



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/R/ADG(Trf)/TRF-433/PMTC-2018/168-170
January 6, 2022

Subject: Decision of the Authority in the matter of Motion for Leave for Review filed by Pak Matiari Lahore Transmission Company (Pvt.) Ltd. (PMLTC) against NEPRA's Decision dated September 02, 2021 [Case # NEPRA/TRF-433/PMTC-2018]

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (11 Pages) in the matter of Motion for Leave for Review filed by Pak Matiari Lahore Transmission Company (Pvt.) Ltd. (PMLTC) against NEPRA's Decision dated September 02, 2021 for information.

Enclosure: As above

(Syed Safer Hussain)

Secretary
Ministry of Energy (Power Division)
'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 Pak Matiari Lahore Transmission Company (Pvt) Ltd ("PMLTC") against NEPRA's Decision dated September 02, 2021

Introduction of the Case:

1. Pak Matiari Lahore Transmission Company (Pvt) Ltd. (hereinafter "PMLTC" or "the Company") vide letter dated September 16, 2021 submitted the subject Review Motion under Section 7(2)(g) and Section 31 of the NEPRA Act read with Rule 16(6) of the Tariff Rules, 1998 and Regulation 3(2) of the NEPRA (Review Procedures) Regulations, 2009 against the Decision of the Authority dated September 02, 2021.

Proceeding:

2. The Authority admitted the subject review motion on September 29, 2021 and decided to provide an opportunity of hearing to the petitioner and other stakeholders. Individual notices to the concerned parties i.e. Cabinet Division, Ministry of Energy ("MOE"), Ministry of Finance, National Transmission and Despatch Company Limited ("NTDC"), Private Power Infrastructure Board ("PPIB"), Central Power Purchasing Agency ("CPPA-G") and PMLTC were issued on October 26, 2021.
3. Hearing in the matter was held on November 02, 2021 through zoom link which was attended by the representatives of PMLTC, NTDC, PPIB and CPPA-G.
4. Subsequent to hearing written comments on the subject review motion were received from PPIB on November 08, 2021, NTDC on November 04, 2021 & November 24, 2021 which are reproduced in the relevant section of this decision.

Submissions of the PMLTC:

5. PMLTC submitted that due to COVID-19 and un-availability of energy to test & commission the project both parties agreed to extend the RCOD for six months from March 01, 2021 till September 01, 2021. Accordingly Memorandum of Understanding ("MOU") was signed on February 18, 2021 which was sanctioned by Economic Coordination Committee ("ECC") vide its decision in case No. ECC105/10/2021 dated March 31, 2021 ("ECC Decision") duly ratified by the Federal Cabinet i.e., the Government of Pakistan. Thereafter, on April 26, 2021, NTDC, PPIB and the Company entered into the foregoing Addendum Agreements pursuant to the ECC's decision.
6. PMLTC stated that pursuant to MOU, the Company submitted a petition for modification and revision of the Modified Tariff Determination dated December 04, 2018. The Authority issued its decision on the said tariff modification petition on September 02, 2021.
7. Being aggrieved with the aforesaid decision, PMLTC submitted following grounds for review:
 - i. Rejection of RCOD Extension and Ignorance of reference to Covid-19 pandemic as key reason of extension of RCOD.



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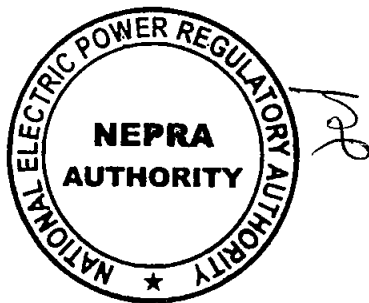
- ii. Failure to approve the TSC agreed in the TSA Addendum Agreement and review of pre-COD TSC on prudent basis.
 - iii. Consideration of the maximum demonstrated capability of 3000MW for period between August 3rd, 2021 to September 1st, 2021.
 - iv. Approval of indexation of Pre-COD TSC as per precedence.
8. The submissions of PMLTC are discussion and decision of the Authority is given hereunder:
Rejection of RCOD Extension and Ignorance of Covid-19 pandemic:

Submissions of PMLTC:

