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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the 27th May, 2022

S. R. O. 720(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 of ROE and ROEDC Components of Tariff pursuant to the signing of the Master Agreement with Engro Powergen Qadirpur Ltd. (EPQL) in Case No. NEPRA/TRF-72/EPOL-2007.

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.

SYED SAFEER HUSSAIN,
Registrar.

1353(1—6)

Price: Rs. 10.00

[7974(2022)/Ex. Gaz.]

DECISION OF THE AUTHORITY IN THE MATTER OF APPLICATION FILED BY CENTRAL POWER PURCHASING AGENCY (CPPA-G) FOR ADJUSTMENT OF ROE AND ROEDC COMPONENTS OF TARIFF PURSUANT TO THE SIGINING OF THE MASTER AGREEMENT WITH ENGRO POWERGEN QADIRPUR 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 payment mechanism and initialed agreements was considered by Economic Coordination Committee of the Cabinet in case No. ECC 45/05/2021 dated 8th February 2021 and approved the same.

1.4. Central Power Purchasing Agency (Guarantee) Limited (CPPA-G) and Engro Powergen Qadirpur Limited (EPQL) signed Master Agreement on February 11, 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.

2. FILING OF APPLICATION

2.1. CPPA-G vide letter No. CPPA/CEO/2021/8201 dated February 17, 2021 filed application for adjustment in Return on Equity (ROE) and Return on Equity During Construction (ROEDC) components of tariff of EPQL pursuant to signing of the Master Agreement.

2.2. According to CPPA-G the application is filed 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.

2.3. The requested ROE and ROEDC components are provided hereunder:

	Requested Tariff Rs./kW/h	Indexation
ROE	0.6849	No Indexation
ROEDC	0.2430	No Indexation

2.4. The requested tariff has been worked out on the basis of 100% local equity.

3. DETERMINATION SOUGHT

3.1. CPPA-G requested the Authority to the followings:

i. Accept this application

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ii. Adjust the ROE and ROEDC components of tariff as agreed in the Master Agreement.

iii. Adjust Pass-through Withholding Tax on Dividend in accordance with the adjusted ROE and ROEDC components.

iv. Approve the tariff adjustments to become effective as provided in Clause 2.2, 2.3 and Annex-A of the Master Agreement and notified accordingly.

3.2. CPPA-G vide letter No. CPPA/CEO/15621 dated March 16, 2021 filed corrigendum in the matter and requested followings:

i. Local and foreign equity element of the Equity for the purpose of determining the "Return on Equity" and "Return on Equity During Construction" for each power project may be obtained from the latest record available in the State Bank of Pakistan. In this connection, Applicant has written a letter to the State Bank of Pakistan for seeking updated record (Annex-II). Applicant has also sought such information from respective IPPs which is still awaited. NEPRA may obtain requisite information please.

ii. Calculation of "return on Equity During Construction" as applied by the Applicant be interpreted in line with the respective Tariff Adjustments Applications.

iii. The reference tariff of each power projects in respect of "Return on Equity" and "Return on Equity During Construction" shall be re-adjusted in accordance with the provisions of Tariff Application.

3.3. EPQL vide letter No. DGMF-I/MF-VII/5230-33 dated March 18, 2021 submitted that its entire equity was financed by local investor.

3.4. In response to a query, CPPA-G vide letter No. CPPA/CFO/2021/8304 dated March 30, 2021 submitted that in case of local component of equity, it has been agreed that the exchange rate once touches Rs. 168/US$ for invoices purposes, the revised tariff shall become effective, with no further indexation and will remain in place even if the exchange rate fall below Rs. 168/US$ with no corresponding decrease in the applicable tariff.

3.5. CPPA-G vide letter No. CPPA/CFO/DGMF-I/8620-22 dated March 31, 2021 in continuation to tariff adjustment applications submitted that while calculating the ROE and ROEDC components, it was assumed that the exchange rate will reach Rs. 168/US$ on September 30, 2021 for invoicing purposes. Accordingly, redemption in respect of ROEDC (Local) component was affected till 30-09-2021. However, the exchange rate may or may not be at Rs. 168/USD on 30-09-2021. In view of the above, CPPA-G requested that the following clarification paragraph may please be added in the order part of the Authority's decision:

"*The ROEDC (Local) component has been computed assuming that the exchange rate reaches Rs. 168/US$ on 30-Sep-2021. If the exchange rate reaches Rs. 168/US$ either earlier or later than 30-Sep-2021, the ROEDC (Local) components shall be mutually agreed and adjusted by the Parties to cater for the period deviating from 30-Sep-2021.*"

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4. ADMISSION OF THE APPLICATION

4.1. 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 CPPA-G and IPPs.

4.2. During the hearing the representative of EPQL requested to also approve revised ROE and ROEDC components on alternative fuel i.e. HSD in line with gas.

5. GROUNDS OF REVIEW

5.1. According to CPPA-G, it has agreed with EPQL to adjust ROE and ROEDC components of tariff as per the following terms and conditions

a) **Local Equity**

17% per annum each for the ROE and ROEDC components of the tariff based on the Authority approved equity in USD for calculation of the ROE and ROEDC at the COD calculated at the exchange rate of Rs.148/US$, with no future USD indexation.

