



Whistleblower Pakistan

72-F/II Jami Commercial Street No. 9 Phase VII,
Defence Housing Authority, Karachi
Tel : (92-21) 35391778 Fax: (92-21) 35391778
Email : info@whistleblower.com.pk
Website : www.whistleblower.com.pk

TRUSTEES

Ms. Yasmeen Lari

Justice (R) Nasira Iqbal

Ms. Shahana Kaukab
(Secretary General)

Mr. Sohail Muzaffar

Justice (R) Zia Perwaiz
(Vice Chairman)

Justice (R) Dr. Ghous
Muhammad
(Chairman)

The Chairman,
National Electric Power
Regulatory Authority (NEPRA),
Attaturk Avenue (East), NEPRA Tower,
Sector G-5/1, Islamabad.

Dated: 22nd June, 2017

Subject: Notice of Admission/Hearing: Power Acquisition Request
by K-Electric for Purchase of 11-14 MW Surplus Power from
LOTTE Chemical Pakistan Limited.

Reference: NEPRA Advertisement in Daily 'The News' of
03.06.2017 and Public Hearing held at Karachi on 16.06.2017.

Whistleblower Pakistan letter written in the matter of PAR filed by
K-Electric for purchase of 52 MW Power (Coal Fired) from FFBL
Power Company Limited (FPCL) dated 02.07.2015.

Dear Sir,

Whistleblower Pakistan (WBP) is working hard to promote
transparency in all processes to eliminate corruption from the society.

2. In the modern world electricity is a basic need that should be available
to all at affordable rates. The Supreme Court of Pakistan in many cases
(RPPs and Load Shedding Cases) has already observed that the provision of
electricity to every citizen of the country at affordable rates is a fundamental
responsibility of the State. Keeping in view the importance of electricity
business and its deteriorated state in Pakistan, WBP is closely monitoring
the business of electricity in Pakistan.

3. In discharging its social and moral responsibility, WBP has actively
participated in the proceeding of NEPRA in respect of K-Electric issues. The
following is the list of letters through which WBP has highlighted the issues:

Letters written in the matter of Fuel Charges Adjustments:

- Whistleblower Pakistan letter dated 04.09.2014
- Whistleblower Pakistan letter dated 10.11.2014
- Whistleblower Pakistan letter dated 01.12.2014



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- Whistleblower Pakistan letter dated 01.12.2014
- Whistleblower Pakistan letter dated 03.03.2015
- Whistleblower Pakistan letter dated 03.03.2015
- Whistleblower Pakistan letter dated 04.03.2015
- Whistleblower Pakistan letter dated 09.06.2015
- Whistleblower Pakistan letter dated 02.07.2015
- Whistleblower Pakistan letter dated 15.03.2016; two Reports were sent along with this letter Report-I 56 pages and Report-II 75 pages.
- Whistleblower Pakistan letter dated 20.05.2016
- Whistleblower Pakistan letter dated 15.08.2016

Letters written with regard to leasing of K-Electric Power Plant:

- Whistleblower Pakistan letter dated 05.09.2014
- Whistleblower Pakistan letter dated 10.11.2014
- Whistleblower Pakistan letter dated 15.12.2014
- Whistleblower Pakistan letter dated 15.12.2014
- Whistleblower Pakistan letter dated 14.01.2015 (through Counsel)

Letters written with regard to induction of high cost Solar Power Plant:

- Whistleblower Pakistan letter in the matter of Grant of Generation License to OURSUN Pakistan Limited on 11 July 2016.
- Whistleblower Pakistan letter dated 07.03.2017.

Letters written with regard to determination of MYT:

- Whistleblower Pakistan Intervention Request dated 13.07.2016 along with letter dated 12.07.2016 attached therewith Report-I & Report-II (191 pages)
- Whistleblower Pakistan letter dated 24.09.2016 for provision of documents with regard to K-Electric MYT
- Whistleblower Pakistan letter dated 05.10.2016,
- Whistleblower Pakistan letter dated 14.10.2016
- Whistleblower Pakistan letter dated 21.11.2016
- Whistleblower Pakistan letter dated 09.12.2016 (comments on framed issues - 44 pages)
- Whistleblower Pakistan letter dated 21.02.2017
- Whistleblower Pakistan letter dated 19.04.2017

Letters written with regard to change in shareholding:

- Whistleblower Pakistan letter dated 10.01.2017
- Whistleblower Pakistan letter dated 07.02.2017
- Whistleblower Pakistan letter dated 15.02.2017
- Whistleblower Pakistan letter dated 21.02.2017

Letters written with regard to other Miscellaneous Issues:



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- Whistleblower Pakistan letter in the matter of Time Dilemma of over-burdening of KE Consumers.
- Whistleblower Pakistan letter in the matter of Latest Status of Various Issues dated 15.02.2017.
- Whistleblower Pakistan letter in the matter of Dilemma of over-burdening of KE Consumers or overcharging /Excessive Collection by K-Electric dated 23.02.2017.
- Whistleblower Pakistan letter in the matter of Time Value of Money dated 13.03.2017.
- Whistleblower Pakistan letter written in the matter of PAR filed by K-Electric for purchase of 52 MW Power (Coal Fired) from FFBL Power Company Limited (FPCL) dated 02.07.2015.

4. Through the advertisement referred to above, NEPRA has invited participation in the subject proceedings by filing comments.

5. At the outset WBP would like to point out that NEPRA fixed three hearings on different subjects relating to K-Electric in Karachi on 16th June 2017. The day on which these hearings were fixed was a 'Friday' and that too of the Holy month of Ramazan.

- The first hearing was scheduled for 16th June 2017 at '10:00 AM' in the matter of Tariff Petition filed by Kolachi Portgen (Private) Limited for determination of Generation Tariff for 450 MW RLNG based Combined Cycle Power Plant.
- The second hearing was scheduled for 16th June 2017 at '10:30 AM' in the matter of Power Acquisition Request filed by K-Electric for Purchase of 11-14 MW Surplus Power from LOTTE Chemical Pakistan Limited.

WBP is surprised as to how in the short span of half an hour stakeholders can offer their comments. From what is stated above, WBP is of the view that NEPRA does not want to conduct meaningful hearings, rather it is conducting the hearings just as a formality and an eye wash. It is a fact that NEPRA always gives a chance to Investors to meet several times at its head office at Islamabad but the only chance for stakeholder to express their concern is the hearing scheduled in Karachi. It is felt that NEPRA and K-Electric both want to avoid the stakeholders in Karachi. In the eyes of WBP it is nothing but NEPRA's favor to K-Electric.

6. WBP has earlier submitted its detailed comments in the matter of Power Acquisition Request of K-Electric for purchase of 52 MW Power from FFBL Power Company Limited wherein the comments, inter alia, on general issues have already been given in detail. Therefore, WBP is not repeating the same in this letter: it requests the Authority to consider the same in the



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subject matter. In this letter WBP is making comments specific to the subject matter.

7. With regard to the subject case, WBP has gone through the Generation License of Lotte Powergen (Pvt.) Limited, the advertisement which appeared in 'The News' on 03.06.2017 and the Power Acquisition Request (PAR) available on NEPRA's website, submitted by K-Electric and has noted the following:

- The Generation License is issued in the name of Lotte Powergen (Pvt.) Limited whereas the PAR submitted by K-Electric is for the purchase of Power from Lotte Chemical Pakistan Limited;
- The PAR was submitted by K-Electric in January 2017 and hearing in the matter was scheduled on 16th June 2017 whereas as per IPPR, the PAR should have been decided by NEPRA within 60 days;
- The Generation License is issued for 48.10 MW (Gross), 41.319 MW (De-rated at Mean Site Condition), 0.30 MW (Auxiliary Consumption) and 41.019 MW (Net) whereas the Gross and Net Capacity of the Power Plant mentioned in the PAR and which appeared in the advertisement is 41.32 MW (Gross) and 39.12 MW (Net);
- the efficiency of the Power Plant which was considered reasonable by the Authority, as stated in its Generation License Determination, was around 40-42% whereas the LHV and HHV Heat rates (and efficiency) of the Power Plant mentioned in the PAR and which appeared in the advertisement is 9174.5 BTU/kWh (37.19%) and 10163.5 BTU/kWh (33.58%) respectively;
- the levelized Tariff is calculated as Rs. 10.65/kWh on the basis of 92% Plant factor; 92% Plant factor means that the CPP was commissioned with higher capacity than was needed for the industrial load requirement;
- the Power Plant has obtained the Gas allocation from SSGC as 'Captive Power Plant' and such CPPs are supposed to Generate electricity for their own use and not for sale;
- the Power Plant has obtained the Generation License from NEPRA as 'Captive Power Plant'; the dynamics and considerations for the grant of a Generation License to a CPP are altogether different from the grant of generation licenses to any other regime like IPPs, SPPs, Distributed Generation etc.;
- the definition of 'Captive Power Plant' in NEPRA's Regulations, Natural Gas Allocation and Management Policy and Gas Supply Companies' documents are not the same; these different definitions are being misused and are causing loss to the natural resources, electricity consumers and the National Exchequer in financial and economic terms;
- the term 'Surplus' used in the NEPRA Regulations and SSGCL's No Objection Certificate' and other documents/agreements is not defined;



