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ISLAMABAD, MONDAY, MAY 30, 2022

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the 27th May, 2022

S. R. O. 670(I)/2022.—In pursuance of Sub-Section 7 of Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), NEPRA hereby notifies the Decision of the Authority in the matter of Application filed by Central Power Purchasing Agency Guarantee Ltd. (CPPA-G) for Adjustment in Components of Tariff pursuant to Signing of Master Agreement with Thal Industries Corporation Ltd. (TICL) in Case No. NEPRA/TRF-325/TICL-2015.

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

[No. NEPRA/TRF-325/8211.]

SYED SAFEER HUSSAIN,
Registrar.

1259 (1—7)

Price : Rs. 10.00

[7917 (2022)/Ex. Gaz.]



*Decision of the Authority in the Matter of Application Filed by CPPAGL
for Adjustment in Components of Tariff of Thal Industries Corporation Limited*

**DECISION OF THE AUTHORITY IN THE MATTER OF APPLICATION FILED BY CENTRAL POWER
PURCHASING AGENCY FOR ADJUSTMENT IN COMPONENTS OF TARIFF PURSUANT TO
SIGNING OF MASTER AGREEMENT WITH THAL INDUSTRIES CORPORATION LIMITED**

1. Introduction

- 1.1. The Committee for Negotiations, notified by the Government of Pakistan through notification number F.No.IPPs- 1(12)/2019-20 dated 3rd June 2020, following successive rounds of discussions with the Independent Power Producers (IPPs) and other power sector stakeholders, signed Memorandum of Understanding (MOUs) with 47 IPPs.
- 1.2. Government of Pakistan through notification number F.No.IPPs-1(12)/2020 (Vol-II) dated October 07, 2020 constituted the Implementation Committee, inter-alia, to convert the MOUs into a binding agreement between the Parties.
- 1.3. The report of the Implementation Committee along with the payment mechanism and initialed agreements was considered by Economic Coordination Committee of the Cabinet in case No. ECC 45/05/2021 dated February 08, 2021 and approved the same.
- 1.4. Central Power Purchasing Agency (Guarantee) Limited (CPPAGL) and Thal Industries Corporation Limited (TICL) signed Master Agreement on February 12, 2021. As per clause 2.1 of the agreement, the parties have jointly developed a tariff adjustment application to be submitted to NEPRA as a necessary condition for bringing into effect the agreed contractual amendments.
- 1.5. TICL is a 41 MW bagasse cogeneration power plant that was awarded upfront tariff by the Authority on August 07, 2015. Upon achievement of Commercial Operations Date (COD) on December 01, 2017, TICL's tariff was adjusted vide decision of the Authority dated March 09, 2018 (COD tariff decision).

2. Filing of Application

- 2.1. Pursuant to the Master Agreement, CPPAGL vide letter No. CPPA/CEO/2021/8201 dated February 17, 2021 filed application for adjustment in components of tariff of TICL, approved vide COD tariff decision.
- 2.2. The application was filed by CPPAGL as motion for leave for review, pursuant to rule 16(6) of the NEPRA (Tariff Standards and Procedure) Rules, 1998, read together with Regulation 3(2) of the NEPRA (Review Procedure) Regulations, 2009 and Section 31 of the NEPRA Act, while requesting for the following:
 - a. Reduce the Return on Equity (ROE) component from 17% (USD based) per annum to 12%, from the date of signing of the Master Agreement for the next 5 years, on the NEPRA approved equity at COD.
On the date of fifth anniversary of the date of execution of Master Agreement, the ROE shall be changed to 17% (PKR based) on NEPRA approved equity at COD calculated at PKR 168/USD, with no future USD indexation throughout the remaining Term.
 - b. Reduce the Operation and Maintenance component by 10%.





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- c. Reduce Insurance cost during operations to 0.7% of EPC cost, provided that other terms and conditions of the insurance adjustment mechanism shall remain the same.
- d. Approval of Tariff Adjustment to become effective as provided in clause 2.2, clause 2.3 and Annex-B of the Master Agreement and notified accordingly.
- e. In pursuance to clause 3.1.2 of the Energy Purchase Agreement (EPA) Amendment, if the company operates above the annual 45% plant factor, (the Average PF) in an Agreement Year, CPPAGL shall pay 100% of Variable Energy Purchase Price and 30% of Fixed Energy Purchase Price for energy produced beyond 45% plant factor.

If the company operates below the Average PF in an Agreement Year (Actual PF), the difference between the Average PF and Actual PF shall be treated as "shortfall energy" and carried forward to following years. In case the company operates above the Average PF in subsequent years, CPPAGL shall pay:

- 100% of Variable Energy Purchase Price, and
- to the extent of energy delivered beyond the Average PF to the extent of "shortfall energy" occurring in the preceding year:
 - o 30% of the Fixed Energy Purchase Price excluding Debt Service Component; and
 - o 100% of Debt Service Component.