The revised local ROE and ROEDC components shall be effective on the date when last installment under the Payment Mechanism has been paid as agreed in the Master Agreement and the applicable exchange rate under the present Tariff reaches Rs. 168/US$. Thereafter from the effective date, the revised ROE and ROEDC shall be applied for the remainder term of the PPA as per the Master Agreement.

b) Till effective date of the revised ROE and ROEDC components, NEPRA shall continue to index ROE and ROEDC with US$ as per COD Tariff.

c) Pass-through withholding tax on dividend to be calculated in accordance with the adjusted ROE and ROEDC.

5.2. As per clause 2.3 of the Master Agreements, "*Subject to the terms of this Agreement, after notification of the revised tariff determination in line with the Tariff Adjustment Application and payment of first installment under the Payment Mechanism, and till Revised Tariff Effective Date, the Parties agree that the Company shall commence giving discount in future invoices consistent with the notified tariff and this Agreement ("Tariff Discounts"). From and after the Revised Tariff Effective Date, billing and invoicing shall be as per the revised tariff.*"

6. DECISION OF THE AUTHORITY

6.1. The Authority vide decision dated April 01, 2011 at the time of COD tariff adjustment approved reference ROE and ROEDC components of Rs. 0.3438/kW/h and Rs. 0.1265/kW/h respectively on gas subject to dollar indexation on the basis of return on equity of 15%, equity investment of US$ 51.82 million, ROEDC of US$ 18.49 million and exchange rate of Rs. 84.20/US$. The reference ROE and ROEDC components on HSD fuel are Rs. 0.3510/kW/h and Rs. 0.1291/kW/h. The applicable ROE and ROEDC components of tariff for January-March 2021

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quarter on gas are Rs. 0.6566/kW/h and Rs. 0.2416/kW/h respectively and on HSD are Rs. 0.6703/kW/h and Rs. 0.2465/kW/h respectively on the basis of exchange rate of Rs. 160.8/US$.

6.2. Clause 7.1 of the Master Agreement is reproduced hereunder:

> *"Subject to terms of this agreement, the Company agrees to prospective reduction in tariff component with the ROE and ROEDC, which shall be, 17% per annum in PKR on NEPRA approved equity at COD for ROE and ROEDC calculated at exchange rate of Rs. 148/US$, with no future US$ indexation for local investors. Notwithstanding anything contained otherwise herein, the existing ROE and ROEDC, together with the applicable indexations, shall continue to be applied until the date the applicable exchange rate under the present Tariff reaches PKR 168/US$ (i.e., the date of the signing of the MoU), whereupon the revised ROE and ROEDC shall apply for the remainder of the Term of the PPA"*

6.3. Accordingly, on the basis of equity investment of US$ 51.82 million, outstanding ROEDC of US$ 16.17 million, return on equity of 17% and exchange rate of Rs. 148/US$, the revised ROE and ROEDC components woks out Rs. 0.6849/kW/h and Rs. 0.2430/kW/h respectively on gas and the same is being approved.

6.4. The request of EPQL for approving revised components on HSD fuel is justified as currently separate tariff is applicable for both fuels based on net dependable capacities. Accordingly, the revised ROE and ROEDC components woks out Rs. 0.6992/kW/h and Rs. 0.2480/kW/h respectively on HSD and the same are being approved. The revised tariff components shall not be subject to indexation.

6.5. As provided in the Clause 2.2 read with Clause 7.1 of Master Agreement, the revised components shall be effective on the date when last installment under the Payment Mechanism has been paid and the applicable exchange rate under the present Tariff reaches Rs. 168/US$. Thereafter, the revised components shall remain applicable for the remaining term of the PPA. Till effective date of the revised components, existing ROE and ROEDC components, together with the applicable indexations, shall continue to be applied.

6.6. Withholding tax on dividends shall also be adjusted in accordance with the revised ROE and ROEDC components.

6.7. The Authority has also considered the request of CPPA-G submitted vide letter dated March 31, 2021 and decided to accept the same which shall be subject to approval of NEPRA.

7. ORDER

I. The Authority hereby modify and approve the reference tariff dated April 01, 2011 and September 17, 2013 of Engro Powergen Qadirpur Limited for delivery of electricity to the power purchaser to the extent of following tariff components:

Description	Gas Rs./kW/h	HSD Rs./kW/h	Indexation
Return on Equity (ROE)	0.6849	0.6992	Nil
Return on Equity During Construction (ROEDC)	0.2430	0.2480	Nil

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II. The modified ROE and ROEDC components shall be effective on the date when last installment under the Payment Mechanism has been paid as agreed in Clause 2.2 of the Master Agreement and the applicable exchange rate under the present Tariff reaches Rs. 168/US$. Thereafter, the revised components shall remain applicable for the remaining term of the PPA.

III. The existing ROE and ROEDC components shall be indexed as per the mechanism stipulated in the COD tariff adjustment decision till the effective date of the modified ROE and ROEDC components.

IV. The local ROEDC components on both fuels have been computed assuming that the exchange rate reaches Rs. 168/US$ on September 30, 2021. If the exchange rate reaches Rs. 168/US$ either earlier or later than September 30, 2021 the local ROEDC component shall be mutually agreed and adjusted by the Parties to cater for the period deviating from September 30, 2021 which shall be subject to approval of the Authority.

V. Withholding tax on dividends shall be adjusted in accordance with the revised ROE and ROEDC components

8. NOTIFICATION

The above 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

Rehmatullah Baloch
Member

Engr. Rafique Ahmed Shaikh
Member

Tauseef H. Farooqi
Chairman

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