

August 13, 2024

Mr. Musadiq Malik
Federal Minister of Petroleum
Ministry of Energy (Petroleum Division)
3rd Floor, A Block
Pak Secretariat, Islamabad

BADIN IV SOUTH – GAS THEFT/UNLAWFUL THIRD PARTY GAS SALE

Dear Sir,

We write further to our letter dated June 28, 2024 on the above-mentioned subject in which we provided irrefutable evidence demonstrating Petroleum Exploration (Pvt) Limited's ("PEL") massive and unprecedented gas theft/unlawful gas sale from Badin IV South Block ("Badin South Block") to an unlicensed entity, Shahzad Processing Solutions (Pvt) Ltd ("SPS"), an affiliate of PEL (copy enclosed as Annexure – A). The unlawful gas sale to SPS is neither authorised by the Government nor approved by either of the non-operated Joint Venture Partners ("JVPs"), Frontier Holdings Limited ("FHL") and Gulf Petroleum Exploration Pakistan ("GPX").

The Ministry of Petroleum has confirmed PEL's gas theft and unlawful gas sales

In response to FHL's complaint dated December 6, 2022 regarding PEL's gas theft/unlawful gas sale, the Ministry of Energy (Petroleum Division) ("MOP") constituted two inquiry committees vide letters dated February 17, 2023 and June 22, 2023 to conduct a fact-finding investigation. The findings of both inquiry committees fully corroborated the assertions in FHL's complaint.

It has therefore been established that PEL has committed gas theft/unlawful gas sale. We have also learnt that GPX has filed a similar complaint with the MOP regarding PEL's involvement in gas theft and how non-operated JVPs are being defrauded by PEL as the operator.

The DGPC's failure to act against the MOP's inquiry recommendations is inexplicable

The inaction of the Director General Petroleum Concessions ("DGPC") and their complete disregard of such an exceptional act of gas theft, as confirmed by two MOP inquiry committees, is wholly inexplicable. DGPC's failure to act is tantamount to granting and perpetuating absolute impunity to PEL. DGPC's inability to take immediate and decisive action against PEL has encouraged PEL to augment the extent of its gas theft activities, which is evident from PEL extending its gas theft/unlawful gas sale activity to Zahrah North-01.

In the DGPC's letter dated June 22, 2023 in relation to PEL suspending its unlawful gas sale (copy enclosed as Annexure – B), the DGPC did not clearly state that the gas sale is illegal and therefore to be suspended immediately despite this being clearly decided in the MOP's two inquiry committees. Instead the DGPC's wording allowed PEL to use a false basis to secure a stay order from the Islamabad High Court ("IHC") on July 6, 2023. It is again wholly inexplicable why the DGPC should write such an unusual, vague and loosely drafted letter for what is a black-and-white issue

– to demand suspension of PEL’s gas theft/unlawful gas sale from the Badin South Block as required by the MOP’s committees.

The MOP submitted its response to PEL’s petition on September 11, 2023 (copy enclosed as Annexure – C) and the preliminary objections clearly stated that:

- i. PEL’s petition is utterly incompetent, grievously misconceived and therefore not maintainable;
- ii. PEL has approached IHC with unclean hands, hence is not entitled to any discretionary relief;
- iii. PEL has filed the petition before a final decision is made by the authority, therefore, the instant petition is an attempt to pre-empt the authority from exercising its lawful and legal function, therefore, not maintainable;
- iv. The law requires that the litigation must be bona-fide whereas the instant petition has been filed with mala-fide intentions merely and in order to restrict the Government from implementation of relevant laws;
- v. PEL’s misconstrued and legally untenable position runs like a thread through the petition, forming the principal basis of challenge to the impugned letter dated 22.6.2023, and thus patents its incompetence;
- vi. PEL’s petition is vague, unspecific and not sufficiently clear to be maintainable. It is frivolous, unsubstantiated, amounts to an abuse of the process of IHC; and
- vii. The petition raised only one plausible grievance, question of law or justifiable issue i.e., that the impugned letter of 22.6.2023 has been issued without authority. It also challenged the inquiry committee constituted in the matter, however, it failed to appraise IHC regarding its attendance in all meetings held by the inquiry committee.

It is evident from the above that the MOP fully endorses FHL’s assertions that PEL is involved in gas theft/unlawful gas sale from Badin South Block. However, to our surprise, despite having now been fully aware of PEL’s illegal act for over thirty months, the DGPC has not made any significant efforts for (i) implementation of the findings of the inquiry committee, (ii) taking action against PEL, or (iii) pursuing vacation of the impugned stay order secured by PEL from IHC, as its legal counsel has allowed PEL to seek one extension after another.

The DGPC’s failure to act is causing significant loss to Pakistan and damaging confidence

The DGPC’s failure to act is severely damaging foreign investors’ confidence in Pakistan’s regulatory regime at exactly the time that the MOP (and the wider Government) is trying to attract foreign investment.

The volume of gas theft/unlawful gas sales exceeds 1.3 Bcf, with a corresponding value of over US\$13 million. This unlawful gas sale is being made in cash that has caused significant loss to the Exchequer in the form of lost royalty and windfall levy revenue of circa US\$6.9 million and income tax and sales tax evasion of circa US\$4.6 million and US\$2.6 million respectively.

In addition, PEL is the biggest and wilful defaulter of GoP obligations and royalty under the PCA. The amount due from PEL exceeds PKR 4.5 billion. The amount due includes obligations relating to the years 2015-16, however, DGPC has failed to effectively pursue recovery of the amounts due from PEL since no action has been taken against PEL, for example, to revoke their licence to

operate, revocation of their leases, or exercise of lien on production by sending notices to the gas and condensate buyers.

The MOP is requested to intervene so the DGPC implements the MOP's recommendations

In view of the forgoing, you are once again requested to advise DGPC to implement the findings and recommendations of your own inquiry committees and vigorously pursue vacation of PEL's stay order from the IHC.

Your immediate action on the above will be highly appreciated. If you have any questions or need further information/clarifications, please contact the undersigned.