9. PMLTC submitted that despite the clear reference to the COVID-19 pandemic as one of the causes for the extension of the RCOD, the Authority ignored the fact that the relevant parties reached agreement in the TSA Addendum Agreement and the IA Addendum Agreement on the basis of Covid- 19 for which the Company is entitled to claim extension of RCOD in view of the **Force Majeure Events** under the TSA.
10. PMLTC stated that the Authority's observation that the delay in achieving RCOD is due to failure of low power test which resulted into frequency oscillation of line and the inability of the parties to perform their contractual obligations in a timely manner is factually incorrect.
11. PMLTC submitted that the decision of the Authority is contradictory with its past determinations. The Authority, based on its own precedents, acknowledges that it is not the appropriate forum to determine the basis of a change in construction period (i.e. extension in RCOD) as the same is a contractual matter and therefore to be dealt in accordance with the terms of the contractual arrangement of the parties involved. PMLTC further submitted that such precedents bind the Authority to follow its past practice and extend the same treatment to the Company as it has in the past to other parties that have approached the Authority for endorsement of RCOD extension. The Authority's conduct contravenes the established principles of fairness, and the same encroaches upon the legitimate expectation of the Company to be similarly treated by the Authority as it has treated others in the past. PMLTC during the hearing stated that the delay has been admitted by the Authority in its State of Industry Report 2021 ("SIR").
12. PMLTC submitted that in view of the above submissions, the decision with regard to extension in RCOD may be reviewed.

Comments of PPIB:

13. PPIB submitted that after the approval of the ECC, NEPRA may allow extension in RCOD. However, such extension in RCOD should not result in eligibility of the Company to capitalize Interest during Construction (IDC) and Return on Equity during Construction (ROEDC) for such extended period and Tariff of the Company for 25 years post-COD should remain intact.



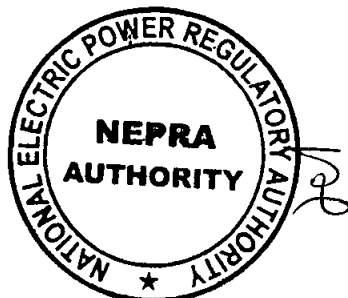
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Discussion and Decision of the Authority:

14. The Authority noted that the Regulation 3 (2) of NEPRA (Review Procedure) Regulations 2009 ('Review Regulations ') provides that any party aggrieved from any order of the Authority and who, from the discovery of new and important matter of the 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. In view of the foregoing provision, the Authority observed that the submission made by PMLTC does not fulfill any of the above given criteria. However, certain issues raised in the review motion needs clarification which are as under:
- PMLTC's claim that the delay in achieving RCOD was on account of (a) the outbreak of the Covid-19 pandemic which affected the project and (b) unavailability of energy on account of delay in commissioning of the projects and that the referred reasons come under the force majeure event as per the TSA is not supported by any documentary evidence. PMLTC has failed to substantiate its claim that due to Covid-19 pandemic the construction of the transmission line was delayed and the energy for high power test was not available and the said reasons were declared as force majeure event.
 - The Authority noted that the data obtained from NTDC at the time of tariff modification decision dated September 02, 2021 regarding generation plants that were to be evacuated from this line showed that by March 2020, three projects having cumulative capacity of 3300MW that includes 1320 MW Port Qasim, 660MW Engro Thar I & II and 1320 MW China Hub Power Generation Company Limited were already commissioned. Further, NTDC also informed that the energy from 1100MW K2 power project was also envisaged for the transmission from this line. The Authority further noted that in the subject review motion PMLTC submitted that the high power test which took place on August 2, 2021 based on which Maximum Demonstrated Capability of 3,000 MW was certified by the Independent Engineer on August 19, 2021 and subsequently COD of the line was declared on the basis of same test shows that the testing of the line on high power was possible with 3,300 MW of the available capacity from the above referred committed projects.
 - Further, the Authority is also cognizant of the fact that the provision of energy was the responsibility of NTDC and the commissioning of the line was of PMLTC under the TSA, if the respective obligations were not fulfilled by the parties to the contract the onus of the same could not be passed on to the end consumer. However, in the instant case both the parties mutually agreed to amend the TSA incorporating the extension in RCOD which shows that the contractual obligations by both the parties were not fulfilled.
 - The Authority observed that as per TSA the testing of transmission line was required to be conducted for completion of the project whereas in the minutes of meeting dated November 30, 2020 both the parties NTDC and PMLTC acknowledged that there was defect in transmission line which emerged during low power testing. Further, the certificate of readiness issued by PMLTC's Engineer M/s. CESI, on December 01, 2020 was declared Null and Void upon the failure of low power test due to frequency oscillation on December 02, 2020 and notice of dispute in the matter was served to the Company by NTDC. The matter was resolved between

