

BEFORE

THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (NEPRA)

IN THE MATTER OF

TARIFF DETERMINATION IN CASE No. NEPRA/TRF-359/NPPMCL-2016 DATED 20 MAY 2020
FOR 1223.106 MW (GROSS) POWER PROJECT AT BALLOKI, DIST. KASUR OF NATIONAL
POWER PARKS MANAGEMENT COMPANY (PRIVATE) LIMITED

PETITION FOR MODIFICATION OF TARIFF DETERMINATION DATED 20 MAY 2020 UNDER SECTION
7 AND 31 OF THE NEPRA ACT AND RULE 3 OF THE NEPRA (TARIFF STANDARDS &
PROCEDURE) RULES, 1998 AND ALL OTHER ENABLING PROVISIONS OF LAW

ON BEHALF OF

NATIONAL POWER PARKS MANAGEMENT COMPANY (PRIVATE) LIMITED
(NPPMCL)

DATED: OCTOBER 11, 2022



TABLE OF CONTENTS

A. Summary and Background	4
B. Adjustment of Remaining Payables	5
C. Use of Canal Water for Cooling Purpose:.....	6
D. PPIB Fee	6
E. Land Conversion Fee and building plan approval fee	7
F. Operation/Startups on HSD	7
G. ROE/IDC Reduction due to retrospective re-computation of ROEDC.....	8
H. Increase in Housing Complex Cost.....	9
I. Simple Cycle Tariff.....	13
J. O&M Indexation	13
K. Prayer / Request.....	14



Table of Annexures	
Annexure A	The detail of adjustment of remaining payable of Project Cost
Annexure B	Impact of Operation/Startups on HSD
Annexure C	Annual Impact due to retrospectively re-computing ROEDC
Annexure D	Financial Impact of Reference US CPI base value for O&M component

Table of Appendices	
Appendix A	Approval of Board of Directors
Appendix B	Documentary Evidence for Verification of Payments
Appendix C	Notification for Canal Water
Appendix D	Letters of PPIB
Appendix E	Invoice of Land Conversion Fee
Appendix F	GE guidelines for Liquid Fuel Maintenance and Trouble-shooting Guidelines
Appendix G	Letter to NEPRA regarding ROEDC reduction
Appendix H	First Competitive Bidding Cost
Appendix I	Calculations of Fuel Cost Component of Simple Cycle Tariff
Appendix J	O&M Contractor Invoices



PETITION FOR MODIFICATION OF COD TARIFF DETERMINATION UNDER SECTION 7 & 31 OF THE NEPRA ACT AND RULE 3 OF THE NEPRA (TARIFF STANDARDS & PROCEDURE) RULES, 1998, AND ALL OTHER ENABLING PROVISIONS OF LAW

A. Summary and Background

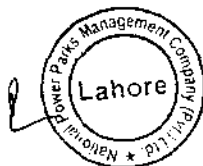
- I. National Power Parks Management Company Private Limited ("**NPPMCL**" or "**the Company**") is a private limited company, owned by the Federal Government, incorporated in the year 2015 under the Companies Ordinance, 1984. For the purposes of this review (the "**Review**"), NPPMCL has set up a 1223.106 MW (gross) RLNG power plant located at Balloki, Kasur (the "**Project**").
- II. As a brief background, it is submitted that NPPMCL had filed an application for the grant of Generation License for the Project on April 21st, 2016 which was granted by the Authority on September 29th, 2016 vide license No. IGSP/69/2016. Thereafter, NPPMCL filed its cost-plus Reference Generation Tariff petition on 22-04-2016 (the "**Tariff Petition**"), for approval of reference generation tariff for Single Cycle and Combined Cycle Operation for the Project. NEPRA gave its determination on the same and granted the reference tariff on 09-08-2016 (the "**Determination**" or "**Reference Tariff Order**").
- III. That thereafter, on 24-05-2019, NPPMCL filed a petition for modification of the Determination vide application no. **NPPMCL-BLK/CEO/2019/13166** (the "**Modification Petition**"). Through the Modification Petition, NPPMCL requested for modification of various decisions of NEPRA pertaining to NPPMCL's tariff. NEPRA gave its decision on the Modification Petition on 19-11-2019 (the "**Modification Order**" or "**Modified Reference Tariff**").
- IV. The Company filed a motion for review of the Modification Order on 29th November 2019 vide application no. **NPPMCL-BLK/CEO/2019/15690**. NEPRA gave its decision on the same on February 12th, 2020 (the "**Review Order**").
- V. In terms of the Reference Tariff Order, NPPMCL filed a petition for the one-time adjustment of the Reference Tariff on December 10th, 2019 ("**COD Tariff Petition**"). The decision on the COD Tariff Petition was announced by the Authority on February 19th, 2020 ("**COD Order**" or "**COD Determination**"). NPPMCL filed a Review motion petition before NEPRA on February 29, 2020 vide application no. **NPPMCL-BALLOKI/CEO/2020/16845**. NEPRA gave its decision on the same on May 20th 2020 (the "**COD Tariff Review Order**").
- VI. In compliance of the direction of the Federal Government, NPPMCL filed a petition to NEPRA for reduction of ROE. NEPRA's gave its decision vide letter No. NEPRA/R/ADG/(TRF)/TRF-470/NPPMCL-2019/8768-8770 dated February 18, 2021 (the "**ROE Reduction Order**").



