



**National Electric Power Regulatory Authority**  
**Islamic Republic of Pakistan**

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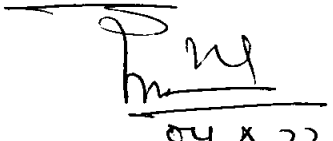
No. NEPRA/R/ADG(Trf)/TRF-433/PMTC-2018/18922-18924  
October 4, 2022

**Subject: Decision of the Authority in the matter of Petition filed by Pak Matiari-Lahore Transmission Company (Pvt.) Ltd. (PMLTC) for Modification of Tariff Determination dated December 4, 2018 [Case # NEPRA/TRF-433/PMTC-2018]**

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (05 Pages) in the matter of Petition filed by Pak Matiari-Lahore Transmission Company (Pvt.) Ltd. (PMLTC) for Modification of Tariff Determination dated December 4, 2018 for information.

Enclosure: As above

  
04 X 22  
( 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 Petition Filed By Pak Matiari-Lahore Transmission Company (Private) Limited for Modification of Tariff Determination dated December 04, 2018**

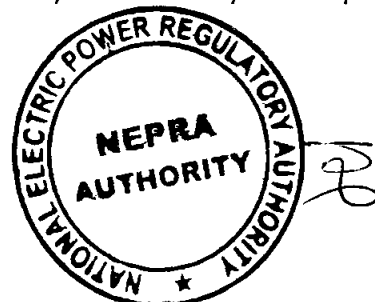
**Introduction:**

1. Pak Matiari-Lahore Transmission Company (Private) Limited ("PMLTC" or "the Company") vide letter No PTC-02-20220304-0 1 dated March 04, 2022 has filed Tariff Modification petition under Section 31 of NEPRA Act read with all the enabling provision of the law and particularly under Rule 3 of NEPRA Tariff Standards and Procedure Rule, 1998.
2. In the said tariff modification petition PMLTC submitted that the reference tariff dated December 04, 2018 provides for bi-annual indexation of principal and interest tariff components of foreign currency loan on account of variations in PKR/USD exchange rate which do not allow company to recover the costs prudently incurred in the light of PKR/USD exchange rates volatility. Therefore, the reference tariff be modified to allow for the tariff components to be indexed on account of PKR/USD exchange rate on a quarterly basis.

**Grounds of Subject Tariff Modification Petition:**

3. Following grounds have been submitted in the subject Tariff Modification Petition:
  - i. PMLTC submitted that at the tariff petition stage PPIB submitted that the interest rate and exchange rate variations for the debt servicing will be made on semi-annual basis i.e. on 1<sup>st</sup> January and 1<sup>st</sup> July. Accordingly, the Authority allowed indexation of debt servicing component on semi-annual basis. However, due to consistent variations in the exchange rate and steep devaluation of Pakistani Rupee ("PKR") against the United State Dollars ("USD") over the last few years, the company is requesting Authority to allow quarterly indexation of tariff components on account of PKR/USD.
  - ii. PMLTC submitted that the Tariff Determinations are inconsistent with the Transmission Policy which provides for the quarterly indexation. PMLTC further submitted that the Transmission Policy also offered fiscal and non-fiscal incentives to the prospective investors, and in this regard Transmission Policy contemplated the indexation / adjustment for principal and interest / mark-up payments against foreign currency loans on a quarterly basis. Based on this, the Company submits that indexation of the Tariff Components under the PMLTC Tariff Determinations should follow and be guided by the policy rationale expounded in the Transmission Policy.
  - iii. PMLTC submitted that the provisions of policy / guidelines formulated and enacted by GOP cannot be ignored by the Authority unless the same are inconsistent with the provisions of the NEPRA Act. It has been further held by the superior courts that in case the policy / guidelines are not in conformity with the provisions of tile NEPRA Act, the Authority shall provide reasons for not following such policy / guidelines. PMLTC submitted extract of the judgement provided by the Islamabad High Court in Fatima Energy Limited v. National Electric Power Regulatory Authority.
  - iv. PMLTC further submitted that the reference debt repayment schedule as determined by the Authority is based on amortized cost method on assessed project cost instead of actual debt raised by PMLTC and subsequent indexation mechanism wherein NEPRA adopts LIBOR and exchange rate as at 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July and 1<sup>st</sup> October instead of reference dates of LIBOR and exchange rate agreed by PMLTC within the Facility Agreement dated November 9th, 2018 ("Facility Agreement") and realized by the Company while

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making payment to the lender and has no direct connection with actual repayment terms agreed with the lender.

