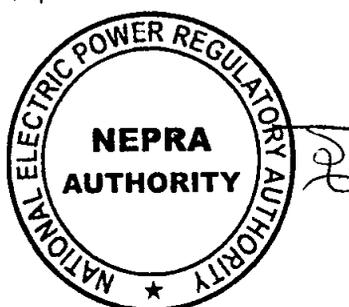
**A. The tariff competition among the LOI Holders having different capacities and falling under different Interconnection Ready Zones (IRZs) has been prescribed in the RFPs. Whether this method gives fair opportunity to the bidders to compete?**

11. The Authority noted that Category-III is comprised of 72 solar PV projects having a total capacity of 4,343.5 MW and 31 wind power projects with cumulative capacity of 2,139MW. The following table shows the details of LOIs along with capacities in MWs issued by federal and provincial agencies:

<b>Classification of Category-III Project as per CCoE Decision Dated April 04, 2019, &amp; Subsequent Modification Dated June 16, 2020</b>							
<b>Technology</b>	<b>Capacity (MW)</b>	<b>LOIs Issued</b>	<b>AEDB Nos. (MW)</b>	<b>GoS Nos. (MW)</b>	<b>GoPb Nos. (MW)</b>	<b>GoB Nos. (MW)</b>	<b>GoKPK Nos. (MW)</b>
<b>Solar</b>	4343.5	72	12 (419)	24 (1450)	13 (1075)	18 (1150)	05 (249.5)
<b>Wind</b>	2139	31	01 (14)	29 (1875)	01 (250)	-	-
<b>Total</b>	<b>6,482.5</b>	<b>103</b>	<b>13 (433)</b>	<b>53 (3325)</b>	<b>14 (1325)</b>	<b>18 (1150)</b>	<b>05 (249.5)</b>

12. The capacities of wind power projects range from 14 MW to 250 MW and for solar PV projects it ranges from 10 MW to 300 MW. The Authority further noted that as per the RFP documents, the competition shall be taken place based on tariff number these LOI holders/competitors will bid.

13. The interveners and commentators pointed out that the RFP documents are deficient of information including total capacity to be auctioned, details of the IRZs, policy under which this bidding would be undertaken, etc. They also stated that RFP does not differentiate the projects based on their sizes, the impact of resource variability and resultant annual energy generation, cost variations, execution costs for projects being developed in far-flung areas, prospects of development of Variable Renewable Energies ("VREs") all over the country (particularly, in the remote areas) and opportunities for local people. They proposed that to provide a fair chance to the bidders, the RFP documents could have designated capacity brackets/quota all over the country keeping in view

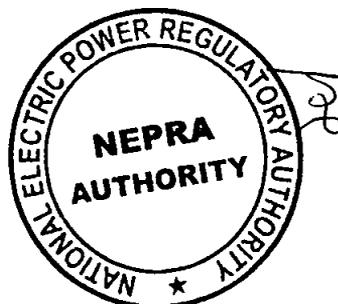


load requirement and voltage support and allowed the LOI holders to compete within that bracket.

14. In response, AEDB stated that the competitive bidding would be undertaken under the Policy for Development of Renewable Energy for Power Generation, 2006 ("RE Policy, 2006"). AEDB submitted that the design of the RFP documents is based on the least-cost generation principle, i.e. whosoever would offer the lowest tariffs, would be awarded projects and does not provide any preferential treatment to these LOI holders based on resource, cost, location etc. AEDB submitted that as per the CCoE decision, duly ratified by Council of Common Interest ("CCI"), there is no provision for allocating quota to any province. It further said that the concept of "quota" is also against the overriding principle of Least Cost Generation which is binding on the CPPAGL and DISCOs. Regarding different capacities of the LOI holders, AEDB informed that the projects have been given the option to increase or decrease the capacity of their LOIs to become competitive in the bidding process. AEDB further stated that the proposed competitive bidding process would provide a fair opportunity to the bidders to compete and is not meant to equalize bidding conditions and variants for the bidders as commercial and other imbalances would be inherent in all the bidding processes.

15. The Authority has considered the aforementioned submissions. Looking at the relevant CCoE's decisions and RFP documents, the Authority noted that the instant competition has been planned to provide an opportunity to the companies, having LOIs issued by federal/provincial agencies under RE Policy, 2006, to realize their projects, if declared successful. The objective of the process is to obtain electricity at the most competitive rates from locations having resource and grid availability. Given this scheme, it is viewed that the allocation of capacity brackets to different areas, for development and other purposes, may compromise the attainment of best possible rates. It is also noted that there is no requirement stipulated in the RE Policy, 2006 (document under which LOIs were issued) with respect to capacity allocation to certain areas for establishing of commercial renewable energy projects. In view thereof, the Authority decides not to introduce the requirement of capacity allocation for different areas in the RFP documents.

16. The Authority also noted that it has determined tariffs under cost plus method for a number of wind and solar PV projects located in different parts of the country. Reviewing those approvals, it is observed that different LOI holders, listed in category-III, generally possess different competitive advantages/disadvantages in the form of resource, cost, and other factors. For example, LOI holders of solar PV projects, having sites in Baluchistan, may incur relatively higher cost but comparatively rich resource in that area neutralizes for the higher expenses. Besides, the Authority noted that the provision of site-neutral competition, i.e. bidding between projects being setup on



different sites, is given in CBTR, which allows to undertake the proposed bidding. Regarding the different sizes of projects, the Authority considered that the provision of merging LOIs as given in the RFP documents addresses this matter. Given these points, the Authority considers this issue settled.

