



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

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TRUSTEES

Ms. Yasmeen Lari

Justice (R) Nasira Iqbal

Ms. Shahana Kaukab

Mr. Sohail Muzaffar

Justice (R) Zia Perwaiz
(Secretary General)

Justice (R) Dr. Ghous
Muhammad
(Vice Chairman)

Syed Adil Gilani
(Chairman)

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

Subject: Motion for Leave for Review against the Determination of the Authority dated 31.03.2015 in the Matter of Tariff Petition filed by PakGen Power Limited for coal conversion of existing RFO based Power Plant of 365 MW.

Reference: Our Intervention Request filed through letter dated 01.12.2014 (Rejected by NEPRA for the reason that it is barred by time).

Participation of our Legal Counsel M/s Anwar Kamal Law Associates in the Public Hearing held in Lahore on 16th December 2014.

NEPRA Determination in the matter dated 31.03.2015.

Review Motion submitted by the Company.

Dear Sir,

First of all I would like to place on record my objection to the rejection of the Intervention of Whistleblowers on the ground that it is barred by time. This action of NEPRA depriving the Intervener, which came to assist the Authority in the public interest, is itself against the public interest as also the interest of the consumers and tantamounts to favoring the Investor. The Authority, while defending its position when it admitted the time barred Reconsideration Request of the Government of Pakistan to increase the Upfront Coal Tariff, has held in para 17 of its Decision dated 21.11.2014 that " It may be noted the law of limitation is made in order to advance justice and not to punish the parties. --". In the circumstances, rejection of the Intervention on the sole ground of limitation tantamounts to blowing hot and cold in the same breath as also to working against the express provisions of the NEPRA Act mandating NEPRA to protect the interest of the consumers. Although the Authority has taken my observations as comments, but it has not addressed them in its' Decision.

At this stage, before making my submissions, I would like to quote the Policy statement given in the NEPRA Annual Report 2012-13 with



regard to small Coal Power Plants and conversion of older, less efficient, oil based power plants to Coal: "Efforts are also under way to develop small coal power plants in the country, which is a positive step in the wake of increasing price of furnace oil and low gas availability. However, again certain critical issues need to be dealt with by concerned quarters like economies of scale, efficiency of power plants, arrangement of un-interrupted supply of coal and coal pricing etc., for fruitful implementation of the policy to develop coal-based plants. Similarly, the initiative of conversion of older, less efficient, oil based power plants to coal requires cost/benefit analysis vis-a-vis induction of new state of the art high efficiency power plants. In view of the urgent requirement of efficient base-load plants for the country, the commissioning of most efficient coal based power plants with super/ultra super critical boilers is required."

Vide Para 92 of the Tariff Determination of NEPRA in the matter of Review Petition filed by Fazal-e-Akbar & Company on behalf of Mr. Asad Umer (Member National Assembly) the submission of the petitioner is stated as " The petitioner in the review petition and comments dated 20th October 2014 submitted that in order to encourage the potential investors to opt for supercritical technology, the benefit of Upfront Tariff may be restricted to such technology only. The petitioner further submitted that to discourage installation of subcritical technology which is outdated, expensive, less efficient and more harmful to the environment, it may be excluded from the Upfront Tariff. Alternatively, the benefit of the Upfront Tariff may only be limited to the first 1000 MW of subcritical technology."

Vide Para 95 of the above stated Determination it is stated that: "The tariff has now been notified on October 01, 2014 therefore, it will remain valid until September 30, 2016. As regard the suggestion of the petitioner that the benefit of the upfront tariff should be made applicable only to the extent of first 1000 MW subcritical technology, the Authority is of the view that the petitioner concern is this regard has already been taken care of through reduction of validity period from 6 years to 2 years. It is expected that during the existing validity period of 2 years it will be difficult to go beyond the proposed cap of 1000MW. The Authority considers that in the next review the reference parameters as given in the decision will be modified / updated on the basis of actual data/information. However, the Authority still consider the suggestion reasonable and further increase the comfort level of the petitioner, decided to restrict the induction of subcritical technology to first 1000 MW only for imported coal."

Vide Para 35 of its' Decision dated 21.11.2014, the Authority while addressing the suggestion of the petitioner with regard to location of Coal based power plants, stated that: " ---- The Cost/benefit issue of coastal vs. non-coastal coal plants was discussed in para VIII(a) of the Decision of the Authority wherein the Authority opined that: "However, the Authority is cognizant that cost (transportation) even though is a pass through, it has to be reviewed keeping in view alternative arrangement for project location, size and that alternative transportation options have been exhausted to the benefit of achieving optimal tariff. At this stage the Authority in principle has no objection of allowing inland coal transportation from port to the potential power plant.