- v. PMLTC submitted that the indexation mechanism approved by the Authority is designed to mitigate the exchange rate variation risk which a licensee may be exposed to during the operating period of its project. Since the indexation parameters are determined in advance for a period, it would be unreasonable that Project tariff and payments thereof are received by the Company based on exchange rate determined six (06) months in advance and the related payment to the lender is made after a period of six (06) months based on the prevailing exchange rate at such later time therefore the indexation of Tariff Components on a quarterly basis would mitigate the exchange rate variation risk to a reasonable level.
- vi. PMLTC has submitted that the Authority has allowed indexation of Tariff Components on a quarterly basis for various other projects developed under the CPEC framework. Therefore, it is reasonable that the Authority approves indexation frequency for Tariff Components of PMLTCs Project on quarterly basis since it is also a flagship CPEC project.
- vii. In light of the foregoing, PMLTC has requested the Authority to:
  - a. Provide the Company with an opportunity to be heard and to make detailed submissions in respect of the Instant Modification Petition;
  - b. Allow this Instant Modification Petition and modify the PMLTC Final Tariff Determination;
  - c. Approve the indexation of Tariff Components on a quarterly basis;
  - d. Allow indexation of Tariff Components on a quarterly basis in line with the Transmission Policy and the superior courts jurisprudence;
  - e. Provide any other relief as the Authority deems fit.

**Proceedings:**

4. The subject tariff modification petition was considered and admitted by the Authority on April 05, 2022. The Authority decided to provide an opportunity of hearing to PMLTC and approved following issues on May 31, 2022 to be discussed during the hearing:

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- i. **Whether PMLTC request to allow the indexation of debt repayment on quarterly basis instead of bi-annual basis (as agreed in the financing agreements) or otherwise?**
- ii. **Any other issue deemed appropriate by the Authority”**

5. Notice of admission and hearing was published in the daily national newspapers on June 01, 2022 stating the hearing date as June 14, 2022 at 10:00 am and , while also providing salient features of the Petition, issues framed for hearing and invitation to file comments/intervention request from the interested parties. Further it was also informed that the hearing in subject matter can be joined through online zoom link <https://us02web.zoom.us/j/88332511287> or in person at NEPRA Head Office, Islamabad. Individual Notices of hearing were sent to the relevant stakeholders and the petitioner on June 03, 2022 for participation in the hearing. The Petition and Notice of Admission & Hearing were also hosted on NEPRA's website for information of general public. The hearing was attended by the representatives of petitioner and PPIB. In response, no comments in writing has been received from PPIB, NTDC, CPPA-G and Ministry of Energy or any other stakeholder. However, PPIB during the hearing made certain comments on the subject petition which are provided as under:

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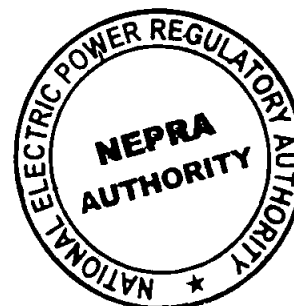
**Comments of PPIB during the hearing:**

6. PPIB commented that the reference tariff petition was prepared by PPIB in consultation with NTDC and PMLTC. Accordingly, the petition was filed on the analogy that PMLTC's debt servicing will be on bi-annual basis if PMLTC considered that this was an error, same should have been contested in the motion for leave for review and subsequent tariff modification petitions by PMLTC.
7. PPIB further commented that the company is taking this stance on the basis of various CPEC generation projects which are under upfront tariff wherein quarterly indexations was allowed by the Authority irrespective of their actual repayment terms.
8. PPIB further commented that the company is being paid on monthly basis whereas as per financing agreement the amount is due to be paid to the lender on semi-annual basis. Thus the company holds this amount for 5 months and have the opportunity cost to invest in TDRs or any other instrument to cater for exchange rate loss. If the Authority considers to allow quarterly adjustment of debt servicing on account of exchange rate variation then as a matter of consistency 3 months LIBOR instead of 6 month LIBOR should be allowed.
9. Further to above, PPIB also commented that although the generation policies provides quarterly indexation provision as well but wherever the debt repayments are agreed on bi annual basis in cost plus cases the Authority has allowed semi-annual debt repayments indexation.
10. Based on the submissions of the petitioner, comments of PPIB, precedents available in the earlier cases, available record the analysis on the grounds submitted by PMLTC and decision of the Authority is given hereunder:

**Analysis by the Authority:**

11. PMLTC submitted that due to consistent variations in the exchange rate and steep devaluation of Pakistani Rupee ("PKR") against the United State Dollars ("USD") over the last few years quarterly indexation of debt components on account of exchange rate variation may be allowed as against semi-annual basis earlier claimed and allowed by the Authority at tariff determination stage. PMLTC further submitted that the indexation of debt servicing on semi-annual basis allowed in the tariff determinations is inconsistent with the Transmission Policy which provides for the quarterly indexation. In this regard, the Authority noted that the semi-annual indexation of debt was allowed to PMLTC in line with the request made in the reference tariff petition and the same was accepted by PMLTC therefore it would not be prudent to raise such contentions after a long delay. Further to above, the Authority noted that the generation policies also provide for quarterly indexation however there are number of projects under cost plus basis which have been allowed indexation of debt component on semi-annual basis consistent to semi-annual repayments agreed in the financing agreements. However, none of the above projects have approached NEPRA for allowing exchange rate variation of debt on quarterly basis as a result of exchange loss caused to the company. The Authority also observed that the stance made by PMLTC regarding debt servicing adjustment mechanism has no direct connection with actual repayment terms agreed with the lender is in correct. In all the cost plus cases the frequency for the adjustment of debt servicing component is allowed as per the debt repayment terms agreed with the lenders. Accordingly, the financing agreements submitted by PMLTC with the COD tariff adjustment request dated September 28, 2021 were reviewed and showed that the bi-annual debt repayment has been agreed with lenders therefore the allowed semi-annual debt indexation is consistent with the debt repayment mechanism as agreed with the lenders.