Yours sincerely,



Dr Shakeel Ahmed
GM (JV & Commercial)

Encls: as above

CC:

1. The Honourable Prime Minister - PMO Office
2. Mr. Momin Agha, Secretary - Ministry of Energy (Petroleum Division)
3. Mr. Hassan Mehmood Yousafzai, Additional Secretary (Policy) - Ministry of Energy (Petroleum Division)
4. Mr. Hassan Mehmood Yousafzai, Additional Secretary (Admin)/AC - Ministry of Energy (Petroleum Division)
5. Mr. Riaz Ali - Director General Petroleum Concession
6. Mr. Abdul Rasheed Jokhio - Director General (Gas)
7. Mr. Imran Maniar, Managing Director - Sui Southern Gas Company Limited
8. Mr. Jamil Ahmad Qureshi, Secretary - Special Investment Facilitation Council (SIFC)
9. Chairman, Public Accounts Committee (PAC)
10. **Mr. Justice (R) Zia Parwez, Chairman - Transparency International – Pakistan (TIP)**
11. Mr. Masroor Khan, Chairman - Oil & Gas Regulatory Authority
12. Mr. Mohammad Naeem Ghouri, Member Finance - Oil & Gas Regulatory Authority
13. Mr. Zain-ul-Abideen Qureshi, Member Oil - Oil & Gas Regulatory Authority
14. Mr. Khaled M Al Saati, Chief Executive Officer - Gulf Petroleum Exploration Pakistan Ltd
15. Mr. Shahzad Zaheer, Chairman / CEO - Petroleum Exploration (Pvt) Limited

June 28, 2024

Mr. Musadiq Malik
Federal Minister of Petroleum
Ministry of Energy (Petroleum Division)
3rd Floor, A Block
Pak Secretariat, Islamabad

Badin IV South
Gas theft/unlawful Third Party Gas Sale

Dear Sir,

We write with reference to matter of grave concern related to the irrefutable involvement of Petroleum Exploration (Pvt) Ltd (“PEL”) in an unprecedented and colossal gas theft that has continued with impunity since January 2022.

Overview

On December 6, 2022, Frontier Holdings Limited (“FHL”) filed a complaint with the Ministry of Energy (Petroleum Division) (“MOEP”) regarding gas theft/illegal third party gas sale from the Ayesha, Ayesha North and Aminah development and production leases in the Badin IV South Block (“Badin South”) by PEL to Shahzad Processing Solutions (Pvt.) Ltd, its affiliate (“SPS”). Badin South Joint Venture includes two foreign companies namely FHL, a wholly owned subsidiary of Jura Energy Corporation, listed on Toronto Stock Exchange - Venture and Gulf Petroleum Exploration Pakistan, Kuwait (“GPX”). Both FHL and GPX did not approve third party gas sale from Badin South.

Based on FHL’s complaint, on February 17, 2023, the MOEP constituted a four-member Inquiry Committee to conduct a fact-finding investigation of PEL’s involvement in gas theft/unlawful gas sale from Badin South. We have learnt that the Inquiry Committee (i) provided full opportunity of being heard to PEL (ii) found PEL guilty of gas theft/unlawful gas sale, and (iii) directed the authorities to take strict action against PEL and initiate legal proceedings for recovery of misappropriated money. However, despite undeniable evidences on record that PEL is involved in an unlawful act of gas theft, the Director General of Petroleum Concession (“DGPC”), one of the four members of Inquiry Committee, opted not to sign fact finding final report without providing any rational basis.

In-order to circumvent implementation of Inquiry report, PEL challenged the neutrality of the Inquiry Committee. Instead of implementing the recommendations of the Inquiry Committee, to our surprise, the Secretary Petroleum constituted another inquiry committee (the “New Inquiry Committee”) to conduct fact-finding investigation of PEL’s involvement in gas theft/unlawful gas sale from Badin South.

The New Inquiry Committee advised DGPC to direct PEL to immediately suspend the third party gas sale. In compliance therewith, instead of directing PEL to suspend unlawful/illegal gas sale, the DGPC vide its letter dated June 22, 2023, directed PEL to stop the sale of gas to an unlicensed entity i.e., SPS. On July 6, 2023, PEL secured a stay order from the Islamabad High Court (“IHC”) against the directives of the DGPC for the suspension of the illegal third party gas sale to its affiliate by submitting false arguments which are contrary to the facts. Had DGPC instructed PEL to stop sale of illegal/unlawful gas, PEL would not have secured a stay order from IHC. In September 2023, the Petroleum Division submitted its response to PEL’s Petition in the IHC, which clearly states that PEL’s grounds for securing the stay from IHC are full of falsehood, frivolous and contrary to facts.

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Pakistan Office:

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Islamabad - Pakistan
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We have also learnt that (i) the New Inquiry Committee concluded its fact-finding investigations and it found PEL guilty of gas theft/illegal sale of gas to its affiliate and (ii) the Secretary Petroleum approved the New Inquiry Committee's recommendations and instructed the DGPC to ensure their implementation. A brief summary on FHL's complaint background and findings of both the Inquiry Committees has been enclosed as Annexure – A for your ease of reference.

It is evident from the undeniable facts outlined above, that PEL is involved in an unprecedented act of gas theft/unlawful third party gas sale from Badin South. However, for inexplicable reasons the DGPC's inaction has enabled PEL to continue unlawful gas sale/gas theft from the Badin South with impunity.

Economic loss suffered by the GoP

The volume of gas theft/unlawful gas sales exceeds 1.3 Bcf, having a corresponding value of approximately US\$12.26 million. This unlawful gas sale is being made in cash, that has inflicted huge loss of circa US\$14.1 million on the GoP, in the form of (a) royalty and windfall levy revenue of circa US\$6.9 million and income tax and sales tax evasion of circa US\$4.6 million and US\$2.6 million respectively.

GoP obligations defaults

PEL is the biggest wilful defaulter of royalty and GoP obligations under the PCA. The amount of GoP obligations and royalty due from PEL is circa PKR 4 billion.

Based on the foregoing submissions, we would appreciate your immediate intervention in the matter for an expeditious action against PEL for suspension of gas theft/unlawful third party gas sale to SPS, its affiliate and initiate recovery of losses inflicted on the exchequer as a result of gas theft and recovery of outstanding GoP obligations.

We remain available to provide any further information/clarification in this respect, should you so desire.

Yours sincerely,



Dr Shakeel Ahmed
GM (JV & Commercial)

Encl: as above

CC:

1. The Honourable Prime Minister
PMO Office
2. Mr. Momin Agha
Secretary - Ministry of Energy (Petroleum Division)

3. Mr. Hassan Mehmood Yousafzai
Additional Secretary (Policy) - Ministry of Energy (Petroleum Division)
4. Mr. Hassan Mehmood Yousafzai
Additional Secretary (Admin)/AC - Ministry of Energy (Petroleum Division)
5. Mr. Kashif Ali
Director General Petroleum Concession
6. Mr. Abdul Rasheed Jokhio
Director General (Gas)
7. Mr. Imran Maniar
Managing Director - Sui Southern Gas Company Limited
8. Mr. Khaled M Al Saati
Chief Executive Officer - Gulf Petroleum Exploration Pakistan Ltd
9. Mr. Shahzad Zaheer
Chairman / CEO - Petroleum Exploration (Pvt) Limited
10. Mr. Jamil Ahmad Qureshi
Secretary - Special Investment Facilitation Council (SIFC)
11. Chairman
Public Accounts Committee (PAC)
12. Mr. Justice (R) Zia Parwez
Chairman - Transparency International – Pakistan (TIP)
13. Mr. Masroor Khan
Chairman - Oil & Gas Regulatory Authority
14. Mr. Mohammad Naeem Ghouri
Member Finance - Oil & Gas Regulatory Authority
15. Mr. Zain-ul-Abideen Qureshi
Member Oil - Oil & Gas Regulatory Authority

Annexure - B

Prod-24(1) (PEL-Inquiry)/2023
Government of Pakistan
Ministry of Energy (Petroleum Division)
Directorate General of Petroleum Concessions
3rd Floor, Petroleum House, G-5/2, Islamabad

-53-
G-2

Islamabad the 22nd June, 2023

Chairman,
Petroleum Exploration (PVT) Limited
Office No. 20, Margalla Road, F-8/3
Islamabad

Subject: **CONSTITUTION OF THE INQUIRY COMMITTEE REGARDING BADIN IV
SOUTH GAS SALE TO THIRD PARTY**

Dear Sir,

I am directed to refer to the subject cited above and to say that, Inquiry Committee has been reconstituted. It has been decided that sale of gas to unlicensed entity (Shehzad Processing Solutions) may be stopped immediately and its compliance report may be provided, accordingly.