**B. The total capacity (for Wind & Solar PV Projects) for Competitive Bidding has not been provided in the RFP documents. Whether the process of bidding can be undertaken in the absence of this information?**

17. The Authority noted that the RFP documents do not provide the capacity for which the competitive bidding is to be undertaken while stating that the same is to be confirmed by the NTDCL. The parties submitted that without this information, it would not be possible for them to bid. AEDB submitted that they have not yet received this information and confirmed that it would not be possible to undertake the bidding process without these numbers. During the proceedings of subject matter, NTDCL informed that the information about total capacity to be auctioned can be provided after approval of the Indicative Generation Capacity Expansion Plan ("IGCEP") by NEPRA. Upon further inquiry, NTDCL submitted the following:

The year-wise quantum proposed in the IGCEP 2047 submitted to NEPRA in April this year (2020), currently under review and approval by NEPRA, is as follows:

No.	Year	Technology (MW)		
		Wind	Solar	Year Wise Total
1	2022-23	1,500	1,500	3,000
2	2023-24	1,389	1,500	2,889
3	2024-25	922	1,500	2,422
Total (MW)		3,811	4,500	8,311

18. The Authority noted that NTDCL just communicated the total capacity of wind and solar PV as given in the draft IGCEP (for the years 2022 till 2024). That is, the total capacity of wind and solar PV to be auctioned in the subject bidding rounds has not been confirmed by NTDCL.

19. The Authority agrees that it would not be possible to undertake the competitive bidding in the absence of information about the total capacity to be auctioned. Reviewing the decision of CCOE, it is considered that AEDB should have obtained the said information from NTDCL, prior to submission of the RFP documents for the approval of NEPRA. Furthermore, the information about the interconnection and other pre-requisites should have been obtained by AEDB from NTDCL/other entities. However, the



RFP documents have been submitted by merely stating that this information shall be confirmed by NTDC.

20. The Authority deliberated on this matter and is of the view that this is the responsibility of AEDB to confirm and make this information available to the bidders. Therefore, the Authority hereby requires AEDB to obtain confirmation of the relevant entities with respect to total capacity to be auctioned along with interconnection/evacuation and purchase consent therefor, at the earliest. At the same time, the Authority hereby directs NTDC to provide the information with respect to total capacity to AEDB, enabling it to proceed further with the subject auctions.

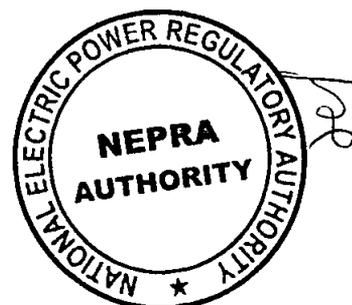
**C. The details of Interconnection Ready Zones (IRZs) coupled with confirmation of NTDC for constructing interconnection facilities in those zones have not been provided. Whether the process of bidding can be undertaken in the absence of this information?**

21. The Authority observed that the details of the IRZs were not provided in the RFP documents while stating that the same to be confirmed by NTDC. The parties submitted that the details of IRZs must be provided in the RFP documents enabling them to participate in the bidding process. During the proceedings, NTDC informed the Authority as follows:

*"Draft report of "Pakistan VRE Locational Study" was submitted by World Bank in July 2020 for review of NTDC, AEDB, DISCOs and other stakeholders; NTDC, after detailed review, provided its comments in August 2020. The final report, after incorporation of NTDC comments, is now awaited from World Bank's Consultants. After approval of the final report, the information about the details of the proposed Interconnection Ready Zones (IRZs) with exact location and available capacity for the potential solar and wind power projects shall be intimated."*

22. As given, NTDC has linked the submission with respect to information of IRZs with the approval of VRE Locational Study without committing any timelines. The Authority observed that as per the design of the RFP documents, the details of IRZs are the critical information, without which, it would not be possible to carry out the bidding process. Here again, the Authority considered that AEDB should have obtained the said information from NTDC, prior to submission of the RFP documents for the approval of NEPRA. However, AEDB submitted the RFP documents by merely stating that this information shall be confirmed by NTDC. The Authority deliberated on this matter and is of the view that this is the responsibility of AEDB to confirm and make this information available to the bidders and therefore requires AEDB to obtain the same from NTDC at the earliest. At

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the same time, the Authority hereby directs NTDCCL to provide the said information to AEDB, enabling it to proceed further with the subject bidding rounds.

**D. The voltage levels as stated in the RFP documents do not conform to the capacity of all the LOI holders. For instance, the stated 132KV level shall not be sufficient for the evacuation of power from a 250 MW project. Whether the stated voltage levels are in conformity with NEPRA (Interconnection for Renewable Generation Facilities) Regulations, 2015?**

23. The Authority observed that the RFP documents provide only one interconnection voltage level, i.e. 132 kV for evacuation power. The renewable energy projects that fall under category-III have different capacities that range between 10 MW to 300 MW. It is noted that the stated voltage level of 132kV would be not be suitable for all the LOI holders. It was also noted that voltage levels for evacuation of power from renewable projects of different sizes are prescribed in the NEPRA (Interconnection for Renewable Generation Facilities) Regulations, 2015. During the proceedings, AEDB agreed to the observation of the Authority and submitted that it would make necessary changes in the RFP documents in this regard. Considering above, the Authority hereby directs AEDB to make the RFP documents consistent/compliant with the NEPRA (Interconnection for Renewable Generation Facilities) Regulation, 2015.