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under the garb of this “surplus capacity” several Power Generation Plants which obtained gas quota on the basis of CPPs are regularly selling significant amounts of electricity to other entities;

- the issuance of NOC by Gas Distribution Companies to CPPs to sell surplus electricity is against the spirit of the provisions of Gas Policy wherein CPPs are supposed to Generate and consume electricity for their own industrial load.

WBP would like to have clarification/ruling of NEPRA on the above stated observations/issues.

8. The subject PAR is for the purchase of Power by K-Electric from Lotte Chemical Pakistan Limited, therefore it is essential to consider the Generation facilities of K-Electric along with its liability to maintain and operate its Generation Capacity which is being marginally underutilized for the last 9 to 10 years. More Power Purchases by K-Electric from external sources are to the benefit of K-Electric. From the last 7 to 8 years Generation data of K-Electric it can be easily judged that around 50% need of K-Electric’s electricity is being met through external purchases. WBP has already submitted the month wise Generation data of K-Electric’s Own and other Power Plants supplying electricity to K-Electric. Underutilization of Power Plants is clear from the already submitted data sheets.

9. Furthermore, K-Electric is not utilizing IPPs (Gul Ahmed and TAPAL) to their full capacities whereas it is paying Capacity Charges to these Power Plants for their available capacity. The payment of Capacity charges for idle capacity is making the electricity rates higher for the electricity consumers of K-Electric. The purchases from IPPs are on ‘Take or Pay’ basis while the purchase of electricity from proposed Power Plant (Lotte) will be on ‘Take and Pay’ basis. Under this scenario the Economic Merit Order should not be based on Fuel Cost Component only. If any CPP is off setting the electricity of ‘Take or Pay’ based IPP, the actual cost of electricity from the CPP is the cost of electricity of the CPP plus the per unit Capacity Payment that would be paid to the ‘Take or Pay’ based IPP for idle Capacity.

10. WBP would here like to put it on record that NEPRA is not following its own Regulations in the case of Power Purchases by K-Electric. It is a fact that NEPRA has neither in the past nor at present has followed the procedure given in IPPRs and has not approved the Power Purchases by K-Electric from several external sources like Aggreko, KANUPP, PASMIC, IIL, Anoud etc. Payment against these Power Purchases, the Tariff of which has not been approved by NEPRA and which has not been notified by GoP in the official Gazette is illegal. NEPRA, a quasi-Judicial Authority, is committing this illegality since long.

11. It is the observation of WBP that NEPRA is an expert in ‘developing’ arguments to grant Generation Licenses and to make Tariff Determinations. Several times the arguments so developed are in contradiction to its own



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arguments given in other cases and are against the spirit of the law as well as prudent Utility practices. The arguments developed by the Authority in granting the Generation License to Lotte are also worth reading. The Determination of the Authority in the matter of grant of Generation License to Lotte is important in the context of some serious issues raised by different stakeholders. WBP would here like to cite some of the issues raised by the stakeholders, the Authority's point of view and ruling on the highlighted issues and the observations of WBP on such issues:

Issues mentioned in NEPRA's Determination	Authority View point on the issue and its Ruling	WBP's Observation
<p>PPIB while offering its comments/observations submitted that according to the Para 3.1.6 of Natural Gas Allocation and Management Policy 2005 (the Gas Policy), the Gas Supply to all consumers in Captive Power Sector is made after meeting the requirement of Domestic, Fertilizer, Commercial, Industrial and Power Sectors. In view of this, there seem to be a serious anomaly that the gas will be supplied to a captive power plant while the state of art Independent Power Producers (IPPs) are already facing acute shortage of gas supply and are constrained to run either on HSD or go out of production.</p> <p>The plant composition of LPGPL appears to be open cycle with an efficiency around 40% which is considerably lower compared to the newly installed combined cycle IPPs with efficiencies of over 52%. A higher efficiency unquestionably provides a better utilization of this valuable and scare natural resource.</p> <p>It is suggested that NEPRA may consider the aforementioned points and also obtain views of Ministry of Petroleum and Natural resources while</p>	<p>Authority has also observed that PPIB also raised certain objection as regard to availability of the natural gas for the plant and also pointed out about the efficiency of the plant.</p> <p>In response to the comments of PPIB it has been informed that the company has established a captive power plant with a huge amount and a valid contract with gas supplier i.e. SSGC is executed.</p> <p>Upon the efficiency of the plant LPGPL has stated that the efficiency of the company co generation facility is approximately 68% which is much higher when compared by efficiencies of combined cycles power plants of 52 %.</p> <p>In view of the foregoing submissions by LPGPL we consider that points raised by PPIB are resolved.</p>	<p>WBP is of the view that the observations of PPIB were very pertinent and have not been properly addressed by NEPRA.</p> <p>The stance of Ministry of Petroleum and Natural Resources, on the issue raised by PPIB, has not been recorded in the Determination.</p> <p>WBP is of the view that the submission of PPIB was about the electrical efficiency, which is mentioned in the PAR as 33.58% only. The efficiency based on which Lotte will supply electricity to K-Electric is mentioned as 33.5% (HHV). Therefore, on this efficiency, NEPRA should not allow or approve the PAR.</p> <p>WBP is of the view that the Generation License granted to Lotte as CPP needs to be revoked and fresh proceeding should be initiated to look in to the issue whether the proposition is financially and economically feasible for the Power Sector and the National Exchequer or not.</p>



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<p>reviewing the application for the grant of Generation Licence;</p>		
<p>Dr. Bhatti on behalf of PEC submitted that the proposed Power Plant for which Generation Licence is being sought will be using Natural Gas as fuel. The situation of gas reservoirs in the country demands to change the boiler type and fuel for the plant to Coal. It is recommended not to give licence till all required changes mentioned are made;</p>	<p>In response LPGPL submitted that coal base power facility has different requirements and project specification as compared to gas based power plant. It has also been pointed out it is a commercial decision of the LPTA to install a gas plant. Therefore at this stage transforming a power plant is not feasible. In view of submissions of LPGPL we (the Authority) are satisfied that it's a commercial decision of LPGPL to install a gas based power plant.</p>	<p>No doubt that installation of Power Plant of any type and any technology is a commercial decision of the company but gas is a scarce National Resource. Therefore, it is the prime responsibility of the Regulator(s) to ensure that the National resources are not misused by a company. In the eyes of WBP, supplying electricity to the grid, by using gas, at 33.5% efficiency is nothing but a financial and economic crime. The CPP should be restricted to generate electricity for its industrial undertaking only. The CPP definition of NEPRA should be aligned with the definition of CPP given in Gas Policy and GSA. NOC of SSGC to CPPs to sell Surplus Power to BPCs and DISCOs is against the spirit of the provision of Gas Policy and Prudent practices. This NOC is illegal in the eyes of WBP.</p>
<p>In the absence of reliable Gas supply, what guarantee /contract is there to ensure Gas as the fuel for the plant?</p> <p>Does the facility have a Gas Supply Agreement (GSA) signed with the relevant agency (i.e. Sui Southern Gas Company Limited-SSGC)?</p> <p>What is the thermal efficiency of the plant?</p>	<p>Authority has noticed that during the hearing representative of SSGC has also pointed out some reservations about availability of gas for the power plant. Upon such objections, we note that during the hearing LPGPL committed that it will submit to the Authority the firm reliability document including a valid GSA in favor of LPGPL by SSGC.</p>	<p>WBP is of the view that there is no coordination between the Regulators to use the National resources to their Optimal value. It is noted that one organization is trying to shift the responsibility on the other and due to this approach several entities are benefiting themselves by causing loss to other stakeholders.</p>



It is also feared such allocation of gas will severely affect the already existing crunch in gas availability for KESC, having serious impact on the financial and operational viability.