Yours truly,



(Nawaz Sharif)

Expert (Production)

For Directorate General (Petroleum Concession)

Distribution:

- i. SO, to Secretary, Petroleum Division
- ii. SPS to AS(P), Petroleum Division
- iii. APS to DGPC



AUN ABBAS
Assistant Director (Tech)
M/o Energy, Petroleum Division
(Policy Wing)
Government of Pakistan, Islamabad

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

In Re:

W.P. No.2117/2023

M/s Petroleum Exploration (Private) Limited

Petitioner

versus

1. Government Federation of Pakistan
2. Director General Gas
3. Director General Petroleum Concessions.

Respondents


WRITTEN REPLY ON BEHALF OF RESPONDENTS NO. 1, 2 & 3

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Dated: // September, 2023

For and on behalf of Respondents No. 1, 2 & 3


AUN ABBAS
Assistant Director (Policy)
Ministry of Energy, Petroleum & Natural Resources
(Policy Wing)
Government of Pakistan, Islamabad

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(Constitutional Jurisdiction)

In Re:

W.P. No.2117/2023

M/s Petroleum Exploration (Private) Limited

Petitioner

versus

1. Government of Pakistan, through Secretary Petroleum
2. Director General Gas
3. Director General Petroleum Concessions.

Respondents

CONSTITUTIONAL

Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973

REPLY

on behalf of Respondents Nos. 1, 2 & 3

Respectfully *submits/ Sheweths:*

PRELIMINARY OBJECTIONS

- A. That in its' present form the titled petition is utterly incompetent, grievously misconceived, and, therefore, not maintainable in the extraordinary constitutional jurisdiction of this Honorable Court.
- B. That the Constitutional Petition is not maintainable in its present form and the Petitioner has approached this Honorable Court with unclean hands, hence is not entitled to any discretionary relief.
- C. That the Petitioner has filed this petition on the basis of letter dated 22-06-2023 issued by the Respondent No.3 to stop the gas sale to unlicensed entity and as yet no final decision is made therefore, the instant petition is nothing but an attempt to preempt the authority from exercising its lawful and legal function hence, not maintainable and liable to be dismissed with cost.
- D. That the law requires that litigation should be bonafide whereas the instant petition has been filed with malafide intentions, merely in order to restrict the Government from implementation of relevant laws. Hence the same is liable to be dismissed with costs.



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- E. That the titled petition revolves around the impugned letter dated 22.06.2023, which stops the Petitioner from sale of gas to unlicensed 3rd parties. The Petitioner has come to the Court with soiled intentions and has not apprised the Court of essential point that any sale of gas to a third-party can only be made if the said party is a licensee in this case of Oil & Gas Regulatory Authority (OGRA) as provided under the applicable law. It is submitted that this misconstrued and legally untenable position runs like a thread through the titled petition, forming the principal basis of challenge to the impugned letter dated 22.06.2023, and, thus, patents its' incompetence.
- F. That the petition raises a singular plausible grievance, question of law and justifiable issue i.e., that the impugned letter dated 22.06.2023 has been passed without Authority or jurisdiction. It has also challenged the Committee constituted in the matter, and not apprised the Court regarding Petitioner's attendance in all the meetings held by the Inquiry Committee. To inquire into the allegations of Badin IV South JVPs, a committee was constituted by the Competent Authority. The Committee started its proceedings and obtained the available relevant documents/information and had several meetings with the Petitioner and provided them with full opportunity to present their case. From the perusal of record and subsequent correspondence, it is evident that the Petitioner never raised any objection on the composition of the committee during inquiry proceedings, which is obvious from the minutes of the meetings. After the completion of the inquiry, the Petitioner vide its letter dated 12.06.2023 raised objections on impartiality of members of the committee on grounds of conflict of interest. It is also emphasized that once a party joins a proceeding and does not raise an objection of the conflict of interest, it is not appropriate that it uses this argument to hinder the outcome of the proceedings later on.

(Copy of Letters for reconstitution of the Inquiry Committee dated 12.06.2023 attached as Annexure A.)



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(Policy Wing)
Government of Pakistan, Islamabad

G. That the petition under reply is vague, unspecific and not sufficiently clear to be maintainable. It is frivolous, unsubstantiated, amounts to an abuse of the process of this Honorable Court and is liable to be dismissed with exemplary costs.

REPORT:

H. That the Petitioner was granted an Exploration License ("License") (hereinafter referred to as the "License") over Badin IV South effective 05.01. 2006 by the President, in accordance with the provision of Pakistan Petroleum (Exploration & Production) Rules, 2001 (The "Rules"),

I. That with the grant of License, the Government executed with the Petitioner (PEL) a Petroleum Concession Agreement in respect of Badin-IV South Block (hereinafter referred to as the "PCA") whereby the Government granted to PEL 100% working interest and rights described therein. The License, the PCA and Joint Operating Agreement (JOA) together hereinafter are referred to as the "Concession Documents".

J. That through various deeds of assignment, the Petitioner assigned working interest to companies namely Gulf Petroleum Exploration Pakistan (GPX) and Frontier Holding Limited ("FHL"). The working interest of the joint venture partners is:

PEL: 47.50% (Operator)

FHL: 27.50%

GPX: 25%

K. That as a result of exploration activities multiple gas discoveries were made in Badin-IV South Concessions. The three gas fields in Badin IV Block, Ayesha, Ayesha -North and Aminah all were approved as marginal fields under "Marginal and Stranded Fields Guidelines 2013" ("Guidelines 2013").