**E. The conventional tariff structure and indexation thereof, as applied under cost-plus and upfront tariff regime, has been proposed in the RFP. Whether there should be some innovative and simple method in place for the bidding regime?**

24. The Authority noted that the tariff structure as proposed in the RFP documents is mirrored to what NEPRA has been approving under cost plus regime wherein all the individual cost components are separately assessed and determined on a case to case basis. Likewise, the indexation mechanism as proposed in the RFP documents is also a copy to what has been prescribed and approved in the tariffs determined under cost plus method whereby each component is allowed to be changed with related index periodically. Due to the proposed tariff structure and corresponding indexation mechanism, the bidders have been required to submit the financial model containing information about the project cost, financing mix/cost/tenor and other details. Additionally, RFP entails method of equalization to compare the tariffs bid on foreign and local financing and on certain other mix.

25. The Authority is of the view that there should be a simple tariff design for competitive bidding that results in the best price discovery while providing for the tariff stability and predictability. The scheme should be such that needs submission and evaluation of bids based on one tariff number and one corresponding indexation



percentage number and does not require parties to submit financial model containing details of cost, financing (leverage, mix, tenor, cost etc.) and technical parameters. The benchmark tariff under that scheme should be such that is denominated in local currency and requires least possible indexation while including upfront the impact of likely variations of interest and exchange rate. Further, the benchmark rate be reflective of the terms of both local and foreign financing, and any mixed loan, and therefore provide for the simple method of comparison and evaluation of all the bids.

26. Keeping in view above considerations, the Authority for this round of competitive bidding has decided to approve Benchmark Tariff of PKR 6/kWh (both for solar and wind projects) with annual increase thereon to the maximum limit of 2.5%. The parties shall be submitting the financial bids stating only the tariff along with proposed annual percentage increase thereon. The bidders themselves would be working on all the details of their bid tariff and annual percentage increase numbers and not required to submit financial model containing cost, financing and technical parameters.

27. The criteria of evaluation shall be a cumulative of the lowest bid tariff and minimum annual increase thereon. If required, Net Present Value of 25 values (bid tariff indexed with claimed annual percentage increase) would be calculated using discount rate of 7.5% for comparison and evaluation of the bids, i.e. bids yielding lowest Present Value shall be preferred.

28. The successful bidders shall be listed in ascending order starting from the bid with cumulative of the lowest bid tariff and minimum annual increase (can be ascertained through Present Value using above said formula) till the total bid capacity is reached. The bidders offering tariff and indexation percentage, equal to or above the Benchmark Numbers, shall be disqualified. The bidders offering tariff and indexation percentage below the Benchmark Numbers, however, do not fall in the list due to bid capacity limits shall be treated as unsuccessful.

29. There shall be no indexation and adjustments in the approved tariff, except escalation at rate of approved percentage increase. This escalation in the approved tariff shall be made on annual basis during the life of the project. 1st escalation shall be made on the respective Commercial Operation Dates ("CODs") of the bidders, which shall be applicable on the energy to be supplied for 1st year starting from COD. Afterwards, that escalated tariff shall become reference for 2nd year to be escalated with approved percentage increase. This escalation process, to be followed every year, shall be automatic and will not require the approval of NEPRA. The compensation of energy delivered during pre-COD by the successful bidders shall be allowed at 20% of the approved tariff only.

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30. The impact of duties and/or taxes relating to the construction and operation period, Workers Welfare Fund and Workers Profit Participation Fund has not been taken into account in the Benchmark Tariff. The provision and mechanism of the same, if applicable, shall be stated and decided in the RFP documents as well as in the EPA to be signed between seller and purchaser while keeping in view the relevant policy guidelines and applicable taxation framework. The Benchmark Tariff also has not accounted for adjustment of certified emission reductions and the mechanism of distribution of the same may be stated in the EPA while considering applicable provisions of the RE Policy, 2006.

31. During evaluation, it shall be assumed that the bidders have taken into account all the requirements as stated in the applicable laws, rules, regulations, Grid Code and concession documents (to be provided by AEDB). The bidders shall premise their bids based on latest plant, machinery and equipment, designed, manufactured, and tested in accordance with the latest IEC standards or other equivalent standards for which verification mechanism shall be stated in the RFP documents and the EPA to be signed between seller and the purchaser.

32. The mechanism for metering and forecasting of energy as required under the Grid Code and sharing of such data with purchaser and system operator shall be stated in the EPA to be signed between seller and the purchaser.

**F. Whether the constitution of committees for the evaluation of bids is in accordance with Regulation 3(1) of CBTR-2017.**

33. The Authority observed that the constitution of the committees for evaluation of bids as provided in the RFP documents is inconsistent with the provisions of the Regulation 3(1) of the CBTR, which requires that one member of the evaluation committees should have expertise in competitive bidding and should fulfill the requirement of independence. During proceedings, AEDB acknowledged this lacking and informed that it is considering outsourcing the process of evaluation of the bids while complying with the provisions of CBTR in this regard. The parties highlighted that the role of provinces is not explicitly stated in the RFP documents and their participation has also not been considered in any of the committees prescribed in the RFP documents including bid evaluation committee. AEDB responded that the role of provinces is well recognized as most of the LOIs, eligible for participating in the bidding process, are issued by the provinces. It further said the provinces shall be allocating land (where applicable) and executing Tripartite Letter of Support ("TLOS") with the successful bidders (where applicable).