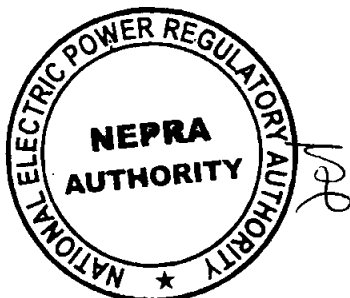


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the parties through Memorandum of Understanding ("MOU") dated February 18, 2021 without declaration of the Force Majeure Events ("FME") and both parties have agreed to extend the COD till September 01, 2021. Both parties also agreed that the TSC for the extended period shall be paid for the maximum demonstrated capability as a result of the low and high power tests. This also establishes that the construction of transmission line was completed and no delay was incurred due to Covid-19 pandemic but the line could not achieve COD as a result of failure of low power test.

- Furthermore, with regard to PMLTC's statement that the decision of the Authority is contradictory to its past precedents as NEPRA is not the appropriate forum to determine the basis of a change in construction period as the same is a contractual matter and therefore to be dealt in accordance with the terms of the contractual arrangement of the parties involved is not correct. PMLTC referred to the decision of the Authority in the matter of Motion for Leave for Review filed by Atlas Power Ltd. (APL) against Tariff adjustment decision at Commercial Operation Date (COD) which provides that **there is no mechanism available in tariff for condoning the delays through adjustment of tariff at COD. This is not in the domain of NEPRA. APL may get relief under the PPA and the IA.** In this regard, the Authority hereby clarifies that the referred case is not comparable with PMLTC. Since no amendment in the TSA of APL was made with regard to the extension of RCOD. Further in case of APL as a result of delay of COD the relevant provisions of TSA dealing with liquidated damages would have invoked. Therefore, in the instant case also the Authority remained consistent with its earlier precedents by not allowing the extension in the RCOD. Further, the allied costs for the delayed period have not been passed on to the end consumers while considering that any cost overrun/loss due to non-fulfillment of any obligation by the parties to the bilateral agreement may be dealt in accordance with the provision of bilateral agreement instead of burdening the end consumers.
- The Authority further noted that the company has also taken the ground of doctrine of legitimate expectation. The Authority considers that for a legitimate expectation to arise, the decision of the Authority must affect the person by depriving of it of some benefit or advantage which it had in the past been permitted to enjoy and which it can legitimately expect to be permitted to continue, until some rational grounds for withdrawing it have been communicated. Whereas in the instant case, PMLTC and NTDC were required under the MOU and TSA to approach NEPRA for final approval of TSC for the pre COD period therefore NEPRA as a regulator was required to conduct its full due diligence as to quantum and basis of payment so as to strike a balance between interests of NTDC, consumers and PMLTC. Accordingly, the Authority did not accept the extension of RCOD for allowing additional costs. Therefore, it is clear from the aforesaid that this doctrine is not a distinct enforceable right since NEPRA has never allowed any such benefit to any company or in any way issued any decision which raised such expectation for PMTCL therefore this doctrine does not apply considering the facts and circumstances of this case.
- Further with regard to PMLTC submission during the hearing that the delay has been admitted by the Authority in its State of Industry Report 2021 ("SIR"), the Authority hereby clarifies that the State of Industry describes about the performance of licensees of power sector. In addition



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the statistical data provided by the licensees is compiled for the relevant stakeholders of the power sector. The compilation of data obtained from licensees does not establish its rights pertaining to the tariff and other issues. Further, it has been stated in the preamble of the SIR that the data is based on licensees' information. In view thereof the contention of the PMLTC is not valid.

15. In view of the above, the Authority has decided to maintain its earlier decision with regard to extension of RCOD.

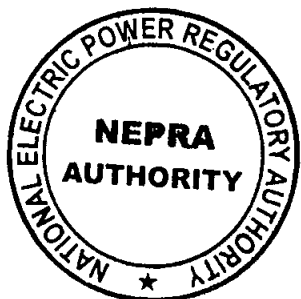
Failure to approve the Transmission Service Charge agreed in the TSA Addendum Agreement and Review of Pre-COD Transmission Service Charge on Prudent Basis.