L. That the Petitioner formally applied for gas allocation from Ayesha Gas Field to Respondent No.2 on 23.09.2014. Responded No.02 started the gas allocation process. The Economic Coordination Committee ("ECC") of the Cabinet (being the competent forum) approved



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Assistant Director (Tech)
M/o Energy, Petroleum Division
(Policy Wing)

the gas allocation to SSGC on 10-01-2015. Accordingly, the Respondent No. 02 vide its letters No. NG (II) -2(62) /2014 dated 24.02.2015, conveyed that the ECC of the Cabinet allocated gas from Ayesha Gas Field in Badin IV South Block to Sui Southern Gas Company Limited ("SSGCL"). Later upon two new discoveries, i.e., Ayesha North and Aminah field, the Petitioner vide its letter dated 03-03-2017 requested Respondent No.2 to allocate gas from Ayesha North and Aminah Field. The Petitioner vide the said letter also conveyed that gas from Ayesha has already been allocated to SSGCL, and SSGCL is awaiting the allocation of the other two field from Badin IV South to justify its commercial viability. Accordingly, Respondent No.02 started the gas allocation process. The ECC of the Cabinet (being the competent forum) approved the gas allocation to SSGCL on 01-11-2017. Approval of gas allocation from Ayesha North and Aminah Fields was conveyed by Respondent No 02 vide its letter No. NG(II)-2(62)/14-pt dated 30-11-2017. Based on the same allocation, the Petitioner started negotiating its Gas Sales & Purchase Agreement ("GSPA") with SSGCL. It is further provided that the negotiated GSPA was also shared with OGRA. Moreover, price for Badin IV South field was also notified by OGRA. Price is only notified by OGRA in cases where the buyer is a Government Nominated Buyer. In case of third-party sale, parties mutually make their commercial arrangement at negotiated price. The allocation of gas to Government Nominated buyer SSGCL implies that the Petitioner is not allowed to sell any volumes of gas from these leases to a third-party on the pretext that such sale is authorized under Clause 9.4(2) of the Petroleum Exploration and Production Policy 2012 ("2012 Policy") and Guidelines 2013. A third-party sale of gas from the above stated gas fields is only possible, if the gas which is allocated by ECC to Government nominated buyer SSGCL is first de-allocated and then allocated again by ECC to a third party.

(Copy of Letter dated 23.09.2014 attached as Annexure A-1)

(Copy of Letters for allocation of gas to SSGCL dated 24.02.2015 and 1.11.2017 attached as Annexure B1 & B2)

(Copy of 2012 Policy attached as Annexure C.)

- M. That the Petitioner is selling portion of gas to a third party Shehzad Processing Solutions an affiliate company of the Petitioner under the 2013 Guidelines without any intimation and approval of the Government. The affiliate company Shehzad Processing Solutions is not a



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licensee of OGRA under Section 6 of the OGRA Ordinance 2002. The illegal sale has been going on since 1.02.2022. The Respondents were intimated of such illegal activities of the Petitioner by FHL the JV partners in Badin IV south block vide their letters dated 18.11.2022, letter dated 6.12.2022, letter dated 13.12.2022 and letter dated 27.12.2022.

Copy of Letters from FHL dated 18.11.2022, letter dated 6.12.2022, letter dated 13.12.2022 and letter dated 27.12.2022 attached as Annexure D1, D2, D3 and D4)

- N. That reportedly the Petitioner started illegal third-party sale of Gas on 1.02.2022 with daily quantum of around 01MMCFD and Cumulative Volume of around 400 MMCF to unlicensed entity Shehzad Processing Solution. This third-party sale of gas has been priced \$0.25/ MMBTU over and above the OGRA notified price for the fields. At the time of illegal third-party sale gas to its affiliate, the gas had already been allocated by the ECC to a Government nominated buyer SSGCL in 2015 and 2017. It has to be noted that the Petitioner has been selling portion of gas to unlicensed third-party after allocation by the ECC to Government nominate buyer SSGCL since 1.02.2022.
- O. That by selling gas to third party without intimation and approval from the Government, the Petitioner disregarded its obligations towards the Government as provided in the 2013 Guidelines, and Concession document such as Royalty, Windfall levy on third party sale of gas.
- P. That on the complaint of FHL, an Inquiry Committee was duly constituted by the Competent Authority to inquire into the allegations of Badin IV South. The constitution of the committee was notified vide letter No NG(II)-2)62)/22-Vol-I dated 17.02. 2023. The Committee started its proceedings and obtained the available relevant information / documents. First meeting was held on 28.02.2023 under the chairmanship of Director General Petroleum Concession (Respondent No.3), the Petitioner was provided full opportunity to present their case. In order to conclude the inquiry, a follow-up meeting was convened on 10.4.2023 and on 27.04.2023. The personals from Ministry of Energy (Petroleum Division) (DGPC), DG Gas (Respondent No.2), OGRA, SSGCL and representative of the Petitioners attended the meetings. Minutes of the meeting held on



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Min Energy, Petroleum Division
(Policy Wing)

28.02.2023 and 10.04.2023 were shared with the Petitioner vide letter dated 7.03.2023 and 14.04.2023.

(Copy of the letter dated 17.02.2023, letter dated 24.02.2023, letter dated 20.04.2023 attached as Annexure E-1, E-2 and E-3)

Copy of the letter dated 7.03.2023, letter dated 14.04.2023, attached as Annexure F-1 and F-2)

Q. From the perusal of record and subsequent correspondence, Petitioner never raised any objection on the composition of the committee during inquiry proceedings, which can be confirmed from the minutes of the meetings. The Petitioner vide its letter dated 17.4.2023 raised some issues with regard to the minutes of the meetings shared and sent a legal opinion on the matter to the Respondent No.3 vide letter dated 17.04.2023. All of the sudden after attending three meetings of the Inquiry Committee and after the completion of the inquiry, the Petitioner vide its letter dated 12.06.2023 addressed to Respondent No. 1 raised objections on impartiality of members of the committee on grounds of conflict of interest which itself shows the mala fide intentions of the Petitioner. It is also emphasized that once a party joins a proceeding and does not raise an objection of the conflict of interest, it is not appropriate that it uses this argument to hinder the outcome of the proceedings later on.

Excerpt from letter dated 12.06.2023 are as follows”

“That hearings of the inquiry committee were held on 28th February, 2023 (minutes annexed as II), 10th April, 2023 (minutes annexed as III) and 27th April, 2023 whilst the final hearing before your esteemed office is awaited. The undersigned being the operator of the block has reservations and implores to put forth the same before your office for just and meritorious consideration:

- 1. At the outset, the members included in the inquiry committee per se undermine the impartiality of the committee. The committee includes SSGCL and DG(Gas) as the members, which are the actual beneficiaries of any adverse findings which may be passed against Messrs PEL (PEL), henceforth, it is pre-emptively evident that such biased committee will pass its recommendations against PEL. SSGCL is the purchaser of the gas and DG (Gas) being the authority allocating the gas, have interweave interest in the matter and thus become witnesses of the matter. ...”*




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R. Subsequently on the request of the Petitioner, the Inquiry Committee was reconstituted vide office memorandum dated 22.06.2023 pursuant to the directive of the Secretary Petroleum of 21.06.2023. The newly Constituted Inquiry Committee on Petitioner's request had three members: Additional Secretary (Admin) (Petroleum Division), Joint Secretary (Petroleum Division) and DG (Admin) (Petroleum Division). The Respondent No.3 as a Directorate of Petroleum Division which looks into all upstream Petroleum activities only issued the notification of reconstitution of the Inquiry Committee and vide impugned letter dated 22.06.2023, informing the Petitioner of reconstitution of the committee and to stop the sale to unlicensed entity Shehzad Processing Solutions due to on-going inquiry and as also asked to provide a compliance report. The final report of the reconstituted committee is awaited.