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34. The Authority considered the submission of the parties and is of the view that it would be more appropriate if the provinces be made part of the evaluation committees. In view of this, the Authority hereby directs AEDB to include the representation of all the relevant provinces in the bid evaluation committee, and any other committee to be formed for the purpose of this round of bidding, while also complying with the other requirement as given in the CBTR in this regard.

Further to the above mentioned issues framed for public hearing, the following issues were also highlighted and deliberated upon, during the proceedings.

### **1. Exemption from the Bidding Process**

35. A number of parties sought exemption from participating in the competitive bidding process on the grounds that the Authority had awarded tariffs and generation licences to their projects on cost plus basis. They proposed to include their projects in the Category-II of the CCoE's decision, instead of Category-III, and allowed to proceed on the pretext that NEPRA has awarded tariffs and generation licenses to these projects. AEDB responded that the matter is beyond its jurisdiction as it is bound to follow the decisions of the CCoE/Federal Government as per its Act. The Authority also understands that awarding such exemption is neither within jurisdiction of NEPRA, nor carry any relevance to subject matter proceedings. The Authority therefore is of the view that this matter does not merit consideration under these proceedings.

### **2. The errors in the RFP Documents**

36. A few parties pointed out some errors in the RFP documents regarding term of the concession period and requirement of Type Certificate for a design life beyond 25 years related to solar PV projects. The Authority reviewed the RFP documents and found the submissions of the parties correct. The Authority therefore directs AEDB to rectify the above mistakes and review the RFP documents critically to ensure that there does not remain any error before floating of the same.

### **3. Definition of Purchaser**

37. One of the parties stated that a footnote is given in the RFP documents stating "NEPRA to guide in relation to the limitations on interconnection voltage and the relevant purchaser under NEPRA (Sale of Electric Power by Renewable Energy Companies) Guidelines, 2015 and if needed be, clarificatory guidelines may have to be issued."

38. The Authority noted that the said Guidelines prescribe the different voltage levels at which the distribution companies ("DISCOs") directly and CPPAGL on behalf DISCOs



can purchase electricity from the generation sources. The Authority considers that there is no need to issue any clarification regarding who would be the purchaser of electricity from the successful bidders since this does not fall under the ambit of the said Guidelines. AEDB shall decide and state the same in the RFP documents.

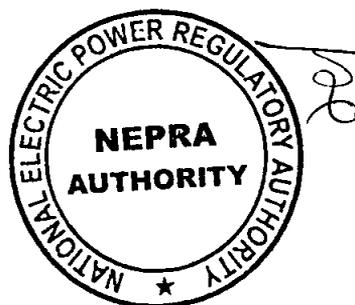
#### 4. Taxation

39. The parties submitted that the RFP documents exclude the provision of import duties, as pass-through items, for equipment also being manufactured locally. They stated that the said exclusion shall create great uncertainty on the bidders given the ambiguity of what equipment qualifies as locally manufactured or otherwise. They further said that it would be difficult to secure financing for locally manufactured equipment primarily due to quality standards and in case of import of these equipment, bidders might end up paying import duties that would not be allowed as pass-through item. They proposed that it would be appropriate if AEDB clearly defines the list of the items that can be imported or otherwise to provide certainty for the bidding process.

40. AEDB responded that the exclusion clause in the RFP document was as per the law of land and in conformance to the provisions given in the Customs Act, 1969. Regarding the list of locally manufactured items, AEDB stated that it is given on the website of the Federal Board of Revenue ("FBR"). Explaining the process, AEDB informed that upon the recommendation of Engineering Development Board ("EDB"), the FBR, time to time, issues the Customs General Order ("CGO") that includes the list of locally manufactured items with the names of local manufacturers. AEDB also emphasized that it has no jurisdiction to decide which items would be in the scope of locally manufactured items and cannot modify the requirements per the Customs law and the SROs/CGOs issued thereunder. AEDB also submitted that previously GoP had allowed reimbursement of customs duties to the renewable energy projects under their Implementation Agreements, however, gradually, this concession diminished and became consistent with the provisions of the Customs Act, 1969, that excludes exemption of duties from the items declared as locally manufactured.

41. The Authority is of the view that AEDB should facilitate the bidders in getting the information about locally manufactured items and suppliers available through different means including placing the said information on its website. The Authority further requires AEDB to ensure that whether the required equipment, currently being manufactured locally, are good enough that they can be considered as reliable and most importantly as bankable. If that is not the case then AEDB should work upon certain measures to provide facilitation for import of those equipment/machinery/parts.

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## 5. Land Title

42. Some of the parties submitted that as per the definition of Site Title under the RFP documents, the bidders to whom provincial governments have allocated public land have to manifest that they have title of land to participate in the bidding. They said that this provision is inconsistent with the provincial policies for allocation of public land as title of land is transferred to the renewable energy projects upon some maturity stage, i.e. generally after issuance of Letter of Support ("LOS"). They proposed that Letter of Allocation issued by the provincial governments should be considered as sufficient evidence for the title of land to participate in the competitive bidding.

43. The parties further stated that the RFP documents require the bidders, purchasing private land, to submit a Sale Deed along with the bid to manifest that the bidder has the title of land. They stated that as the bidders would have no confirmation about becoming successful, therefore, it is not reasonable to require the bidders to make such huge investment for procuring large acreage of land (barren in most cases with no other use) at the time of bidding. They proposed that AEDB should consider allowing the bidders to manifest tentative confirmation of land availability in the form of some document indicating two parties intending to sell and buy the land.