Submissions of PMLTC:

16. PMLTC submitted that the Authority failed to distinguish between two different 'asks' of the Company in the Second Modification Petition dated April 02, 2021 regarding pre-COD tariff payment agreed in the TSA Addendum Agreement (calculated on the basis of the maximum demonstrated capability and first year indexed tariff components approved in the Amended Modified Tariff Determination (Rs./kW/h)) and exceptional costs incurred by the Company but not recovered through Pre-COD Transmission Service Charge, which was requested by it to be determined at COD one-time adjustment.
17. PMLTC stated that the Authority's decision does not fully appreciate the agreement between NTDC and the Company, and instead proceeds on the mistaken understanding to disallow even those tariff components and indexation mechanisms which were pre-approved in the tariff determination dated December 4, 2018 and ought to have been allowed, without undue interference of the Authority (including Cost of RCOD Extension). PMLTC referred the extract of the aforesaid decision which is as under:

"Pre-COD energy transmission is allowed on terms and conditions to be mutually agreed and mentioned in Transmission Service Agreement (TSA). The Transmission Service Charge however should not exceed the rates as approved by the Authority in this tariff determination".

18. According to PMLTC parties agreed to adopt the first-year tariff (as approved in the aforesaid tariff determination), therefore, the Transmission Service Charge specified in the TSA Addendum Agreement is in line with the rate approved by the Authority. By not approving the Transmission Service Charge as agreed under the TSA Addendum Agreement, the Authority has taken an approach contradicting its own tariff determination. PMLTC submitted that the Authority has burdened the Company with a tariff which does not allow "recovery of any and all costs prudently incurred" which is a contravention of Rule 17(3) of the Tariff Rules, 1998 - and is contrary to the terms of the TSA Addendum Agreement. Under the Transmission Policy, 2015, the tariff with respect to the Transmission Service Charge was to be determined "proportionately" to the availability of energy. However, the predominant reason why the Company has not been able to achieve maximum demonstrated capacity is that it was not being provided with the requisite energy to



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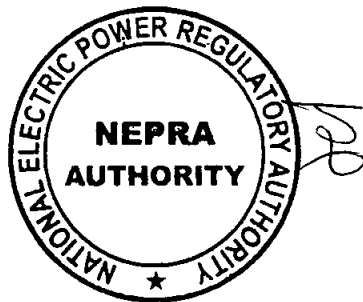
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do so. The Project was capable of transmitting energy at 4,000 MW as attested and documented by the Independent Engineer ("IE Certificate). As per PMLTC, the Project was put into operation, and was available for transmission of energy following the low power test. Therefore, the Company's interests are being prejudiced by granting a tariff much lower than the actual expenditures incurred and losses suffered by the Company during the Pre-COD period, when in fact the energy is being transmitted by Project.

19. PMLTC further stated that the Authority is required under Section 7(2)(ac) of the NEPRA Act to, inter alia, "ensure efficient tariff structures for sufficient liquidity in the power market". The efficient tariff structures are intrinsically linked to allowing full recovery of costs. Therefore, if the Company is not allowed approval of the Pre-COD TSC based on all tariff components allowed in the Tariff Determination for the first year, this would be a violation of the provisions of the NEPRA Act and TSA Addendum Agreement.
20. PMLTC in support of its stance stated that the Company has incurred genuine costs of Rs. 9,208 million on account of O&M cost, land lease cost, insurance cost, interest on long term debt, Sinosure fee and loss of ROEDC based on Contracted Capacity of 4,000 MW. Therefore, it should be compensated as part of Pre-COD TSC. As per the Amended Modified Tariff Determination, the Authority has approved Rs. 0.1584/kW/hr, based on which the total payment works out to be Rs. 970.928 million out of which the compensation to the Company is around Rs. 664 million whereas the Company has incurred Rs. 9,208 million during pre COD period creating huge deficit. The Company did not receive any payment from NTDC since March 1st, 2021, hence is fully cash drained and due to such severe cash flow situation, it is currently being funded by working capital lines with additional financing cost (at LIBOR + 3.5%) to finance the operating cost, insurance, Sinosure fee and loan interest.
21. PMLTC requested the Authority to allow Pre-COD TSC based on all the tariff components for the first year of Amended Modified Tariff Determination as already agreed within the TSA Addendum Agreement.