Copy of the office memorandum dated 22.06.2023, letter dated 22.06.2023, attached as Annexure G-1 and G-2)

PARAWISE COMMENTS ON FACTS: -

1. That the contents of para 1 are admitted.
2. That the contents of para 2 of the titled petition are misconceived, incorrect and denied. The Petitioner is selling gas to third-party Shehzad Processing Solutions which is an affiliate of the Petitioner, is not a licensee of OGRA as per the requirement of applicable laws. Further as also submitted in the report along with the preliminary objections that gas from the Petitioner's field though comes under the ambit of 2013 Guidelines, however, the sale to unlicensed third-party has not been permitted as the same gas is allocated to SSGCL by ECC of the Cabinet, letters are annexed as Annexure B1 and B2.
3. That the contents of Para 3 require no response from Respondents. However, the Petitioner is put to strict proof thereof.
4. That the contents of Para 4 require no response from Respondents. However, the Petitioner is put to strict proof thereof.
5. Respondent No.1 is the relevant Ministry of federal Government entrusted with all matters pertaining to petroleum in Pakistan. Respondent No.02 is responsible for formulating policies


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related to the matters of natural gas allocation, pricing and demand / supply. Respondent No. 03 is the regulator for all upstream Exploration and Production activities in Pakistan.

6. That the contents of Para 6 are admitted that the Petitioner was granted an Exploration License ("License") over Badin IV South effective 5.01. 2006 by the President, in accordance with the provision of Pakistan Petroleum (Exploration & Production) Rules, 2001 (The "Rules"), (hereinafter referred to as the "License"). The applicable petroleum policy on the Badin IV South Block is Petroleum Policy 2001 and later on adopted Petroleum Policy 2012 as a package not in totality under supplemental agreement.
7. That the contents of the para 7 are admitted to the extent of multiple deed of assignments executed and working interest of the JV partners.
8. That the contents of the para 8 are admitted to the extent that the Petitioner were granted Declaration of Commerciality & Field Development Plan and Lease for all three gas fields of Badin IV South i.e., Ayesha, Ayesha North and Aminah.
9. That the contents of para 9 are admitted only to the extent that all three gas fields were acknowledged as Marginal Gas Field by Respondent No.03.
10. That the contents of para 10 are admitted only to the extent of Clause F of the Guidelines 2013. However, the Petitioner is cherry picking the provisions of the Guidelines 2013 and 2012 Policy. Clause E of the Guidelines 2013 provides that in order to become eligible to claim incentives in the Guidelines, the producers of Marginal Fields shall be required to obtain a certification from independent consultant for (i) confirmation that such gas qualifies as Marginal Gas as defined in the policy, and (ii) assessment of Marginal Gas reservoir and Marginal Gas reserves to be done in accordance with the best international petroleum industry methods, and (iii) certification that such gas cannot be produced naturally through Conventional methods at commercial rates. Further, it is submitted that the Government reserves the first right of refusal. It is denied that the delay in allocation gives Petitioner the right to sell the gas allocated to SSGCI to its unlicensed affiliate company.

(Copy of the 2013 Guidelines attached as Annexure H)



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11. That the contents of para 11 are admitted only to the extent of letter dated 16.09.2014 of the Respondent No. 3, the Petitioners were granted Development and Production Lease and approval of Field Development Plan under Guidelines 2013 were granted to the Petitioner.
12. That the contents of para 12 are denied. The ECC of the Cabinet (being the competent forum) allocate the Gas from Ayesha Field to SSGCL on 10-01-2014 and was conveyed to the Petitioner on 24-02-2015 by Respondent No 02. It is a matter of fact that, the Petitioner did not raise any objection on allocation and started negotiation with SSGCL for GSPA. Petitioner never refuted from allocation of gas to SSGCL or disagreed with the ECC decisions.
13. The contents of para 13 are denied. With the approval of the ECC, up to 11 MMCFD gas from Ayesha field of Badin-IV South block was allocated to SSGCL on 24-02-2015 and up to 8MMCFD gas from Aminah and 6.8 MMCFD gas from Ayesha North from the same block was allocated to SSGCL on 1.11.2017. The Petitioner's request dated 23.09.2014 for gas allocation from Ayesha Field was processed on file on 10.10.2014 and a summary was circulated on 28.10.2014 (within a month) to the concerned stakeholders under the Rules of Business 1973. The contention of the Petitioner that after gas was allocated to Government nominated buyer SSGCL a third-party sale to unlicensed entity Shehzad Processing Solutions is ill-founded. Petitioner never refuted from allocation of gas to SSGCL or disagreed with the ECC decisions.

(Copy of the letter dated 1.11.2017 attached as Annexure I)

14. That the contents of para 14 are admitted to the extent that Respondent No.3 granted approval of commerciality for Ayesha North and Aminah gas fields. The ECC of the Cabinet (being the competent forum) allocated the Gas from Ayesha North and Aminah Fields to SSGC on 01-11-2017 and the same was conveyed to the Petitioner on 30-11-2017 by Respondent No 02. It is a matter of fact that the Petitioner did not raise any objection on



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allocation and started negotiation with SSGCL for GSPA. Petitioner never refuted from allocation of gas to SSGCL or disagreed with the ECC decisions.

15. It is submitted that the contention of the Petitioner regarding the expiry of 90 days period does not apply. Since, after the allocation of gas to SSGCL the Petitioner did not raise any objection and started discussions with SSGCL on Ayesha Gas field GSPA for off take of pipeline specification gas and for construction of 28 km pipeline. Multiple meetings were held from 2016 onwards on finalization of Ayesha Field GSPA. It is further submitted that the Petitioner vide its letter dated 3.03.2017 addressed to Respondent No.2 requested to allocate gas from Ayesha North and Aminah Gas Field (in anticipation of Government's approval of Declaration Of Commerciality (DOC) to enable the Petitioner to start negotiations with SSGCL on finalization of Badin IV South GSPA) in accordance with 2013 Guidelines. The Petitioner vide said letter also conveyed *that gas from Ayesha I gas field in Badin South Block has already been allocated to SSGCL and SSGCL is awaiting the allocation of gas from other two fields namely Ayesha North and Aminah in order to justify economics of connecting gas pipelines.* The Petitioner vide its letter dated 29.05.2017 requested SSGCL and Respondent No.2 that commerciality over Aminah Field is approved by Respondent No.3 so the gas allocation case may be processed and SSGCL may now start processing the case for approval of interconnection pipelines to their Golarchi header. The Petitioner did not raise any objection on the same. The Petitioner initiated GSPA pertaining to Badin South Discovery namely Aminah I and Ayesha North to SSGCL vide letter dated 31.01.2018 wherein *inter alia* conveyed about pending OGRA's letter for CO2 waiver discount clause of the GSPA and Local Arbitration. The recital of initiated GSPA also provides that the Government has approved the allocation of gas from the said three discoveries to SSGCL and 25.8 MMCFD gas volume from Badin IV South gas fields has been allocated. The gas being injected to SSGCL network and gas price is being notified by OGRA under the petroleum policy approved by Respondent No. 3.