Both the above arrangements shall remain effective for every 5-year period, starting from COD, after which a fresh reset shall be done to restart the new 5-year period.

3. Admission of the Application

- 3.1 The Authority admitted the subject application on February 25, 2021 and decided to hold hearing in the matter on March 03, 2021. Accordingly, Notice of Admission/Hearing was published in the national newspapers on February 26, 2021, inviting comments from the stakeholders. Individual notices were issued on February 26, 2021. Hearing was held on March 03, 2021 through video link on Zoom and was attended by representatives of CPPAGL and IPPs.
- 3.2 Post hearing, CPPAGL vide letter dated March 16, 2021 submitted, inter alia, to also include following clause in the "Grounds of Tariff Adjustment" of TICI:

Pursuant to Master Agreement, CPPAGL and TICI have agreed to coordinate with its lenders and make all efforts in order to give effect to (i) the debt tenor shall be extended by a period of 5 years, (ii) the existing spread shall be reduced by 75 basis points over the LIBOR, as applicable, and by 125 basis points over KIBOR, as applicable; provided that the entire savings arising out of debt negotiations shall be passed on to the consumers.

4. Analysis and Decision of the Authority

- 4.1 The discussion with respect to each parameter/component of tariff, as requested by CPPAGL for revision and decision of the Authority is as follows:





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i. Return on Equity

The Authority in the COD tariff decision of TICI approved reference ROE component of Rs. 1.0346/kWh, including Return on Equity during Construction (ROEDC) component of Rs. 0.0966/kWh. The said component was worked out on the basis of rate of return of 17% (USD based). CPPAGL has requested to revise the equity return downward to 12%, to be applicable for five years starting from the date of signing of Master Agreement. Further, CPPAGL has requested to approve ROE component at 17% while fixing the exchange rate parity at Rs. 168/USD, which would be applicable post expiry of aforementioned five years period. During the proceedings of the subject Application, CPPAGL through letter dated March 16, 2021 clarified that the mechanics used to compute the ROEDC component in the tariff application of thermal power projects be also used for TICI. Accordingly, with the negotiated rate of 12%, the revised reference ROE component of TICI works out to be Rs. 0.7327/kWh, including ROEDC of Rs. 0.0705/kWh. Additionally, the ROE component at 17% (Rs. 168/USD), to be applicable after five years from the signing of Master Agreement, comes out to be Rs. 1.7075/kWh. The Authority has decided to approve the aforesaid revised ROE components.

ii. Operations & Maintenance Cost

The Authority, in the COD tariff decision of TICI, approved Variable O&M-Local, Variable O&M-Foreign and Fixed O&M-Local of Rs. 0.1197/kWh, Rs. 0.3393/kWh and Rs. 0.3194/kWh respectively. In the subject Application and through letter dated March 16, 2021, CPPAGL has requested to revise downward all the aforesaid O&M cost components by 10%. Accordingly, the revised Variable O&M-Local, Variable O&M-Foreign and Fixed O&M-Local components work out to be Rs. 0.1078/kWh, Rs. 0.3054/kWh and Rs. 0.2875/kWh respectively, which are hereby approved.

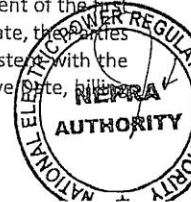
iii. Insurance during Operations

The Authority, in the COD tariff decision of TICI, approved the insurance cost component of Rs. 0.2204/kWh, which was calculated at 1% of EPC cost. In the subject Application, CPPAGL has requested to revise the said component while calculating the same at 0.7% of the EPC cost of TICI. Through its letter dated March 16, 2021, CPPAGL clarified that the revised insurance cost component shall remain fixed. Accordingly, the revised fixed insurance component of TICI works out to be Rs. 0.1543/kWh, which is hereby approved.

iv. Effective Date

The Authority noted that Clause 2.2 of the Master Agreement signed with TICI provides that the revised tariff shall be effective on the date when the last instalment under the Payment Mechanism has been paid to the Company. Further, Clause 2.3 of the Master Agreement provides that, subject to the terms of this Agreement, after the determination of the revised tariff in line with the Tariff Adjustment Application and payment of the first instalment under the Payment Mechanism, and till Revised Tariff Effective Date, the parties agree that the Company shall commence giving discount in invoices consistent with the notified tariff and this Agreement. From and after the Revised Tariff Effective Date, bills shall

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and invoicing shall be as per the revised tariff. The Authority has considered the said clauses and decided to approve the same through this Decision.

v. Tariff Sharing and Shortfall Energy Mechanism

It is noted that the tariff of TICI was computed on net annual plant factor of 45%. In the subject application, CPPAGL has requested that 100% of the variable component (fuel + variable O&M) along with 30% of the fixed component (Fixed O&M, ROE, Insurance, Working Capital & Debt Servicing, as applicable) shall be paid to TICI in respect of annual energy beyond 45%.