44. Some of the parties highlighted that they have been facing issues in land allocation by the provincial government departments and shared that even after spending a number of years in project development, the land allocation has not been finalized. They further added that under the competitive bidding tariff mode, if the successful bidders would be unable to secure land then they shall be exposed to penalization in terms of the RFP documents.

45. One of the parties suggested to keep the LOIs of the unsuccessful bidders valid, as opposed to the decision of the CCoE which states that the LOIs of the unsuccessful bidders shall stand cancelled. They said that the allocation of land by the provincial governments to the projects is linked to the valid LOIs and consequently this allocation will automatically lapse upon cancellation of the LOIs. Resultantly, these projects will not be able to participate in the next rounds of bidding at the same chunk of land.

46. AEDB agreed to the proposition of the parties relating to the award of public land to the projects and stated that the bidders would be allowed to participate in the bidding process based on some legal instrument issued by the respective provincial government. With regards to the bidders procuring private land, AEDB agreed that the requirement of 'Sale Deed' can be relaxed to 'Agreement to Sell' which should be executed on a legal stamp paper and would identify the seller and buyer, the location of land, its details including coordinates along with the requirement of completing the

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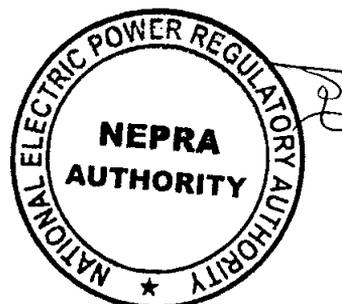
transaction as soon as the bidder become successful. AEDB also proposed to introduce certain mechanism of penalty imposition to act as deterrent for deceit. On the issue of non-allocation of land to the sponsors by the provinces, AEDB responded that land is a provincial subject and the sponsors would have to work with respective provincial agencies to resolve such matters. With respect to the proposal of not to cancel the LOIs upon being unsuccessful, AEDB submitted that the matter is being governed under the CCOE decision which AEDB is bound to follow and the recommendation to not cancel the LOIs might be raised directly with the GoP.

47. The Authority considered the submissions of the parties and requires AEDB to make necessary changes in the RFP documents with regards to title of land for both public and private land as agreed above. For the rest of the two issues, the Authority agrees with the position taken by AEDB that those matters may be raised with the concerned quarters.

#### **6. Reimbursement of Development Costs of Unsuccessful Bidders**

48. A number of parties submitted that they had started developing the projects following RE Policy, 2006 and have incurred considerable amount in accomplishing project milestones. Some of them have obtained tariffs and generation licenses from NEPRA. Now, the GoP has asked these companies to participate in the competitive bidding. In case if these would be unsuccessful, the development cost incurred by the sponsors would go in vain. Stating above, they requested to introduce some mechanism through which the expense incurred by these companies may be compensated. The Authority asked AEDB that if there can be a mechanism for compensating the development cost of unsuccessful bidders by the successful bidders that would give some comfort level and positive signals to sponsors and encourage them for future investments in the country. In response, AEDB stated that the RE Policy, 2006 provides three options for tariff i.e. (i) negotiated tariff, (ii) upfront tariff, and (iii) competitive bidding. LOIs issued to the sponsors do not state that these projects would be developed solely on a cost-plus basis. The LOIs issued to the sponsors require them to complete the feasibility study and achieve certain milestones of the project, at no risk and at no cost to, and without any obligation on the part of the respective federal and provincial government agencies. The inherent project development risk, like any other investment, lies with the sponsors.

49. Considering the response of AEDB, NEPRA is of the view that it would be difficult to establish a formula to first realize/compute the legitimate costs and then to work out the mechanism of how to reimburse the same to the eligible sponsors. If paid by the successful parties, this arrangement might also hurt the resolve to ensure inducting the least-cost generation, as this would add to the final tariff number. Furthermore, the Authority also agrees with the submission of AEDB that every investment venture has



certain risk inbuilt to it and given the language of LOIs, the parties have been obliged to bear the burden thereof. In view of the above, the Authority decides not to agree with this proposition of the parties.

## **7. Tripartite Letter of Support Format**

50. One of the parties highlighted that the formats of TLOS and a LOS attached to the draft RFP documents were identical, except the details of signing entities i.e. in TLOS respective federal and provincial agencies are stated as signing entities along with the successful bidder, whereas in LOS only federal entity is the signing entity along with the successful bidder. Previously, the TLOS document executed for renewable power projects had explicitly stated the roles and responsibilities of both federal and provincial signing entities, which was missing in the TLOS format attached to the draft RFP document. It was requested that the same scheme should be continued which was followed in recent renewable power projects and the same format of the TLOS should be attached to the draft RFP documents which had already been executed for wind and solar PV power projects in recent past. In case if there is a departure in the earlier scheme, then this need to be discussed with the provincial governments.

51. AEDB while admitting the omission submitted that this was not deliberate and conceded that there would be no departure from the earlier scheme in this round of bidding. AEDB confirmed that the format of the TLOS would be the same which had previously been executed for recent renewable power projects and assured that it would make necessary corrections in the draft RFP documents in this regard.

52. The Authority observed that the contention of the party is correct, however, since AEDB has admitted the omission and has confirmed to make necessary changes in the RFP document to the satisfaction of the party, therefore, the Authority consider this issue as settled.