Comments of NTDC:

22. NTDC vide letter dated November 04, 2021 submitted that tariff determined by NEPRA for the said project is already reasonable and justified and is in line with all the legitimate incremental costs incurred by the Company.
23. Subsequently vide letter dated November 24, 2021 NTDC while referring its earlier letter dated November 04, 2021 submitted that in view of the settlement made vide addendum no. 1 to the TSA as approved by ECC and tariff determination dated December 04, 2018, NEPRA is requested to consider the subject motion for leave to review of PMLTC and decide subject matter accordingly.





Comments of PPIB:

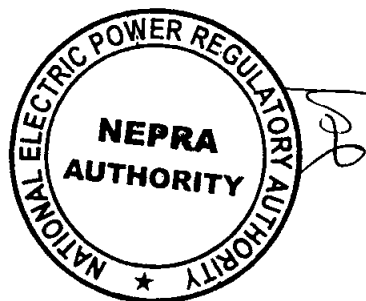
24. PPIB vide letter dated November 08, 2021 submitted that Pre-COD tariff in essence are payments against the services actually rendered by the Company through making transmission line partially available as agreed under the TSA. Therefore, the Authority may consider allowing first year indexed tariff excluding principal repayment component to the Company as Pre-COD period.
25. PPIB further submitted that the MOU as well as the amended TSA do not envisage any adjustment/increase of revenue to cover any shortfall during pre-COD period through increase in Post-COD tariff. Accordingly, PPIB does not support adjustment of any revenue shortfall of Pre-COD period as part of project cost which will increase the approved tariff for 25 years term.

Discussion and Decision of the Authority:

26. As stated earlier, the Authority hereby again clarifies that PMLTC has not submitted any new ground, documents in support of its claim or pointed out any error or mistake in the impugned decision, which requires review of modification decision dated September 02, 2021 in pursuance to NEPRA (Review Procedure) Regulations, 2009.
27. With regard to PMLTC's stance that the Authority failed to distinguish two different asks of Company such as approval of TSC on first year tariff and exceptional cost incurred by the company and not recovered through TSC are completely incorrect. The Authority considered both the submissions of PMLTC in detail and decided accordingly which has been provided in paragraphs 48 to 52 of the decision dated September 02, 2021. Further the claim of PMLTC on TSC and revenue loss are discussed as under:

Transmission Service Charge ("TSC"):

28. The TSC for the pre COD period was allowed after considering the submissions made by PMLTC, NTDC, MOE and precedents in earlier cases. Further, the Authority's determination provided that the rates for pre COD TSC should not exceed the rates as approved by the Authority in the original tariff determination dated December 04, 2018. Furthermore, MOU and TSA addendum agreement provides that the pre COD TSC shall be subject to approval of NEPRA. The same request was communicated by MOE that NEPRA being independent regulator has to exercise its due diligence.
29. The Authority also noted that PMLTC was unable to justify/provide rationale for allowing first year tariff since the delay on this account was due to the fault of PMLTC and NTDC which was acknowledged through MOU and addendum agreement. In view of the foregoing, the Authority already approved pre COD TSC based on components i.e. O&M and insurance, which were considered prudent, justified and in line with precedence in earlier cases and were within the rates approved in the original tariff determination. The TSC has been allowed on maximum demonstrated capability on low and high power tests till COD (as mutually agreed by both the parties).



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30. In view thereof, the Authority considers that the stance of the PMLTC is incorrect and not justified. Therefore, the Authority has decided to maintain its earlier decision with respect to pre COD TSC.

Revenue Loss:

31. The Authority considers that the revenue loss due to the difference in total capacity (4000 MW) and maximum demonstrated capability based on low (800 MW) and high power test (2200 MW) or any other additional cost that has been incurred due to delayed COD was neither agreed in MOU nor supported by relevant agencies i.e. NTDC, PPIB, MOE and same was also not considered prudent by NEPRA therefore the request was declined. The Authority also believes that there is no revenue shortfall since the tariff is applicable for 25 years starting from September 01, 2021 which is intact.
32. During the hearing also, PPIB and NTDC did not support the request of recovery of revenue shortfall. Further PMLTC was unable to provide further justification in this regard.
33. In view of the foregoing, the Authority has decided to maintain its earlier decision regarding revenue shortfall.

