

F/B

GUJRANWALA ELECTRIC POWER COMPANY LIMITED

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OFFICE OF CHIEF EXECUTIVE OFFICER, GEPCO LTD.
(Market Implementation Regulatory Affairs Department)
WAPDA Rest House W-Block Peoples Colony,
GUJRANWALA

No. MIRAD/C.M& R.A / 1023-27

Dated 16/09/2022.

Mr. Iftikhar Ali
Addl. Director General
National Electric Power Regulatory Authority (NEPRA)
NEPRA Tower, Ataturk Avenue G-5/1,
Islamabad.

For info on CRP
- Dir. (P.O)
to report
- Dir. (Gen)
- m.f
25/8/22
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m (uq & co)
m (clerk)

Subject: MOTION FOR LEAVE FOR REVIEW OF ORDER OF THE AUTHORITY FOR THE GRANT OF GENERATION LICENCE WITH SECOND TIER SUPPLIER AUTHORIZATION TO GSOLAR POWER (PRIVATE) LIMITED.

Reference: - Your Office Letter No. NEPRA/R/LAG-516/16626 Dated: September 05, 2022.

With reference to your above referred letter whereby the motion for leave for review on subject matter has been returned in original on the technical grounds being deficient on fee applicable for filing the Review Motion. Kindly find attached herewith Cheque No. 8806934267 amounting to Rs.300.590/- (after deduction of applicable taxes) as desired vide your letter referred to above.

Accordingly, the Motion for Leave for Review as submitted vide our letter No. 13684-87/GEPCO dated 25.08.2022 and received at your end on 26/08/2022, being within the prescribed time limits, is re-submitted for kind consideration of the honorable Authority.

J. Rafique
(IRFAN RAFIQUE)
Director General (MIRAD)
GEPCO H/Q Gujranwala

with cheque of Rs. 300,590/-

Copy to: -

- 1) PSO to Chief Executive Officer GEPCO, Gujranwala.
- 2) General Manager (Operation) GEPCO, HQ Gujranwala.
- 3) Chief Financial Officer GEPCO, HQ Gujranwala.
- 4) Master File.

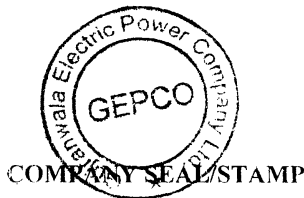
REGISTRAR OFFICE
Diary No. 975/1
Date: 23.9.2022

MOTION FOR LEAVE FOR REVIEW

REGULATION 3(2) NEPRA (REVIEW PROCEDURE) REGULATIONS, 2009

Sr. No	SUBJECT	PARTICULARS	ANNEX
1.	Case No.	1. LAG-516 2. LAG-517	N/A
2.	Parties	1. GEPCO 2. GSPPL	N/A
3.	Authority Determination/Decision	Grant of Generation Licence to GSOLAR Power (Private) Ltd.-GSPPL and authorization as second-tier supplier to Crescent Bahuman Ltd., Tehsil Pindi Bhattian District. Hafizabad Punjab.	N/A
4.	Date of Determination/ Decision was delivered to the applicant	July 29, 2022.	N/A
5.	Filing Date of Review Application	August 25, 2022.	N/A
6.	Delay in submission of Review Motion (No. of days, if any)	N/A	
7.	Condonation Request (if applicable)	N/A	
8.	Fee for delayed submission of Review Motion (if applicable)	N/A	
9.	<p>Grounds of Review:</p> <p>i. Discovery of new and important matter of evidence;</p> <p>ii. Some mistake or error apparent on the face of record and ;</p> <p>iii. Any other sufficient reason.</p>	<p>1.The case matter of two (2) number applications of M/S GSPPL for grant of generation licenses has been finalized without conducting any "hearing" or at-least a consultative session of all the stakeholders. As such, the GEPCO and. therefore, its regulated customers have been condemned unheard.</p> <p>2.Considering the gravity of the matter and far reaching financial, legal, technical, operational and commercial impacts thereof on the future of Pakistan Power Sector conducting formal hearing / consultative session of all stakeholders (CPPA-G and All ExW-DISCOs) is of utmost importance. The same has been dispensed with and compromised for individual commercial benefits of an individual entity Detailed submissions are provided separately in the Motion for Leave for Review.</p> <p>1.Two separate licenses for same technology, locations and purpose have been issued on mere pretext of difference in make, model and manufacturer of equipment and difference in elevation of installation of equipment (roof-top and on-ground solar park).</p> <p>2.In case of Generation Licence No. SGC/171/2022 (4.93 MWp Capacity), the layout applied for, the arguments transcribed in the determination and the contents of the License issued are contradictory.</p> <p>The determinations made and licenses so issued are in the absence of formal Regulations to be framed and promulgated by the honorable Authority. Which renders whole and all of the past, present and future identical actions of the honorable Authority as null and void.</p>	Annex-B
10.	Review Motion filing fee	Submitted	Annex-C
11.	Board Resolution	Attached	Annex-D
12.	Affidavit	Attached	Annex-E
13.	Other Supporting Documents	N/D	N/A