## **8. Timelines for Bidding**

53. A few parties highlighted that the bidders have been given time of 45 days for submission of bids after floating of the RFP documents. They said that the specified time is insufficient as bidders would have to make substantive effort to prepare and submission of a comprehensive bid. They indicated that though LOI holders have been in field since long, however, they still would have to initiate the process from the start which include negotiation with the EPC and O&M contractors, discussion of the concession documents with respective lenders and other things. These parties also highlighted that AEDB is yet to get IRZs related information and total quantum for bidding from NTDC as well as the approval of the concession documents from the competent forum. AEDB responded that



the timelines stated in the RFP documents are primarily due to requirement of CBTR to complete the bidding process within three (03) months from the approval of the bidding documents by the Authority. AEDB submitted that since the eligible bidders of the current bidding process are the existing LOI holders, it deems that 45 days are would be sufficient for the parties to submit their bids. However, in case if the Authority relax the timelines, AEDB would incorporate the same in the RFP documents.

54. The Authority noted that the concerns of the sponsors are valid. For a plausible solution to the matter, the Authority has decided to award relaxation from the requirement of completing the bidding process in three (03) months from approval of the RFP documents in pursuant to Regulation 14 of the CBTR and direct AEDB to complete the bidding process within six (06) months from the date of issuance of this decision. This decision shall remain valid for six months. The Authority may decide to extend this validity period, subject to filing of request by AEDB presenting sufficient grounds for that purpose.

#### **9. Timelines for achieving Financial Close**

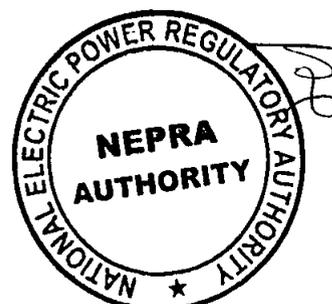
55. A few parties submitted that as per RFP documents, time of six (06) months, from the date of issuance of LOS, has been allowed for achieving the financial close. They indicted that in most tariff cases determined by NEPRA under cost plus mode, the sponsors have been given twelve (12) month time for this purpose. Stating above, they requested to extend this time to twelve (12) months. AEDB responded that the allowed time of six (06) months is sufficient deeming that the LOI holders, being eligible bidders, have been in this business since long. AEDB also stated that it expects that the sponsors/LOI holders would be able to achieve financial closure earlier than the prescribed time.

56. The Authority noted that the time of one year is allowed under cost plus regime from the date of tariff determination, during which the companies obtain LOS and complete other milestones, whereas RFP documents prescribe six month time post issuance of LOS. Further, it is viewed that standard documents, requiring no further negotiations except project related changes, shall be in place before the start of bidding process that shall also save the time. In view thereof, it is concluded that six (06) months' time period for achieving financial close as stated in the RFP documents is sufficient and requires no change.

#### **10. Locking/Flexibility of Technology**

57. The parties submitted as per the RFP documents, the bidders are required to submit the technical specification of the equipment while submitting their bids. Some parties sought flexibility for the successful bidders to change the technology/equipment

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if that would result in better efficiencies and reduction in the cost and corresponding tariffs. Submitting the ground of this proposition, they said that there would be a substantial period between bid submission and actual execution, during which more efficient and robust equipment may become available. AEDB responded that this suggestion is against the provisions of the PPRA Rules, 2004 of the GoP, which do not allow any change in bid or costs after the award. The Authority considered the submission and is of the view that all arrangements for the bidding process should be in line with relevant legal and legislative framework.

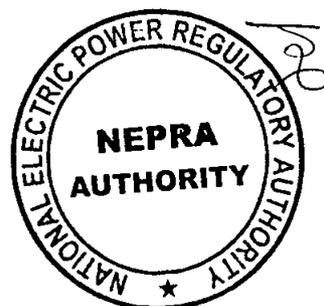
#### **11. Draft EPA and IA Document.**

58. The parties submitted that the concession documents were not provided along with the RFP documents. The parties highlighted that their lenders would like to evaluate the concession documents to analyze bankability while preparing bids, because, as stated in the RFP documents, the concession documents would be non-negotiable and not subject to any change except some project-specific changes. The parties further indicated that in the normal bidding process, the bidders are allowed to submit their comments on the draft RFP document including concession documents before or during the pre-bid meeting, and on the basis thereof, the relevant agency (AEDB in that case) can change the concession documents.

59. AEDB responded that the draft concession documents are available on its website and can be downloaded for knowledge, review, and comments, if any. AEDB submitted that the concession documents were shared with the stakeholders during the consultative meetings held by AEDB in November, 2019, wherein stakeholders raised their concerns on the bankability of the tripartite EPA, being not market tested, and requested to use the existing ECC approved bilateral EPA for subject bidding. However, the stakeholders did not submit specific comments/observations on the tripartite EPA. AEDB requested the stakeholders to submit their comments/observations on the concessions documents directly to AEDB and the same would be presented before the AEDB Board in its upcoming meeting for perusal/decisions in the matter. AEDB also added that the RFP documents cater for a pre-bid conference as indicated by the parties.

60. The Authority noted that AEDB submitted the draft concession documents along with the RFP documents. However, since those concession documents were not cleared by the AEDB Board and approved by the competent forum of the Federal Government, the Authority returned these to AEDB to obtain requisite clearance/approvals. The Authority further noted that as per Regulation 9(3) of the CBTR, it is responsibility of the relevant agency (AEDB in this case) to make available the concession documents to the bidders prior to commencing the bidding process. In light of the above, the Authority hereby requires AEDB to follow the relevant provisions of the CBTR for availability of the

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concession documents to the bidders and submission thereof to NEPRA at the relevant stage.