Consideration Of The Maximum Demonstrated Capability Of 3,000 MW For Period Between August 03, 2021 to September 01, 2021.

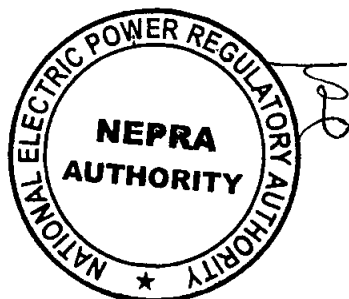
Submissions of PMLTC:

34. PMLTC requested the Authority to replace following paragraph 52 of the Tariff Modification decision dated September 02, 2021 with the later para reproduced below:

"52. Accordingly the same tariff is allowed as TSC which will be applicable for 800MW maximum demonstrated capacity as certified by independent Engineer vide its reports dated: 07-04-2021 as a result of low power test for the period from March 18, 2021 till June 05, 2021 and for 2200MW maximum demonstrated capacity as certified by independent Engineer vide its reports dated: 04-07-2021 as a result of high power test for the period from June 06, 2021 till September 01, 2021."

"52. In accordance with the provision of Section 7 read with Section 31(7) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, the Authority hereby approves Transmission Service Charge (TSC) of (Rs...../kW/hr) for the period from March 18, 2021 till June 05, 2021 for 800MW and for the period from June 06, 2021 till August 02, 2021 for 2200MW and for the period from August 03, 2021 till September 01, 2021 for 3000 MW maximum demonstrated capacity as certified by independent Engineer."

35. PMLTC submitted that the Authority has omitted a high power test which took place on August 2, 2021 based on which Maximum Demonstrated Capability of 3,000 MW was certified by the Independent Engineer on August 19, 2021 and hence Maximum Demonstrated Capability of 3,000 MW prevailed from August 3, 2021 till September 1, 2021. Therefore, TSC for the period from August



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3, 2021 till September 1, 2021 shall be allowed on 3000MW. PMLTC submitted that the bi-pole high power test was conducted on the request of NTDC communicated vide letter dated July 28, 2021.

Discussion and Decision of the Authority:

36. The claim of the petitioner that the Authority has omitted high power test carried on August 02, 2021 wherein Maximum Demonstrated Capability of 3,000 MW was certified by the Independent Engineer is incorrect. No such information regarding carrying out of high power test at 3,000 MW was shared by PMLTC as part of the proceedings for modification petition dated April 02, 2021 and was not claimed in the earlier tariff modification petition instead the same has been claimed now in the subject review motion.
37. The Authority noted that the Petitioner's modification petition was based on the MOU and addendum to the TSA and IA wherein it has been stated that the TSC shall be paid on the basis of maximum demonstrated capability established as a result of low and high power test. The Authority noted that the low power test was conducted on March 17, 2021 and high power test was conducted on June 05, 2021. The same was stated by the PMLTC during the hearing dated July 02, 2021 and accordingly PMLTC requested to allow TSC on the basis of 800 MW from low to high power test and on 2200MW from high power test till COD.
38. In view of the foregoing, the Authority is of the view that the petitioner has made fresh request with respect to 3000MW as maximum demonstrated capability which was neither earlier requested in the original modification petition nor was substantiated by the petitioner. Therefore, the Authority considers that this claim of PMLTC is out of scope of review motion.

Approval Of Indexation Of The Pre-Cod Transmission Services Charge As Per Precedents

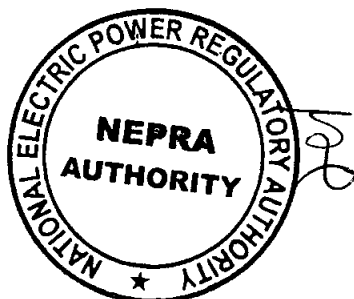
Submissions of PMLTC:

39. The petitioner submitted that the Authority at paragraphs 54 and 55 of the decision has decided the following:

"54. MOE vide letter dated August 02, 2021 stated that there is no mention of Pre-COD tariff indexation either in amended TSA or the ECC summary/decision. Therefore, NEPRA may consider the case of indexation for the tariff payments during Pre-COD period on merit as per NEPRA Tariff determination, regulations and procedure.