(Copy of the letters dated 3.03.2017, letter dated 29.05.2017 and letter dated 31.01.2018 attached as Annexure J, J-1 and J-2)

16. The content of para 16 are admitted to the extent that there is no specific provision in the applicable policy / Guidelines with regard to percentage off-spec discount. The said discount



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is mutually agreed between the parties during negotiation of GSPA and form part of the agreement/contract. It is further submitted that pursuant to Government decision on the above-mentioned gas allocations, the Gas sale and Purchase Agreement (GSPA) was initialed between Petitioner (PEI) and SSGCL. The Petitioner started gas injection of 21 MMCFD into the network of SSGCL with 3.8 mol % Carbon dioxide (OGRA bench mark is 3 mol% Carbon dioxide). Due to high CO₂ Content SSGC applied 20 % discount. A dispute raised between both parties regarding the applicability of force majeure and off-spec discount issue. Keeping in view the dispute resolution clause of the GSPA, it was decided that dispute will be resolved through arbitration. Further due to the gas shortage in the Country, both parties were advised by Respondent No 02 to allow injection up to 5mol % CO₂ in the larger national interest up to the end of February 2021. Meanwhile as committed by the Petitioner, Amine plant was installed and commissioned in February 2021, and Petitioner started on-spec gas injection into the system of SSGCL. The figure of 20% discount is in accordance with the best practice of SSGCL and has been agreed upon with the other E&P companies as well. Respondent No.2 directed SSGCL not to impose more than 10% discount on off spec gas.

17. That the contents of para 17 are misleading and ambiguous. It is submitted that the recital of initialed GSPA also provides that the Government has approved the allocation of gas from the said three discoveries to SSGCL as a Government nominated buyer and 25.8 MMCFD gas volume from Badin IV South gas fields has been allocated. The gas being injected to SSGCL network and gas price is being notified by OGRA, in case of third-party sale the gas pricing or any commercial arrangement is decided amongst the parties. Badin IV South GSPA was initiated but not finalized between the parties (SSGCL and Petitioner) in a meeting held on 20.08.2019 at SSGCL head-office. GSPA document was forwarded to OGRA for approval on 4.03.2020. In response OGRA raised several queries vide letter dated 22.04.2020, primarily pertaining to incorporation of "Indemnity Clause" which remain unresolved to date. SSGCL has made several attempts to mutually finalize the wording for "Indemnity Clause" with the Petitioner and has proposed various versions in accordance with the already OGRA approved agreements. Matter is still pending finalization to date.

(Copy of letter dated 14.04.2023 of SSGCL is attached as Annexure K)



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18. That the contents of Para 18 are denied as being false and misleading. The applicable petroleum policy on Badin IV South Block is Petroleum Policy 2001. However, the Petitioner opted for a conversion to 2012 Policy under Supplemental Agreement to its PCA as a package but not in totality, for incentives provided for new exploratory efforts as provided in the 2012 Policy. It is submitted that the Supplemental Agreement to the Badin IV South PCA, executed between the parties does not cover the benefits provided under Clause 9.4 of 2012 Policy, which provides that an E&P company shall be free to sale 10% of produced gas to any third party with the prior consent of the Provincial Government. It is further unblemished contradiction and misinterpretation of the facts by the Petitioner that on one hand, the Petitioner is referring Clause-I of the Marginal Guidelines 2013 as base for selling gas to third party and on other hand, the Petitioner is referring Claus 9.4 of Petroleum Policy 2012 for its third-party sale. Moreover, Petitioner has neither obtained prior consent of Provincial Government in the instant case as per Clause 9.4 of the Petroleum Policy 2012.
- (Copy of the Supplemental Agreement to Badin IV South PCA is attached as Annexure L)*
19. That the contents of Para 19 are denied as false and misleading. Government has exercised its first right of purchase from Badin IV South Gas fields and accordingly, the Petitioner started gas injection into the system of SSGCL in February 2020. Therefore, the Petitioner claim of its right to sale of Ayesha Gas to third party despite of Government allocation has no justification. The request of Petitioner to Respondent No.2 for intervention of signing of GSPA and off-spec discount related issues with SSGCL, being otherwise a bilateral transaction (in case of third-party sale) also question its current claim of sale of gas to SSGCL as a third party. The Petitioner started third party sale of Gas on 01. 02. 2022 with daily quantum of around 01MMCFD and Cumulative Volume of around 400 MMCF to its affiliate company Shehzad Processing Solution furtively. Third party sale price was over and above \$0.25/ MMBTU as per OGRA notified price for the fields under discussion. Rest of the volume were/are sold to SSGCL, without any GSPA since 5.02.2020. Procedural irregularities were observed on the part of the Petitioner. It is submitted that at the time of third-party gas sale to Shehzad Processing Solution, the gas had already been allocated by ECC to a Government nominated buyer and was being sold out accordingly for a year,



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therefore, the *principle of Estoppel* applies on the Petitioner. Subsequently the Petitioner started selling some portion of around 01 MMCFD of gas to a third party without any intimation / approval to Government. It is further submitted that the Petitioner has been selling gas to third party without realizing the obligations towards the Government as provided in the Guidelines, such as Royalty, Windfall levy on third party sell, as and when these obligations become applicable.

20. That the contents of Para 20 require no response from Respondents. Respondents are not a party to the dispute between the Petitioner and FHL JV partner in Badin IV South. Hence, para is denied for want of knowledge.
21. That the contents of Para 21 are denied with comments that FHL highlighted the third-party sale of gas from Badin IV South Block were of serious nature and required justification from Petitioner.
22. That the contents of Para 22 are denied with comments that FHL highlighted the third-party sale of gas from Badin IV South Block were of serious nature and required justification from Petitioner.
23. That the contents of Para 23 are denied as they are misleading and frivolous. After highlighting the matter of illegal sale of gas, the Petitioner was given opportunity by Respondent No.2 to explain the matter and in response the Petitioner responded that gas from Badin IV South is being supplied as per applicable Rules, Petroleum Concession Agreement and Petroleum Policy 2012. The Petitioner did not refute the allegations of the FHL. The Petitioner was again requested to on 16.12.2023 to justify if any unauthorized sale of gas was being done without Government approval. Thereafter, the Petitioner vide its letter dated 14.02.2023 stated that third party sale was being undertaken under Clause I of the Marginal Guidelines 2013. Meanwhile, the inquiry committee was duly constituted and as submitted in the report of this response, that the Petitioner was appraised of every step from constitution of the committee and has been given fair right of hearing. The Petitioner attended three meetings of the inquiry committee, the minutes of which were also shared with the Petitioner. Petitioner never objected the Committee composition during inquiry proceedings which can be confirmed from the minutes of meetings. It is also emphasized that



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once a party joins a proceeding and does not raise an objection of the conflict of interest, it is not appropriate that it uses this argument to hinder the outcome of the proceedings later on. Further on request of the Petitioner via letter dated 12-06-2023 the inquiry committee was reconstituted therefore the Petitioner is misleading the court.