Date: 25-08-2022



Signature: 
Name: Engr. Muhammad Avub
Designation: CEO GEPCO



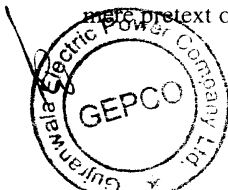
Detailed Grounds for Review
In the Cases of NEPRA Determinations for Grant of Generation Licence No.
SGC/171/2022 And Generation Licence No. SGC/172/2022 on Dated:29-07-2022

A. Background:

- (I) The Authority has issued **Generation Licence No. SGC/171/2022 and Generation Licence No. SGC/172/2022 on dated:29-07-2022** to M/s GSOLAR Power Pvt. Ltd (GSPPL) **for a period of (25) Twenty-five years** for its PV based generation facility located at Crescent Bahuman Limited, Tehsil Pindi Bhattian, District Hafizabad, Punjab having an installed capacity of 4.793 MWp and 1.931 MWp respectively to engage in second-tier supply business.
- (II) M/s Crescent Bahuman is a regulated customer of GEPCO with a sanctioned load 4.8 MW under Tariff B-III. Recently, the said consumer applied for extension of load from 4.8 MW to 16 MW under Tariff B-IV against which GEPCO conducted Grid Interconnection Study (GIS) and gave technical consent to provide desired extension of load. However, after issuance of generation licensee to M/s GSOLAR, the extension of load application by M/s Crescent Bahuman has been withdrawn.
- (III) GEPCO vide D.G (MIRAD) office letter No. MIRAD/C.M&R.A/711-20 dated 18-07-2022 submitted detailed case study in respect of impact of Partial Solarization of industrial consumers of DISCOs. However, the Authority has approved GSOLAR Power Pvt. Ltd. LAG-516 & LAG-517 Generation Licence Applications vide the Generation Licence mentioned above.

B. Review Motion Summary:

1. The case matter of 2 number applications of M/S GSPPL for grant of generation licenses has been finalized without conducting any "hearing" or at-least a consultative session of all the stakeholders. As such, the GEPCO and, therefore, its regulated customers have been condemned unheard.
2. Considering the gravity of the matter and far reaching financial, legal, technical, operational and commercial impacts thereof on the future of Pakistan Power Sector conducting formal hearing / consultative session of all stakeholders (CPPA-G and All ExW-DISCOs) is of utmost importance. The same has been dispensed with and compromised for individual commercial benefits of an entity.
3. Two separate licenses for same technology, locations and purpose have been issued on mere pretext of difference in make, model and manufacturer of equipment and difference



in elevation of installation of equipment (roof-top and on-ground solar park). In the presence of multiple existing licenses involving diverse technologies, varied makes / models, different capacities and far off locations, issuance of two licenses is a breach of proven regulatory practices and compromise on established sectoral norms.

4. The determinations made and licenses so issued are in the absence of formal Regulations to be framed and promulgated by the honorable Authority, which renders whole and all of the past, present and future identical actions of the honorable Authority as null and void.
5. In case of Generation Licence No. SGC/171/2022 (4.93 MWp Capacity), the layout applied for, the arguments transcribed in the determination and the contents of the License issued are contradictory.

C. Review Motion Grounds:

GEPCO being aggrieved of the impugned determination, the instant review motion is being filed, inter alia, on the following grounds:

1. The case matter has been finalized without conducting any "hearing" or at-least a consultative session of all the stakeholders. As such, the GEPCO and, therefore, its regulated customers have been condemned unheard.
2. In terms of Section-2 (xxva) of the NEPRA Act, "specified" means specified by regulations made by the Authority under the NEPRA Act. While admitting in sub-para (v) of para (C) of impugned determination that the honorable Authority has not been able to frame / issue relevant regulations till date, it has rather been chosen to issue such determinations in the absence of governing Regulations, thus undermining fundamentals of law.
3. The impugned determination, read in conjunction with the determination of the Authority dated May 31, 2022 for the tariff of Discos, shall rather incentivize the base load consumers, i.e. the BPCs with MDI above 50 percent, to opt for partial solarization thus leaving the cost differentials including the impact of cross subsidy on to the supplier of last resort and, therefore, the regulated customers of SOLR.
4. It is clarified that GEPCO, in its comments on the License Petition of GSPPL, has never made any reference to the Section 22 of the Act. As such, position brought out in sub-para (xi) of para (D) of the impugned determination is grossly incorrect and baseless. It is, however, observed that, while imparting impugned determination and referring to Section 22(1) of the Act, requirement of Section 22 (2), whereby one-year notice is required, have been dispensed with.