In view of this, KESC cannot support any capacity addition for an entity which is already its consumer.

As regard to the gas policy relating to power plants our attention has been drawn by the counsel of KESC to the natural gas allocation management policy of 2012 which has been approved by the ECC on January 29, 2013. It has been stated that KESC under the said policy shall have a preference over the gas allocated to LPGP. The counsel of KESC has referred to Article 90 and 97 of the Constitution of Islamic Republic of Pakistan, 1973 and stressed that policy decision of ECC is binding on NEPRA and it is incumbent on NEPRA to consider whether the grant of license to LPGPL would be consistent with the gas Policy of 2013.

In this regard, Authority is of the view that implementation of such policy relating to gas is beyond the scope of regulatory regime administered by NEPRA and it is the federal government, Oil and Gas Regulatory Authority or the gas company i.e. SSGC, which needs to implement the policy in true letter and spirit.

The Authority consider that while processing the instant applications, the Authority should restrict itself in ensuring that LPGPL has a valid gas supplier agreement with the SSGC on the basis of which it shall have the right to receive gas from the gas supplier for running the plant. It is also a matter of record that LPGPL has given an undertaking before the Authority that it has a valid GSA for gas supply and

An interesting fact that also comes to mind here from the argument of the Authority is: the Authority is considers that while processing the instant applications, the Authority should restrict itself in ensuring that LPGPL has a valid gas supply agreement with the SSGC on the basis of which it shall have the right to receive gas from the gas supplier for running the plant.

WBP would like to know why NEPRA ignored this test while granting the Generation License for K-Electric Power Plants being established with only Gas based fuel?

Similarly, why K-Electric commissioned the Gas based Power Plants without having a firm Gas Supply Agreement?

WBP would also like to know the powers of SSGC to issue such 'No Objection Certificate' to allow CPPs to sell Surplus Power?

WBP is of the view that such certificates are being issued to circumvent the provisions of Gas Policy and Gas Supply Agreements. The NOC issued by SSGC is against the letter and spirit of Gas Policy where CPP means own industrial undertaking. This NOC, in the eyes of WBP, may fall under Section 9 of the NAB Ordinance, 1999 which is about Corruption and Corrupt Practices because this kind of NOC is causing financial loss to the consumers and the



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	<p>on the basis of which, LPGPL is entitled to generate electricity and whenever LPGPL shall sell electricity to any third party other than the LPCL/LPPTA it shall obtain no objection certificate from the relevant gas company. Record of the case also reveals that LPGPL has submitted with the Authority a copy of GSA and a letter from SSGC dated May 24, 2013 wherein SSGC has approved the change of name of the gas connection in the name of LPGPL therefore we are satisfied that LPGPL has a valid GSA for carrying out generation business to provide electricity to LPPTA. However we direct that LPGPL shall strictly comply with the terms and condition of the gas supply agreement entered with the SSGC.</p>	<p>National Exchequer and benefitting the CPP.</p>
<p>The terms Small Power Producer ("SPP"), CPP, Isolated Generation Company ("IGC"), Distribution Generation Company ("DGC") and IPP etc. are not defined terms under the relevant law and are conveniently used interchangeably. It is submitted that the regulatory jurisprudence evolved prior to 2007 maintained that the CPP is an entity which does not fall within the purview of the Authority, as it utilizes the power for its own consumption and no sale of electricity or electric power business is conducted by a CPP. The single most distinguishing feature prior to 2007 between a CPP and an SPP was that in case of an SPP, sale of electricity is taking place, whilst a CPP utilized power for self-consumption. In the year 2007, the Authority has removed</p>		<p>The record of underutilization of 'Take or Pay' basis Power Plants clearly shows that the CPPs are being accommodated to sell electricity without ensuring the full utilization of the IPPs commissioned under 'Take or Pay' regime.</p> <p>The amendments made in the NEPRA Regulations in 2007 to accommodate CPPs were made in a hurry and without meaningful debate with stakeholders. Furthermore, these amendments were made for a specific time requirement. This needs to be reviewed. Unfortunately that has not been reviewed so far. This approach of NEPRA is causing loss to the electricity consumers, the</p>