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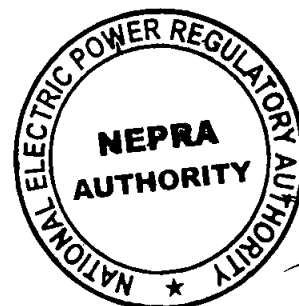


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12. PMLTC also submitted that the indexation mechanism approved by the Authority is designed to mitigate the exchange rate variation risk which a licensee may be exposed to during the operation period of its project. Since the indexation parameters are determined in advance for a period, it would be unreasonable that Project tariff and payments thereof are received by the Company based on exchange rate determined six (06) months in advance and the related payment to the lender is made after a period of six (06) months based on the prevailing exchange rate at such later time. In this regard, the Authority noted that as per the prevailing practice the tariff components including debt servicing component are adjusted based on latest available indices. Accordingly, consistent practice has been adopted for PMLTC as well.
13. The Authority during the hearing directed PMLTC to submit the financial impact of the exchange rate variation. The impact submitted by PMLTC was analyzed and it was observed that the indexed revised tariff components were not the same as have been approved by the Authority vide decisions dated December 24, 2021 and June 07, 2022 in the matter of interim relief for indexation of the relevant reference tariff components of PMLTC's transmission tariff. Accordingly, indexed tariff components as per the above referred decisions were used for calculating the exchange gain/loss if any. In addition the details of payment received by PMLTC from NTDC and the payments made to the lenders by the Company, for the period from October 2021-March 2022 were also been obtained vide PMLTC's letter dated August 15, 2022 wherein it has been observed that the first debt repayment is made to the lender on April 15, 2022 and PMLTC have been receiving payment from NTDC since November 18, 2021. The Authority also considers that PMLTC in its working has assumed that 100% of the invoice amount has been received by PMLTC on the 1<sup>st</sup> day when it is due which is a correct approach since inefficiencies and any loss due to contractual commitment cannot be passed on to the end consumer. Accordingly, based on the given information the Authority observed that there was no exchange loss rather there was an exchange gain during the period from September 2021 to March 2022 particularly due to the fact that the payment to the lender is made on April 15, 2022 whereas the amount received from NTDC has been calculated for 7 month period starting from September 2021 till March 2022. If this exchange gain is considered for the payment for the next 6 month, PMLTC will still not be having any exchange loss.
14. Despite above, the Authority believes that PMLTC can mitigate the risk (if any) due to exchange rate risk variation between receipt of payment from NTDC and subsequent payments to the lenders. Since PMLTC receives payment of invoices from NTDC on monthly basis whereas it is required to make payment to the lenders after six months therefore, like PPIB commented during the hearing, PMLTC can invest the amount received from NTDC in TDRs or any other such instruments for mitigating the risk, if any. The Authority further consider that it would be unjustified to pass on the impact of exchange risk to the end consumer on account of the fact that the same could not have been managed by PMLTC through financial management strategies. Further, the Authority is of the view that the IRR and spread on debt servicing already caters for the country risks at the time of tariff determination. In the instant case 17% IRR on equity and 4.5% spread over LIBOR was allowed keeping in view all the risk factors. Therefore any associated risk during the operation period on this account would be unjustified to be pass on to the end consumer.
15. With regard to PMLTC's submission that the Authority has allowed indexation of Tariff Components on a quarterly basis for various other projects developed under the CPEC framework, the Authority considers it necessary to state that those projects were awarded tariff under upfront tariff regime wherein no project specific adjustments were allowed. Therefore, if the project companies have agreed for semi-annual debt repayment after opting for upfront tariff, the indexation mechanism for the same has not been revised since there is no provision of such adjustments in the upfront tariff determination. The same was also supported by the representative of PPIB during the hearing.

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Decision of the Authority in matter of Tariff Modification Petition filed by  
Pak Matiari Lahore Transmission Company (Private) Limited (PMLTC)  
against the NEPRA's Decision dated December 04, 2018  
(No. NEPRA/TRF-433/PMLTC-2018)

Order:

16. The Authority considers that the grounds advanced by the petitioner do not require any modification in Authority's decision dated December 04, 2018, therefore, the Authority has decided to dismiss the instant tariff modification petition filed by PMLTC.

**AUTHORITY**

Engr. Rafique Ahmed Shaikh  
Member

Engr. Maqsood Anwar Khan  
Member

Tauseef H. Farooqi  
Chairman



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