Further, a mechanism of payment of shortfall energy has also been requested whereby it is prescribed that if TICI, within the brackets of 5 years starting from the COD, produces less than 45% in any year and in subsequent year(s) if it produces more than 45%, then it will be compensated with debt servicing component, along with variable cost, for energy beyond 45%, to the extent of shortfall energy of previous year(s).

A discrepancy was noted with respect to the payment of shortfall energy as stated in the subject application by CPPAGL and as finalized in the Amended EPA with TICI. CPPAGL requested for the payment of debt servicing as well as 30% of the remaining fixed cost on the shortfall energy whereas the Amended EPA states for payment of debt servicing only. It is noted that there is no mention of mechanism for tariff sharing and shortfall energy in the Master Agreement. The Authority has considered this matter and decided to approve the payment of debt servicing only, excluding 30% of remaining fixed cost, for shortfall energy, as finalized in the Amended EPA.

vi. Debt Renegotiations

The Authority in the COD tariff decision of TICI worked out the approved tariff based on debt to equity ratio of 80:20. 100% local loan was used at KIBOR + 3%, to be serviced in 10 years from COD, on equal annuity basis. The Authority noted that following has been decided in Master Agreement with TICI:

TICI, subject to approval by the lenders, shall negotiate to give effect to (i) the debt tenor shall be extended by a period of 5 years, (ii) the existing spread shall be reduced by 100-125 basis points over the KIBOR, as applicable; provided that TICI agrees that any and all savings arising out of these changes to its debt shall be passed on to the Purchaser.

The Parties agree that CPPAGL shall support and assist the Government of Pakistan (GoP) in approaching the State Bank of Pakistan (SBP) to swap the JDWSML's existing long term domestic debt with the SBP's refinancing facility of renewable projects to the maximum possible extent of the existing long term debt as committed by SBP, and TICI shall fully support CPPAGL and GoP in giving effect to swapping of its existing long term domestic debt with the SBP's refinancing facility for renewable projects.





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The Authority has considered the above and decided to approve the provision of debt renegotiation vide this Decision. The Authority also directs CPPAGL to continuously pursue with TICI on this matter.

5. **ORDER**

The Authority hereby reviews the COD tariff Decision of Thal Industries Corporation Limited, issued on March 09, 2018, to the extent of following:

- ROE Component of Rs. 1.0346/kWh has been revised to Rs. 0.7327/kWh, to be applicable for 5 years from the date of signing of Master Agreement. Subsequently, ROE component of Rs. 1.7075/kWh shall be applicable.
- Variable O&M-local component of Rs. 0.1197/kWh has been revised to Rs. 0.1078/kWh.
- Variable O&M-Foreign component of Rs. 0.3393/kWh has been revised to Rs. 0.3054/kWh.
- Fixed O&M-local component of Rs. 0.3194/kWh has been revised to Rs. 0.2875/kWh.
- Insurance cost component of Rs. 0.2204/kWh has been revised to Rs. 0.1543/kWh.
- The mechanism of tariff sharing and shortfall energy, as decided in the Amended EPA, is hereby approved
- TICI is directed to make all efforts for debt renegotiations on the terms, as agreed in the Master Agreement. Once achieved, the tariff of TICI shall be adjusted to reflect the negotiated terms. CPPAGL is directed to continuously pursue with TICI on this matter.
- All the revised tariff components of this Decision shall be adjusted as per the mechanism prescribed in the COD tariff decision of TICI. ROE component of Rs. 1.7075/kWh, to be applicable after 5 years of signing of Master Agreement, shall remain fixed and shall not be indexed throughout the remaining term of EPA.
- The above revisions, in the COD tariff decision, shall apply in accordance with the timelines as agreed in the Master Agreement.



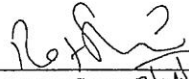


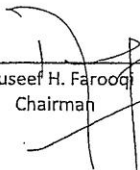
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6. The Order of the Authority is intimated to the Federal Government for notification in the Official Gazette in terms of Section 31(7) of the Regulations of Generation, Transmission and Distribution of Electric Power Act, 1997.

AUTHORITY


28/4/21
Rehmatullah Baloch
Member


Engr. Rafique Arshad Shaikh
Member


Tauseef H. Farooq
Chairman



9/4/21