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<p>this distinction between CPP and an SPP and allowed CPPs to sell surplus power to consumers/DISCOs, thereby making the distinction between CPPs and SPPs somewhat murky and has thereafter incorporated a definition of CPP in the Regulations.</p>		<p>National Exchequer and the National economy.</p> <p>WBP is of the view the NEPRA is itself not clear about the development of the Power Sector; WBP cannot say whether it is because of the incompetency, incapability or for some other reasons.</p>
<p>The representatives of KESC explained that ECC on January 29, 2013 has approved a new Natural Gas Allocation and Management Policy (NGA&MP-2013). In the new NGA&MP-2013, the Power Sector now stands at Serial No. 2 on the priority list as compared to CPP which is at Serial No.3. In this policy the companies in the power sector without a GSA are treated at par with those Companies which have a GSA. In view of Article(s) 90 & 97 of the Constitution of the Islamic Republic of Pakistan, 1973 the new NGA&MP-2013 is binding on all state functionaries including NEPRA and SSGC. It was submitted that KESC was promised allocation of 276.00 MMCFD for existing power plants and an additional 130.00 MMCFD for its new 560.00 MW Combined Cycle Power Plant (CCPP) at Bin Qasim, Karachi. However, SSGC has not been able to meet the requirement of KESC, resulting in difficulties in operating its Gas fired power generating units. It is understood that if LPGPL is supplied Natural Gas, such allocation and supply will not be available for KESC which would be a violation of NGA&MP-2013. It is also submitted that the GSA signed</p>		<p>NEPRA was required to take the Policy statement from Gas Supply Companies, OGRA, and/or Ministry of Petroleum and Natural Resources on the given statement of K-Electric. The operation of the Energy Sector in an economic manner is dependent on the observance of the statement quoted by K-Electric. However, in its determination, NEPRA has not addressed the issue raised by K-Electric.</p>



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<p>between LCPL/LPPTAL and SSGC is on "as and when available basis". SSGC will not be able to supply gas to LPGPL as it will have to meet requirements of KESC first.</p>		
<p>It was stated that the efficiency of LPGPL is only 40% which is considerably lower as compared to CCPP operating around 52% efficiency</p>		<p>WBP has already offered its comments on the issue of efficiency.</p>
<p>KESC clarified that in Suit No. 1100/2012 filed by LCPL/LPPTAL, it was submitted in the court that it is generating its own electricity and therefore it is a CPP.</p>		<p>The definition of CPP by NEPRA in 2007 opens a door for inefficiencies. The use of an undefined word 'Surplus' in the definition of CPPs by NEPRA also opens a door for Corruption.</p>
<p>The representative of SSGC also gave its position on the communicated Issues of Hearing. It was informed that LPGPL has not applied to SSGC for gas connection in any category. It was further clarified that LPGPL is not a consumer of SSGC. No comments could be offered on the proposed efficiency. It was also confirmed that as per the Gas Policy, CPPs are only authorized to use the power for self consumption. It was clarified LPGPL can install the CPP by installing co-generation system and maintaining the overall efficiency of the system at 60% and above, in addition to maintaining KESC supply on standby mode. It was also explained that LCPL/LPPTAL is a consumer of SSGC since June 2012 with approved load of 9.00 MMCFD and they are operating the Gas Turbine of 48.00 MW Capacity and have signed the GSA with SSGC. Whereas, LPGPL is neither a consumer of SSGC nor has applied for the gas connection. It was also</p>		<p>It is important that SSGC has not given any comments on the proposed efficiency and NEPRA has given the Generation License without taking comments on this issue. It was stated by SSGC that as per Gas Policy, CPPs are only authorized to use the Power for self consumption.</p> <p>It is also not clear under what law and authority, SSGC has issued the NOC to CPP to sell its surplus Power.</p>