However, all such plants proposing to be built on non-coastal area comprising significant inland coal transportation cost must ensure that alternative location of plant have been looked into" This means that such sponsors proposing to build power plants on non-coastal area have to ensure that it is in the most cost effective to non-coastal area plant. ---".

Although the above is sufficient in order that the Authority withdraw its' Decision in the matter and to ensure decision making after threadbare analysis to avoid unrest among the stakeholders of the Power Sector, I would like to submit the following in addition to what has been stated above:

It is noted that four companies signed MOUs with regard to coal conversion on 28 June 2013 while the Energy Policy 2013 referred under para 2.3 of the Authority's Determination dated 31.03.2015 was approved by CCI in July 2013. This chronology gives rise to the obvious question whether the MOUs have been signed under the Policy or the Policy has been made to accommodate the MOUs?

Since of the four companies which signed MOUs, three are located in mid-country while one of them, with the highest capacity of 1290 MW, is located in a coastal area; another question is what are the reasons that non-coastal area Power Plants are heading for conversion while the coastal area Power Plant has given up its MOU?

Some facts as stated in the Determination of the Authority in the matter of Pakgen Power Limited dated 31.03.2015 are:

The Power Plant was established under Policy of 1994 in the name of AES Pakgen;
The Power Plant is in its 17th year of operation;
The proposed conversion, if made, will take place in the 20th year of its' operation;
NEPRA usually takes 30 year useful life of Thermal Power Plants;
NEPRA has determined the Tariff of coal-converted Plants for 25 years;
The Power Plant is located in a non-coastal area, around 950 KM from the Coast;
The technology of the Power Plant is subcritical;
The Power Plant has not applied for Proposed Modification;
RFP for the proposed conversion was shared among limited EPC contractors;
International bidding was not carried out for the proposed conversion;
Efficiency of the Power Plant will become lower after coal conversion;
Capacity of the Power Plant will become lower after coal conversion;
Down time for the Existing Power Plant during the coal conversion will be six months;
Per day requirement of coal for the Power Plant will be 2596 thousand tonnes for which 50 wagons of 50 tonnes each will be required;
The round trip for the railway wagons will be 42 hours;
There is no firm proposal/Agreement of Long term Coal Supply;
There is no firm proposal/Agreement of Coal handling at the Port;



There is no firm proposal/Agreement of inland coal transportation;
The RFO prices are quite low these days;
The construction time of the proposed construction will be 24 months inclusive of 06 months down time;
NEPRA has already granted Licenses and Tariff to Coal Power Plants being set up in coastal areas or near to coastal areas like at Jamshoro;
NEPRA made its decision with regard to this conversion on the basis of financial analysis while no economic analysis of the proposed Project is given in the Determination despite the fact that we categorically requested for that analysis;
None of the points which we highlighted in our submission has been addressed by NEPRA in its Determination;
NEPRA has accepted the proposed control period of the 20 year old, sub-critical in efficient technology Power Plant which practically means that NEPRA has not only allowed the in-efficiency but also extended the lower efficiency life for another 25 years;

Vide para 12.4.12 NEPRA has stated that:

"No political risk insurance fee such as export credit agency fee or Sinosure fee for foreign financing has been assumed. In case such fee is payable, the benchmark established in the Upfront Coal Tariff will be adopted and appropriate adjustment in the project cost will be made at the time of COD."

This means when such hidden costs will be added to the proposed Tariff the real tariff at COD will be higher than the Upfront Tariff for coastal Power Plants;

Under para 12.8.5, besides allowing indexation, it is also stated that: "--- the cost of lime stone and ash handling will be adjusted on actual basis at time of COD.";

this permission again provides an opening for increase in the Tariff;

NEPRA allowed 9% Auxiliary consumption under para 12.12.3 of its' Determination: this means that after its conversion, the Power Plant will generate less energy than it is generating right now. This in turn means capacity reduction in mid country;

Vide para 12.14.1 of its Determination, after allowing the Coal conversion NEPRA directed Pakgen to finalize the coal transportation matter for its incorporation in the final numbers. This means that the proposed Tariff has practically no meaning and his approach of NEPRA has put the cart before the horse;

Vide para 12.14.4 NEPRA stated that "the actual transportation cost will be included in the price of coal and fuel cost component will be adjusted accordingly". This is again a Tariff increasing component.



The above are our preliminary observations and on the basis of the above observations, we are of the opinion that the conversion of an old in-efficient Power Plant is not feasible at all and NEPRA has taken its' Decision on the basis of financial analysis which, to our understanding, is neither wise nor correct. NEPRA should not only reject this Motion for Leave for Review but also withdraw the already given Determination in the matter.

Yours faithfully,


Syed Adil Gilani

Chairman