24. That the contents of Para 24 are denied, the meeting of the Committee dated 27.04.2023 was convened to discuss and deliberate upon the draft report of the inquiry proceedings, therefore, there was no need to issue minutes of the said meeting. The representatives of the Petitioner were also present for attending the first session and they were informed about the same fact. Further, after attending three meetings of the Inquiry Committee the Petitioner vide its letter dated 12.06.2023 addressed to the Secretary Petroleum and raised objection on impartiality of members of the committee on grounds of conflict of interest and requested for reconstitution of the Inquiry Committee. It is also emphasized that once a party joins a proceeding and does not raise an objection of the conflict of interest, it is not appropriate that it uses this argument to hinder the outcome of the proceedings later on. The Inquiry Committee was reconstituted vide office memorandum dated 22.06.2023 pursuant to the directive of the Secretary Petroleum of 21.06.2023. The newly Constituted Inquiry Committee on Petitioner's request had three members: Additional Secretary (Admin) (Petroleum Division), Joint Secretary (Petroleum Division) and DG (Admin) (Petroleum Division). The Respondent No.3 as a Directorate of Petroleum Division which looks into all upstream Petroleum activities only issued the notification of reconstitution of the Inquiry Committee and vide impugned letter dated 22.06.2023, informing the Petitioner of reconstitution of the committee and to stop the sale to unlicensed entity Shehzad Processing Solutions and as also asked to provide a compliance report. The final report of the reconstituted committee is awaited. Moreover, price for Badin IV South field is being notified by OGRA. Price is only notified by OGRA in cases where the buyer is a Government Nominated Buyer. In case of third-party sale, parties mutually make their commercial arrangement at negotiated price
25. The contents of para 25 are denied, it is unblemished contradiction and misinterpretation of the facts by the Petitioner that on one hand, the Petitioner is referring Clause-I of the Marginal Guidelines 2013 as base for selling gas to third party and on other hand, the



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Petitioner is referring Clause 9.4 of Petroleum Policy 2012 for its third-party sale. The Petitioner opted Petroleum Policy 2012 as a package not in totality, which does not include clause 9.4 of Petroleum Policy 2012. Moreover, Petitioner has neither obtained prior consent of Provincial Government in the instant case as per Clause 9.4 of the Petroleum Policy 2012. The impugned letter dated 22.06.2023 of the Respondent No.3 directed the Petitioner to stop sale of gas to **unlicensed third party** i.e., Shehzad Processing Solutions. The Petitioner is selling 01 MMCFD of gas to a third party without any approval from the Government and has disregarded its obligation as petroleum right holder towards the Government. Further this directive is only to the extent of sale unlicensed entity the Petitioner is not directed to stop sale of gas to SSGCL the Government ECC approved and allocated buyer. Government has already allocated the gas sale to SSGCL. The sale of gas to unlicensed third party without Government approval is unlawful. It is one of the prime responsibilities of the Respondents to stop such sales. It is submitted that the GSPA between the parties is being negotiated and the Petitioner has been selling gas to SSGCL for the past two years.

26. That the contents of Para 26 are denied. Further, reference to the contents of the above-mentioned report, it is reiterated that the answering Respondents are not a party to the dispute between Petitioner and FHL (JV Partner). To inquire into the allegation regarding unauthorized third-party sale, a committee was constituted and Petitioner was given with full opportunity to present their case in detail. Petitioner never raised any objection on the composition of the committee during inquiry proceedings which is obvious from the minutes of the meetings.
27. That the contents of Para 27 are denied as being false, frivolous and contrary to the real facts and circumstances; and all the allegations are denied and Petitioner is put to strict proof thereof. The proceedings in respect of the Inquiry Committee were conducted according to law in a fair, just and reasonable manner. The Petitioner was given full opportunity to present their case, further, Petitioner never raised any objection on the composition of the committee during inquiry proceedings, which can be confirmed from the minutes of the meetings. The Petitioner attended meetings of the inquiry committee and later raised its concerns on composition of the same. The impugned letter dated 22.06.2023 is legal, lawful and valid



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having been passed as per law following all the norms of justice. It is categorically submitted that the Respondents provided a fair playing field and never discriminated amongst its petroleum right holders. Petitioner is twisting the facts, the impugned letter dated 22.06.2023 directed the Petitioner to stop sale of gas to unlicensed third- party i.e., Shehzad Processing Solutions. It does not imply that the sale of gas to the Government nominated buyer i.e., SSGCL shall be stopped.

GROUNDS:

- A. The Ground is misconstrued, false, and misleading, and is denied, as explained in the submissions made in the preceding paragraphs. The applicable petroleum policy on Badin IV South Block is Petroleum Policy 2001. However, the Petitioner opted for a conversion to 2012 Policy under Supplemental Agreement to its PCA as a package but not in totality, for incentives provided for new exploratory efforts as provided in the 2012 Policy. It is submitted that the Supplemental Agreement to the Badin IV South PCA, executed between the parties does not cover the benefits provided under Clause 9.4 of 2012 Policy, which provides that an E&P company shall be free to sale 10% of produced gas to any third party with the prior consent of the Provincial Government, which has neither been obtained nor been initiated at any time by the Petitioner.
- B. Ground B is misconceived and incorrect, hence is denied. The impugned letter was a direction to the Petitioner to stop the illegal sale of gas to its affiliate company, and also to inform about the reconstitution of the Inquiry Committee which was initiated as per the request of the Petitioner.
- C. The Ground C is incorrect and is denied vehemently. The Petitioner was afforded appropriate and reasonable opportunity of hearing by the Inquiry Committee. The Petitioner never objected to the jurisdiction of the Inquiry Committee and continued to present its case and attended three meetings of the committee. All norms of natural justice and procedural fairness were adhered to during the proceedings of the Inquiry Committee and no injustice has been meted out to the Petitioner at all.