### **12. Single-Stage-Two-Envelop v/s Two-Stage-Two-Envelop Bidding Process**

61. One of the parties submitted the RFP documents are designed on a Single-Stage-Two-Envelop mode of bidding. Whereas, the Two-Stage-Two-Envelop bidding process would have been a better option as it would provide more flexibility in detailed prequalification and technical evaluation of the bids. AEDB responded that the Two-Stage-Two-Envelop bidding process has been adopted in those biddings where the procurer takes the key decision on technical prequalification and design etc. AEDB stated under this bidding process, all LOI holders are considered pre-qualified, therefore technical evaluation would be a straight forward process. AEDB further added that the premise of this bidding is to procure electricity at the cheapest rates, therefore, AEDB decided to follow the Single-Stage-Two-Envelop mode of bidding in the RFP documents. The Authority considered the above and agrees to the submission of AEDB in this regard.

### **13. Requirement of Type Test Certificate of Turbines**

62. One of the parties submitted that the RFP documents require the bidders to submit type test certificates of turbines along with their bids. It said that apparently this provision is conservative as this would not allow the manufacturers to offer latest technologies. The parties added that as per global practice, the prototype certificates are considered sufficient at the time of submission of bids. The parties requested to allow the same for current bidding process. AEDB responded that it agrees to make changes in the RFP documents to this effect with the provision that this would be at the sole risk of the successful bidders to provide the type certificate from the original equipment manufacturer before the financial closing. Considering above, the Authority hereby requires AEDB to make necessary changes in the RFP document to this effect.

### **14. Selection of Bidder in case of default or withdrawal of bid by the Successful Bidder**

63. One of the parties submitted that as per RFP documents, if a bidder defaults or withdraws its bid, AEDB would replace such bidder with the bidder next in the list, with or without the condition of matching the tariff offered by such defaulting or withdrawing successful bidder. He sought clarity about the process that AEDB would follow for selection of next bidder in the list. AEDB responded that it would follow the reverse auction method as per the CBTR for the bidding process. After the financial evaluation of the bids, a list would be prepared in ascending order of tariffs offered by the bidders and successful bidders would be selected based upon the available capacity and the lowest tariff rates. In case if a successful bidder would default or withdraw its bid, the next



bidder in the line would be offered to come. There would be no requirement of re-submission of technical and financial bids in such case. However, for the purpose of selection of next bidder, the provision of with or without matching the tariff and evaluation on a case-to-case basis has been conceived in the draft RFP documents. AEDB submitted that the purpose of the provision for matching the tariff is introduced to minimize possibilities of the foul plays, manipulations or gaming the bids, and jeopardizing the bidding process. At the same time, AEDB recognized that there could be instances where it would be difficult for the next bidder in line to match the tariff offered by the defaulting or withdrawing successful bidder. Therefore, the arrangement of not matching the bid is also stated in the RFP documents. The Authority considered the response of AEDB and agrees therewith.

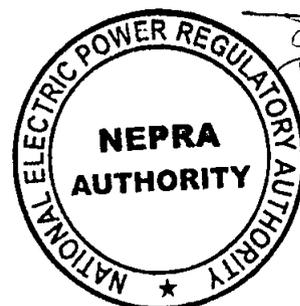
#### **15. Bidding Proceedings in case of Grievances of any Unsuccessful Bidder**

64. One of the parties submitted that as per the RFP documents, the bidding process would not stop because of any grievances or resolution of the decisions of the Committee for Redressal of Grievances ("GRC") and indicated that it would be prudent if the decisions of the GRC should be finalized before any award of project is given. AEDB responded that the process for Grievances Redressal in the RFP documents has been designed to be completed before final award, but, in case if it would not for any reason, then AEDB would follow the Rule 48 of the PPRA Rules, 2004 that require that the project award process would not be halted pending the conclusion of proceedings of the GRC. The Authority considered this matter and is of the view that all arrangements should be in line with relevant legal and legislative framework.

#### **16. Hybridizing the Wind Power Projects**

65. One of the parties stated that the Statement of Conditions of GoS, for allocation of land in respect of renewable energy projects, states the provision of setting up hybrid renewable energy projects, depending on availability of resources. The party proposed that the provision of hybridizing of renewable energy projects may be considered in the subject rounds of competitive bidding at the sites where both resources are available. It submitted it will result in efficient utilization of the land, resource, and space available in the grid. AEDB responded that this bidding round is for LOI holders as per the CCoE decision and these LOIs have been issued for setting up power plants based on a single resource, therefore, the said proposal cannot be acceded.

66. The Authority noted that AEDB has submitted two separate RFP documents, each for wind and solar PV, for competition between the LOI holders categorized in the CCoE's decision, duly ratified by the CCI in the ARE Policy, 2019. The Authority considered that there might be financial and technical benefits of setting up or converting single



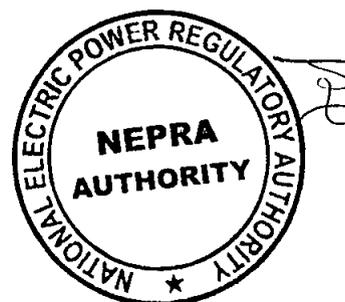
renewable resource projects on hybrid renewable energy projects, however, respective forums should have considered this option before submission of these RFP documents to NEPRA. Nevertheless, AEDB may consider the option of hybrid projects, in the subject bidding process while keeping in view the relevant decision(s) of the federal and provincial governments.