55. The Authority considered the request of PMLTC and observed that the stance of PMLTC has not been supported by NTDC, PPIB and MOE. In view thereof the stance of indexation before COD is not legitimate in the instant case."

40. The petitioner while referring paragraph 54 submitted that MOE suggested the Authority to approve the matter on merit in line with NEPRA rules and regulations. While the Authority interpreted the advice that PPIB and MOE do not support the indexation. The petitioner submitted that such a decision of the Authority is again a violation of NEPRA Act as the Authority is required to, inter alia, "ensure efficient tariff structures for sufficient liquidity in the power market" where





efficient tariff structures are intrinsically linked to allowing full recovery of costs. The petitioner submitted that as per the Authority Decision, the reference tariff for the first year was Rs. 0.9203/kW/hr, while the indexed tariff works out to be Rs. 1.3742/kW/hr for the quarter January to March 2021, an increase of ~49%. PMLTC submitted that this is inconsistent with the Authority's own precedents available wherein the Authority allowed indexation of Pre-COD tariffs for power sector entities.

41. In support of its claim, the petitioner referred precedents of thermal power plants such as HSRPEL, PQEPCPL, CPHGCL, EPTPL, in which the Authority allowed indexed tariff components.
42. Stating above, PMLTC requested the Authority to approve all the indexed tariff components within the pre-COD TSC so that the Company may recover its prudent costs during the pre-COD period.

Comments of NTDC:

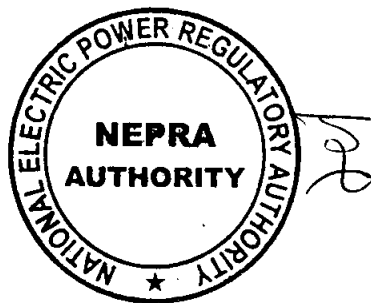
43. NTDC vide letter dated November 04, 2021 submitted that the Authority only allow FCC and VO&M to all IPPs for pre COD period and all the legitimate project costs will be covered/ trued up at COD as per the one-time adjustment mechanism. So there is no way that any project Cost remains uncovered during execution of the Project life. Therefore, indexation and the other cost recovery desired by the Company is unjustified.

Comments of PPIB:

44. PPIB submitted that there is a significant fluctuation/change in indices and foreign exchange rates over the period of three years since the Tariff determination in 2018. The Authority in case of thermal projects, has allowed payment of fuel cost component at indexed prices prior to COD and not the prices at the date on which reference tariff has been determined. Accordingly, the Authority may reconsider and allow indexation for tariff payments during pre-COD Period.

Discussion and Decision of the Authority:

45. The request of PMLTC with respect to the indexed TSC for the pre COD period was considered by the Authority at the time of modification decision and decided accordingly. The Authority again reiterates that it has never allowed indexed tariff for the pre COD period to any other licensee. Further, the thermal power projects are allowed fuel cost component on the basis of actual fuel price being pass through and the same is not comparable with the instant case. In the instant case the transmission line is completed for which project cost has been ensured in the respective period and the tariff is applicable for the operational period of the project line i.e. 25 years which started from September 01, 2021 instead of March 01, 2021. It may be noted that the same has neither been agreed in the MOU and nor in the addendum to the TSA. Further the same has not been supported by the NTDC and Ministry of Energy. Therefore, the Authority declines the request of PMLTC regarding indexed pre COD TSC accordingly.





46. However, it is pertinent to refer here that the Authority has already issued its decision on December 24, 2021 in the matter of interim relief for indexation of the relevant reference tariff components for the operational period starting from September 01, 2021 till December 31, 2021.

47. **Order:**

The Authority considers that the grounds advanced by the PMLTC in its review motion do not merit review of Authority's Decision dated September 02, 2021 under Regulation 3 (2) of NEPRA (Review Procedure) Regulations 2009. Therefore, the subject review motion filed by PMLTC is hereby declined.

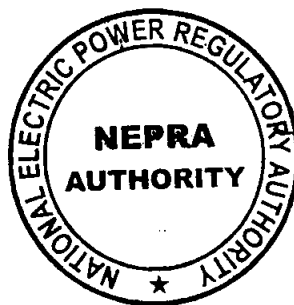
AUTHORITY

Rehmatullah Baloch
Member

Engr. Maqsood Anwar Khan
Member

Engr. Rafique Ahmed Shaikh
Member

Tauseef H. Farooqi
Chairman



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