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<p>confirmed that Natural Gas to CPP is supplied on as and when available basis for nine (09) months as per the Gas Policy. The representative of SSGC also confirmed that allocation of Gas to LPGPL/ LCPL/LPPTAL has no bearing on the allocation of KESC.</p>		
<p>The Authority is well aware that presently there is severe shortage of electricity in the country and there is huge Supply-Demand gap. In view of this, the Distribution Companies are facing difficulties in serving their consumers. Due to the prevailing situation, the Industrial Units are forced to make their own arrangements to meet their electricity requirements.</p>		<p>WBP would like to request NEPRA to substantiate its statement that there was severe shortage of electricity in the country. The Plant Utilization Factor clearly shows that the Plants were not being operated to their available Capacity.</p>
<p>KESC has objected to the grant of Generation Licence in the absence of reliable gas availability for the plant and pointed out that the Authority should ensure that LPGPL as a valid gas supply agreement signed with SSGC. Authority has noticed that during the hearing representative of SSGC has also pointed out some reservations about availability of gas for the power plant. Upon such objections, we note that during the hearing LPGPL committed that it will submit to the Authority the firm reliability document including a valid GSA in favor of LPGPL by SSGC. As regard to the gas policy relating to power plants our attention has been drawn by the counsel of KESC to the natural gas allocation management policy of 2012 which has been approved by the ECC on January 29, 2013. It has been stated that KESC</p>		<p>WBP appreciates the observation of K-Electric. However, it needs to be answered by K-Electric as to why, in the absence of a firm GSA, it has commissioned around 1000 MW Gas Power Plants? It is also a question for NEPRA to answer as to Why it has granted Generation license to K-Electric for around 1000 MW Gas Power Plants.</p>



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under the said policy shall have a preference over the gas allocated to LPGP. The counsel of KESC has referred to Article 90 and 97 of the Constitution of Islamic Republic of Pakistan, 1973 and stressed that policy decision of ECC is binding on NEPRA and it is incumbent on NEPRA to consider whether the grant of license to LPGPL would be consistent with the gas Policy of 2013. In this regard, Authority is of the view that implementation of such policy relating to gas is beyond the scope of regulatory regime administered by NEPRA and it is the federal government, Oil and Gas Regulatory Authority or the gas company i.e. SSGC, which needs to implement the policy in true letter and spirit. The Authority consider that while processing the instant applications, the Authority should restrict itself in ensuring that LPGPL has a valid gas supplier agreement with the SSGC on the basis of which it shall have the right to receive gas from the gas supplier for running the plant. It is also a matter of record that LPGPL has given an undertaking before the Authority that it has a valid GSA for gas supply and on the basis of which, LPGPL is entitled to generate electricity and whenever LPGPL shall sell electricity to any third party other than the LPCL/LPPTA it shall obtain no objection certificate from the relevant gas company. Record of the case also reveals that LPGPL has submitted with the Authority a copy of GSA and a letter from SSGC dated May 24, 2013 wherein SSGC has approved the change of name of the gas connection in the name



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of LPGPL therefore we are satisfied that LPGPL has a valid GSA for carrying out generation business to provide electricity to LPPTA. However we direct that LPGPL shall strictly comply with the terms and condition of the gas supply agreement entered with the SSGC.		
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12. From the above observations it is clear that due to non coordination between the two energy sectors (Oil & Gas and Electricity) Regulators, the National resource (Pipe line quality Gas) is being used to uneconomic value and this is causing huge financial and economic loss to electricity consumers and the National Exchequer. WBP has noted several issues on the part of SSGC, K-Electric and NEPRA.

13. On the part of Gas Supply Company i.e. SSGC the issue is that it has allocated the Gas to LPGCL as CPP. As per the Gas Policy the CPP with allocated Gas can Generate the electricity for its own industrial undertaking, and in any case it cannot sell the electricity to any entity. In this case the NOC issued by SSGC to sell surplus Capacity, 11-14 MW(Net), that too with 92% Plant availability, is not legally justified. WBP would like to know under what power SSGCL has issued this NOC and how NEPRA has accepted this NOC? Furthermore, the electrical efficiency to the extent of 11-14 MW (Net) Capacity is mentioned as 33.58% (on HHV): at least this efficiency cannot meet the criteria of Gas Policy to supply gas to CPP. WBP is of the view that NEPRA should have investigated these specific issues with SSGC and should have satisfied itself after taking legal opinion. Unfortunately NEPRA did not make this effort.

14. On the part of K-Electric the issue is that it has opposed the grant of Generation License to Lotte for various reasons including that Lotte is a CPP and cannot sell the electricity to others, the CPP does not have a firm GSA and the efficiency (33.58%) of Lotte Gas based Power Plant is very low. WBP is surprised that when Lotte wanted to sell the electricity to BPC in K-Electric territory, K-Electric raised these objections and opposed the grant of Generation License to Lotte. But now when the same Plant wants to sell the electricity to K-Electric, it is welcoming this offer. The conduct of K-Electric towards its own and the national interest can easily be judged from these facts. K-Electric has objected to the inefficient burning of Gas fuel. It is also a surprising fact that K-Electric, rightly, objected to the low efficiency of Lotte Power Plant but it is not looking at the lower efficiency of its own Power Plants.