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- D. The contents of Ground D are incorrect and denied. FHL JV in Badin IV South is the complainants, being representatives of their share in the block intimated the Respondent No.2 & No.3 of illegal activities of the Petitioner with regard to the sale of gas to unlicensed affiliate company of the Petitioner without prior approval of the Government. It is further submitted that Respondent No.2 and No.3 are directorates of the Ministry of Energy (Petroleum Division). Respondent No. 3 is the regulator for all upstream activities and as per the Development Lease granted to the Petitioner it has an obligation to apprise the Government regulator i.e., Respondent No.3 of all activities with regard to its Development Plan as per the Declaration of Commerciality. Respondent No. 1 took action and constituted the inquiry committee after the intimation of JV partner in Badin IV South. If it was not for the complaint the Petitioner would have continued to carry on illegal activities' vis a vis sale to unlicensed third- party without every informing the Respondents.
- E. The contents of Ground E are denied. It is submitted that contention of the Petitioner regarding expiry of ninety (90) days period was valid at that point of time when no allocation was done. However, after the gas was allocated with the approval of the Government/ECC, Petitioner did not raise any objection and started discussion with SSGCL on Ayesha Gas Field GSA. SSGCL was reluctant to provide any commitment on lying of 28 km pipeline as Ayesha field reserves were not sufficient to demonstrate economic feasibility of the pipeline. Meanwhile, gas from other fields (Ayesha North and Aminah) were also discovered. Petitioner vide letter dated 3.03.2017 requested Respondent No. 2 to allocate gas from Ayesha North and Aminah gas fields (in anticipation of Government's approval of Declaration of Commerciality (DOC) to enable Petitioner to start negotiations with SSGCL on finalization of Badin IV South GSA). Petitioner vide said letter also conveyed that gas from Ayesha field in Badin IV South has already been allocated to SSGCL, and SSGCL is awaiting the allocation of Gas from the other two fields to justify economics of the connecting gas pipeline. After approval of the DOC by Respondent No. 3, the gas from both fields Ayesha North and Aminah were allocated to SSGCL. The recital of initialed GSA also provides that the Government has approved the allocation of gas from the said three discoveries to SSGCL and 25.8 MMCFD gas volume from Badin IV South gas fields has



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been allocated. The gas being injected to SSGCL network and gas price is being notified by OGRA.

- F. The contents of Ground F are misleading, incorrect and denied. In light of the submissions made in the preceding para-Petitioner did not raise any objection after allocation of gas to SSGCL by the ECC of the Cabinet. The Petitioner claim of its right to sale of Ayesha Gas to third party has no despite Government allocation has no justification. The OGRA notification of Ayesha Fields gas pricing and acceptance of invoices under it by the Petitioner is itself a justification of sale of gas to SSGCL as Government nominated buyer.
- G. Ground G is against the established facts and is denied. The contention of the Petitioner regarding expiry of ninety (90) days period as per (I) of Marginal Guidelines 2013 was valid at that point of time when no allocation was done. However, after the gas was allocated with the approval of the Government/ECC, the Petitioner did not raise any objection and started discussion with SSGCL on Ayesha Gas Field GSA. SSGC said 28 km transmission pipeline for gas transmission from fields under discussion. Accordingly, Petitioner started gas injection into the system of SSGC in totality in February 2020 after commissioning of the plant. Petitioner started third party sale of Gas on 1.02.2022 with daily quantum of around 01MMCFD and Cumulative Volume of around 400 MMCF to its unlicensed affiliate Shehzad Processing Solution. Third party sale price was over and above \$0.25/ MMBTU as per OGRA notified price for the fields under discussion. Rest of the volume were/are sold to SSGCL as Government nominated buyer. At the time of third-party sale gas, the gas had already been allocated by ECC to a Government nominated buyer and was sold out accordingly for around two years. Subsequently Petitioner started selling some portion of around 01 MMCFD of gas to a third party without any intimation to the Respondents and without acquiring the requisite approval from the relevant authority. Petitioner has been selling gas to third party without realizing the obligations towards the Government as provided in the Guidelines, such as Royalty, Windfall levy on third party sell, as and when these obligations become applicable. Moreover, such sale was done by the Petitioner furtively, the question of objection by the Respondents does not arise.



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- H. Ground H is incorrect and denied. Any sale under the applicable provisions of the 2012 Policy and 2013 Guidelines can be made to a licensed entity not to an unlicensed illegal sale without prior approval of the Government and notifying the Respondents. The applicable petroleum policy on Badin IV South Block is Petroleum Policy 2001. However, the Petitioner opted for a conversion to 2012 Policy under Supplemental Agreement to its PCA as a package but not in totality, for incentives provided for new exploratory efforts as provided in the 2012 Policy. It is submitted that the Supplemental Agreement to the Badin IV South PCA, executed between the parties does not cover the benefits provided under Clause 9.4 of 2012 Policy, which provides that an E&P company shall be free to sale 10% of produced gas to any third party with the prior consent of the Provincial Government, which has neither been obtained nor been initiated at any time by the Petitioner. Moreover, such sale was done by the Petitioner furtively, the question of objection by the Respondents does not arise.
- I. The Ground is misconstrued, false, and misleading, and is denied, as explained in the submissions made in the preceding paragraphs.
- J. Ground J is incorrect and misleading. SSGCL has been allocated gas from the three marginal gas fields of Badin IV South by the ECC being the competent forum. The GSPA with SSGCL is being negotiated and the Petitioner has been selling gas to SSGCL for past two years. Gas from all three marginal gas fields have been allocated to SSGCL by ECC the competent authority, SSGCL is a licensee of OGRA and the gas price is notified by OGRA. Petitioner is twisting the facts, the impugned letter dated 22.06.2023 directed the Petitioner to stop sale of gas to unlicensed third- party i.e., Shehzad Processing Solutions. It does not imply that the sale to licensed and Government ECC allocated entity SSGCL shall be stopped.
- K. Ground K is incorrect, the impugned letter dated 22.06.2023 issued by the Respondent No. 3 is in accordance with law and the evidence on record without any bias or discrimination.
28. That in light of the preliminary objections, report of answering Respondents, reply to the grounds herein, it is most respectfully prayed that the titled petition may graciously be dismissed with costs for having failed to disclose a genuine/lawful grievance, capable of adjudication by this Honorable Court.



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29. As such, the Petitioner seeks to exhaust and deplete the valuable time of this Honorable Court, which requires conservation for deserving litigants with genuine/lawful grievances.

PRAYER:

In the circumstances afore-noted it is, therefore, most respectfully prayed that the titled petition may graciously be dismissed with costs for having failed to disclose a genuine/lawful grievance, capable of adjudication by this Honorable Court.

Any other further and better relief than that afore-noted may also graciously be granted.



For and on behalf of Respondents Nos. 1, 2 & 3

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M/o Energy, Petroleum Division
(Policy Wing)
Government of Pakistan, Islamabad

Through

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

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In Re:

W.P. No.2117/2023

M/s Petroleum Exploration (Private) Limited

Petitioner

versus

1. Government of Pakistan, through Secretary Petroleum
2. Director General Gas
3. Director General Petroleum Concessions.

Respondents

AFFIDAVIT ON BEHALF OF RESPONDENTS NOS. 1, 2 & 3


I, Aun Abbas S/o Mohsin Abbas, Assistant Director (Technical) at Directorate General of Petroleum Concessions, Ministry of Energy (Petroleum Division) Muslim, adult, resident of Islamabad hereby take oath and affirm that the content of the written statement above are true and correct to the best of my knowledge, belief and information and nothing material has been concealed or withheld from the Hon'ble Court.


DEPONENT

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M/o Energy, Petroleum Division
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Government of Pakistan, Islamabad

Verification:

Verified on Oath at Islamabad on this 11th day of September, 2023, that the contents of the above affidavit are true and correct to the best of my knowledge and belief.


DEPONENT
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M/o Energy, Petroleum Division
(Policy Wing)
Government of Pakistan, Islamabad

CNIC NO. 36302-5854728-1

CELL NO. 0300-0516239