5. With regard to GEPCO demand for disclosure of tariff agreed between the parties, the impugned determinations holds that the arrangement is a B2B arrangement which **doesn't affect any third party**; which is strongly objected for the fact already mentioned in our comments. Reiterating that GEPCO and a large number of its regulated customer are undoubtedly the adversely affected parties.
6. The explanation submitted by the GSPPL, and so accepted by honorable Authority, regarding alleged splitting of solar generation facilities need review. The GEPCO point, i.e. the splitting of generation facility was structured to facilitate misstatement of GSPPL at paragraph 2.2.6 of their Petition for License (i.e. expected sale of electricity shall be less than the total demand of the Buyer and be only a partial augmentation), is reiterated.
7. Noting further that the difference of location (roof-top or on-ground) or manufacturer etc. does not change the intent and purpose of the generation plant. More particularly when the overall premises and ultimate user are same. We very respectfully refer to the licenses issued by the honorable Authority to Jamshoro Power Company Limited, Central Power Generation Company Limited and Northern Power Generation Company Limited; whereby power plants of different makes, capacities, technologies and far-off different locations have been included in one License.
8. The understanding forming the basis for grant of license, as mentioned in sub-para (xi) of para (D) of the impugned determination, that the project will be connected to the LT side of the CBL from GEPCO and will only be supplying to the said consumer without feeding to the utility is in contradiction with details (relating to 4.793 MWp generation facility) mentioned at Schedule I of the License provided in the impugned determination; whereby the connection shall be at HT (11kV) side.
9. The Authority; while directing GSPPL to apply for a Supplier License under section 23E of the NEPRA Act, has very kindly admitted the position that, without prejudice to the proviso of the Section 21 and Section 22 of the Act, the GSPPL is not entitled to sell electric power to BPC in terms of evolving CTBCM framework of the Pakistan Power Sector.
10. The impugned determination, while directing GSPPL to apply for Supplier Licence has not provided reasons as to why a B2B arrangement that also is "**not connected**" to the transmission and/or distribution network should at all be required to apply for any (competitive) supplier license under section 23E? Noting that the intent and purpose of Section 23E of the Act, read in conjunction with approved CTBCM, Market Operator's License and the Market Operator Commercial Code (MOCC), is to provide for competitive supplier in addition to the Supplier of Last Resort (SOLR). Noting further that concept of supplier (competitive as well as SOLR), as provided in the CTBCM and



MOCC, cannot prevail unless connected to the transmission and/or distribution network (the Service Providers) with metering facility accessible to Metering Service Provider.

11. No time frame for applying for Electric Power Suppliers Licence has been provided.
12. A number of sections of NEPRA Act (Sections 2, 21, 22, 23E) have been referred in impugned determination(s), however we understand that with the evolving reforms, approval of CTBCM, issuance of license for the Market Operator, approval of Market operating code and other enabling regulations under CTBCM, the provisions of the Act have to be read in conjunction with approved CTBCM framework, market operator license and market operator code. Accordingly, it need not to be emphasized that:
- i. Only Electric Power Supplier can supply power to a BPC as competitive supplier (as per MOCC Code).
 - ii. A BPC has to fully arrange for its demand (Capacity obligation) from Competitive Electric Power Supplier (s) in case decides to leave SOLR and that a BPC cannot simultaneously purchase electric power from SOLR and the competitive supplier(s).
 - iii. The arrangement approved under impugned license is against the basic principles of CTBCM Regime and therefore would cause a total failure to CTBCM Regime in very inception.
13. Without prejudice to the foregoing submissions and in addition and continuation thereof, it is very respectfully submitted that the determination of the Authority to allow the arrangements alike impugned determinations is a serious and eminent threat to very success of CTBCM framework in its nascency as it provides incentive to BPCs for not adopting the MOCC requirements; as explained in the following comparison:

Sr. No	Description	Market Participants Obligations in CTBCM Framework	Seller and Buyers Obligations under Impugned Arrangement (Partial Solarization)
1	Agreement	<ul style="list-style-type: none"> • Market Participation agreement with Market Operator, • Service Provider Agreement, • Use of system agreement, • EPA and PPA, • Connection agreement with DNO etc. 	<ul style="list-style-type: none"> • No agreement required except with the generator / Supplier under B2B arrangement, without any disclosure requirements.
2	Hybrid	<ul style="list-style-type: none"> • Cannot take supply from SOLR and Competitive Supplier simultaneously. 	<ul style="list-style-type: none"> • Dual Supply is allowed.
3	Imbalances	<ul style="list-style-type: none"> • Hourly Energy Imbalances • Annual Capacity Imbalances. 	<ul style="list-style-type: none"> • No Imbalances will occur as no MSP metering is being installed.