### **17. Bid Bond Guarantees, Processing Fees and Performance Guarantees**

67. Some of the parties submitted that as per the draft RFP documents, the bidders would have to submit hefty bid bond guarantees, processing fees and performance guarantees which would hurt the concept of least-cost generation. The parties further added that the fee structure, as stated in the RFP documents, would put some projects at disadvantage, due to the larger capacity brackets in terms of project sizes, and requested to propose a new fee structure to provide a level playing field to all. The parties further added that there is no clarity whether the bid bond and bid processing fee would be returned to the successful bidders and at what time the processing fee would be required to be paid. The parties also highlighted that there is no mention of the fee that the sponsors already had paid for issuance of LOI to the respective provincial governments.

68. AEDB responded that the fees and guarantees (i.e. processing fee and performance guarantee) structure, categories, amounts, and currency denomination (US Dollar) as stated in the RFP documents are in accordance with the RE Policy, 2006. AEDB highlighted that the change in currency, structure or making any new categories would be a policy shift for which AEDB is not empowered. AEDB added that the scaling mechanism also existed in the RE Policy, 2006 as per which the guarantees were on a per MW basis and the amount of processing fee was based on certain capacity brackets. AEDB stated that the amount of performance guarantee and bid bond are being decreased to US \$ 10,000 per MW and US \$ 5,000 per MW respectively. AEDB also highlighted that the fee structure in the RFP documents is not discriminatory and the same was also collected from earlier projects establish under cost plus/upfront regime. AEDB clarified that the bid bond would be returned to the successful bidder upon submission of performance guarantee, however, the bid processing fee would not be returned. It stated that the project processing fee would only become payable if the Letter of Conditional Award would be awarded to the bidder(s). AEDB also clarified that the earlier fee paid by the investors to the respective provincial government was for the issuance of LOI, whereas, the processing fee as per RE Policy, 2006 would be for processing the transaction during the post-LOS stage of the projects.

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69. The Authority noted the submissions of AEDB and requires that the structure, amounts, categories and currency denomination of fees/guarantees, must be consistent with RE Policy, 2006.

### **18. Grid Interconnection Studies and Generation Licences**

70. Some of the parties requested to clarify if the submission of approval of grid interconnection studies along with the bid is mandatory, as NTDCL has awarded approval of said studies in some cases, and in others, it is still pending. The parties also have sought clarification how those projects to whom NTDCL have already awarded approval of grid interconnection studies and/or NEPRA have granted Generation Licenses would be treated, if they become successful.

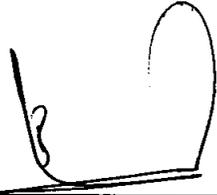
71. AEDB responded that as per RFP documents, approval of the interconnection studies is not a pre-requisite to participate in the competitive bidding process. AEDB indicated that it has sought relaxation from NEPRA with respect to submission of NTDCL's approval of grid interconnection studies, on the pretext that the bidding would be site neutral, and neither NTDCL/DISCOs would be knowing the fate of the projects nor could the sponsors establish whether they would be awarded projects. AEDB said it has proposed to NEPRA that only successful bidders should be required to get grid interconnection studies approved from NTDCL/DISCOs, as applicable. AEDB said that the projects, whose grid interconnection studies have already been approved by NTDCL, would require to get re-confirmation from NTDCL, upon getting successful in the bidding. The successful projects that had already been awarded Generation License would not need to get that approval again.

72. The Authority noted the above submissions and acknowledged that both bidders and NTDCL/DISCOs cannot establish fate of the project before the bidding process. Therefore, the Authority has decided to approve the request of AEDB for grant of relaxation for the submission of grid interconnection studies of the projects with the bid evaluation report. However, the Authority requires that the successful bidders would have to submit the grid interconnection studies, duly approved by the NTDCL, while applying for the grant of Generation Licenses. The projects, to whom NEPRA already has awarded Generation License, would be required to submit application for modification in the Generation License (along with approval of NTDCL with respect to interconnection study), in case if there would be any change related to technology, site, interconnection, or any other information, as per the rules and regulations of NEPRA.



(G). Order of the Authority

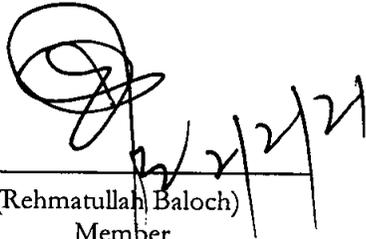
Foregoing in view, the Authority hereby decides to approve the RFP documents with the direction to AEDB to comply with the observations and decisions as stated against each of the aforesaid issues.



(Engr. Bahadur Shah)  
Member



(Rafique Ahmed Shah)  
Member

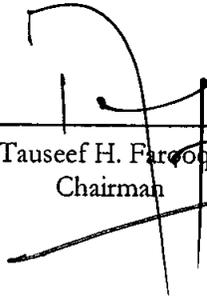


(Rehmatullah Baloch)  
Member



(Saif Ullah Chattha)  
Member

10.2.2021



(Tauseef H. Farooqi)  
Chairman

Make sure AEDB submit,  
the revised RFP documents  
after incorporating  
changes as a result  
of aforesaid directions  
decisions.



  
16.02.21