15. On the part of NEPRA the issue is that it has admitted that for the grant of Generation License, the availability of a firm Fuel Supply Agreement



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is essential and a pre-requisite. After satisfying itself of this requirement, NEPRA has granted the Generation License to Lotte. WBP is surprised why NEPRA has ignored this basic requirement while granting the Generation License to K-Electric for around 1000 MW of its Gas based Power Plants.

16. It is a hard fact that due to non-availability of Gas K-Electric's Gas based Power Plants are not being operated to their full capacity. This means the investment made in the commissioning of these Power Plants is not utilized to its optimal value. It is also noted that in violation of the Economic Merit Order, K-Electric is burning the Gas in low efficiency (31-33%) BQPS-I dual fuel Power Plant. Leaving the higher efficiency Gas based Power Plant capacity unutilized due to non-availability of Gas and using the Gas in a low efficiency Power Plant is neither understandable nor justified. Sometimes K-Electric gives the reason of low Gas pressure for this operation but WBP is of the view that this needs to be investigated by NEPRA to establish the fact. If there is really low Gas pressure, it should be boosted by using Gas pressure booster/compressor.

17. WBP requests NEPRA that no Gas based CPPs should be allowed to sell electricity to BPCs or the DISCOs.

With best regards

Yours faithfully,

Justice (R) Dr. Ghous Muhammad,

(Chairman)

Copy to:

1. The Human Right Cells of the Supreme Court of Pakistan, Constitution Avenue, Islamabad.
2. The Auditor General of Pakistan, Constitution Avenue, Islamabad with the request to order special Audit on the issues raised vide WBP above referred letters.
3. The Chairman National Accountability Bureau of Pakistan, Attaturk Avenue, Sector G-5/2, Islamabad.
4. The Secretary, Ministry of Water and Power, 'A' Block, Pakistan Secretariat, Islamabad.
5. The Secretary, Ministry of Finance, 'Q' Block, Pakistan Secretariat, Islamabad.



Whistleblower Pakistan

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6. The Chairman, Securities and Exchange Commission of Pakistan, National Insurance Corporation Building, 63-Jinnah Avenue, Blue Area, Islamabad-44000.
7. The Chief Executive Officer, Central Power Purchasing Agency (Guarantee) Limited, 6th Floor, Shaheed-e-Millat Secretariat, Jinnah Avenue, Blue Area, Islamabad.
8. The Registrar, National Electric Power Regulatory Authority (NEPRA), Attaturk Avenue (East), NEPRA Tower, Sector G-5/1, Islamabad.
9. Eng. Hafiz Naeemur Rehman, President Jamaat e Islami, 503-Quaiden Colony, Near Islamia College, Karachi. (Ph. No. 021-34918310, Fax.021-34911218).
10. Mr. Tanveer Ahmed Barry, Chairman, Sub-Committee KCCI, Aiwan-e-Tijarat Road, Off: Shahrah-e-Liquat, Karachi-74000 (Ph. No.021-99218001-9 Fax No. 021-99218010).
11. Mr. Muhammad Arif Bilwani, 2-A, South Park Avenue, Phase-2, Defense Housing Authority, Karachi. (Ph. No. 0300-8229570).
12. Mr. Nazim F. Haji, A-21/2A, KDA Scheme No. 1-A Extension, Stadium Road, Karachi.
13. Mr. Abu Baker Usman, Pasban Pakistan, 34-Micassa Centre, Sir Shah Suleman Road, Hassan Square, Gulshan-e-Iqbal, Karachi. (Ph. No.0333-2149079).
14. Mr. Roland deSouza, Shaheri-Citizen, 88-R, Block-2, PECHS, Karachi 75400. (Ph. No.021-34530646).
15. Choudary Mazahar Ali, Arjan Building, Mohan Road, Urdu Bazar Chowk, Karachi. (Ph. No. 021-32771400).
16. Mr. Anwar Kamal, Senior Advocate Supreme Court, Anwar Kamal Law Associates, 1-Turner Road, Lahore-54000.