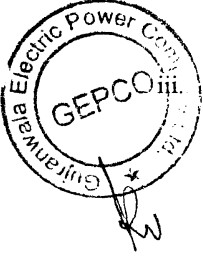



4	Tariff	<ul style="list-style-type: none">Sales cannot be at a rate higher than regulated tariff.	<ul style="list-style-type: none">No rate disclosure required.
5	Capacity Obligation	<ul style="list-style-type: none">Need to arrange firm capacity certificates.	<ul style="list-style-type: none">No requirement.

D. Prayer:

In the light of above, it is prayed:

- i. That of the impugned determination(s) be kindly suspended till final decision in the matter.
- ii. That the framing and promulgation of relevant Regulations, as mentioned in sub-para (v) of para (C) of the impugned determination be kindly expedited under due consultation with the stakeholders; and all cases previously decided / determined in the absence of such relevant Regulations, be very kindly reviewed / revisited in the light of relevant Regulations so framed / promulgated.
That no further case of the nature as in the impugned determination be accepted for consideration of the honorable Authority till framing and promulgation of the relevant Regulations.




Chief Executive Officer
GEPCO, Gujranwala.

EXTRACT OF MINUTES OF 145th MEETING OF THE BOARD OF DIRECTORS
GEPCO HELD ON AUGUST 12, 2022

Agenda
Item 06 Any other point with the permission of the Chair

6.1. Approval for authorization to the CEO GEPCO for submission of application to NEPRA relating to review motion and Regulatory Affairs thereto

Resolution:

- 145th BOD-R- 8. The **BOD RESOLVED THAT** the Chief Executive Officer, Gujranwala Electric Power Company Limited (GEPCO), be and is hereby authorized to take all measures, including but not limited to the submission of petitions, applications, appeals and/or requests for leave of motion for review before National Electric Power Regulatory Authority (NEPRA) and /or the Appellate Tribunal; in pursuance of the provisions of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the Act) and/or Regulations promulgated under the Act.

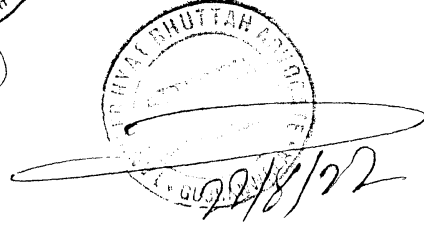
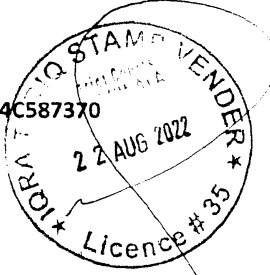

COMPANY SECRETARY
GEPCO LTD: GUJRANWALA

E-STAMP

LSO



ID : PB-GRW-D06670A94C587370
Type : Low Denomination
Amount : Rs 100/-
Description : AFFIDAVIT - 4
Applicant : MUHAMMAD AYYUB [31301-3584060-1]
S/O : MUHAMMAD NAWAZ
Address : GRW
Issue Date : 22-Aug-2022 10:59:28 AM
Delisted On/Validity : 29-Aug-2022
Amount in Words : One Hundred Rupees Only
Reason : FOR NEPRA
Vendor Information : Iqra Tariq | PB-GRW-35 | District Cours



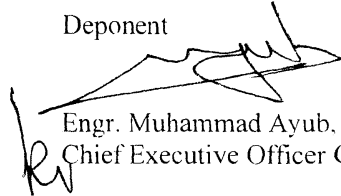
نوٹ: یہ ٹرانزیکشن تاریخ اجرا سے سات دنوں تک کے لیے قابل استعمال ہے۔

AFFIDAVIT

I Muhammad Ayub S/O Muhammad Nawaz, Chief Executive Officer Gujranwala Electric Power Company having CNIC No. 31301-3584060-1, duly authorized by the Board of Directors of Gujranwala Electric Power Company Limited in its 145th BOD Meeting held on August 12, 2022 vide Item No 06 (Agenda Item) do hereby, solemnly affirm and testify that the contents of the application for filling Review Motion, are in accordance with the NEPRA (Review Procedure) Regulations, 2009 and that Annexed documents are true and correct to the best of my knowledge, belief on the basis of provided confirmations by the concerned formations put before me; and further declare that:

1. I am the Chief Executive Officer of the Gujranwala Electric Power Company (GEPCO) and fully aware of the affairs of the Company particularly to endorse application for Review Motion.
2. Whatsoever stated in the application and accompanied documents is true and nothing has been concealed.

Deponent


Engr. Muhammad Ayub,
Chief Executive Officer GEPCO