- VII. NPPMCL had submitted letter No. NPPMCL/CEO/21288 dated May 20, 2021 to NEPRA for extension of time allowed regarding submission of verifiable documentary evidence of the costs allowed as payable in COD Tariff Review Order. NEPRA vide letter No. NEPRA/ADG(Trf)/TRF-359/NPPMCL-2016/30954 dated July 02, 2021 directed NPPMCL to file petition for Modification in the Decision of the Authority because the instant request cannot be done through simple application.
- VIII. Accordingly, the Petitioner is filing this Petition for Modification of COD Tariff Review Order (hereinafter "**Instant Petition**") under Section 7 and 31 of the NEPRA Act and Rule 3 of the NEPRA Tariff (Standards and Procedures) Rules 1998 (hereinafter "**Rules**") and all other enabling provisions of the law.
- IX. It is pertinent to note that the tariff of NPPMCL is on Cost-Plus basis hence the Licensee is entitled to all prudent costs under the Cost-Plus regime.
- X. The Petitioner, with the approval of its Board of Directors (attached as per "**Appendix A**") through its authorized representative, is filing the Instant Petition for Modification on the basis of the grounds mentioned below. It is requested that Tariff Petition and Determination may kindly be read as an integral part of this Instant Petition.
- XI. The Instant Petition is being filed on the basis of *inter alia* discovery of new and important matters as detailed below:

B. Adjustment of Remaining Payables

1. In Part (II) of the Order part "Adjustments on Account of Project Cost Payables" of the COD Tariff Review Order, the Authority had allowed National Power Parks Management Company (Private) Limited ("the Company") to submit the verifiable documentary evidence of the costs allowed as payable within one year of the decision of the Authority.
2. It is pertinent to note that this payable amount represents the amounts withheld as a security for completion of Punch List items, which the EPC Contractor was doing at a slow pace. Moreover, when only 2.5 % of the Punch List items were left, the EPC Contractor substantially demobilized its team from plant site in March 2020 on account of Covid-19 pandemic and consequent lockdowns and travel advisories. As such, barring few partial payments, the payable amounts allowed by the Authority could not be paid out completely within the time frame given in the above-mentioned decision of the Authority. The remaining payment, out of the said payable amounts, was ultimately paid to the EPC Contractor on December 21, 2021 upon completion of Punch List items except an amount of Rs. 16.5 million and USD 0.735 million, which will be incurred after completion of works by the contractor to whom the works will be awarded as the EPC contractor has refused to carry out a few punch list



items. The breakdown of remaining payable cost along with heads and reasons for delay is attached as **Annexure A**. It is accordingly, requested that the paid amount may kindly be verified and made part of the tariff. The documentary evidence for verification of payments is attached as **Appendix B**.

C. Use of Canal Water for Cooling Purpose:

3. As per the design of the Complex, approximately 760 Cusec of canal water is required for cooling purposes of plant by using Once Through Cooling Water System. In this system, water is taken from the canal and almost the same quantity is returned to the canal after cooling of the plant except small quantity of water (less than 01 Cusec) which is consumed during the cooling process.
4. Cost of supply of canal water for cooling purpose was not allowed in the Tariff determination dated 09-08-2016 due to the reason that this cooling water is not consumed in the system and almost whole quantity returns to the canal. Now Government of the Punjab has notified the rate for water supplied to any cooling system of an industrial unit including a power plant and returned to that canal at the rate of Rs. 10/- per 1000 Cubic Feet effective from 01-07-2021. The charges shall be increased annually at the rate of 10%. Copy of said Notification is attached as **Appendix C**.

The annual charges for the 760 Cusec pass-through water would be Rs. 219,974,400/- for eleven (11) months per year and will increase annually at the rate of 10%. As canal water cannot be used throughout the year due to annual closure of canals for maintenance and low water levels as per irrigation requirements, so this cost will reduce depending upon the actual use of canal water for cooling purpose. The cost of actual use of canal water for cooling purpose is required to be included in the Tariff as pass-through item for which documentary evidence of quantity & cost will be submitted to claim it.

D. PPIB Fee

5. Private Power & Infrastructure Board (PPIB) vide its letters No. B (B99)/PPIB/2019/O-53430 dated August 21, 2019, No. B (B99)/PPIB/2020/O-54665 dated July 14, 2020, No. B (B99)/PPIB/2021/O-55770 dated May 20, 2021, No. B (B99)/PPIB/2021/O-56827 dated January 07, 2022, No. B (B99)/PPIB/2022/O-57735 dated August 31, 2022 (**Appendix D**) had asked NPPMCL to pay Annual Fee @ US\$ 300 per MW under PPIB Fee and Charges Rules, 2018 as notified in the official Gazette of Pakistan. Accordingly, the Petitioner vide letter No. NPPMCL/CFO/2020/18181 dated July 21, 2020, No. NPPMCL/CFO/2021/21481 dated June 04, 2021, No. NPPMCL/CFO/2022/23521 dated January 12, 2022 and



No. NPPMCL/CFO/2022/26704 dated September 02, 2022 has already submitted the same for consideration and approval of the Authority.

6. Since, the said Annual Fee is not a part of Capacity Tariff of 1223.106MW Balloki power project, therefore, Authority is kindly requested to approve the said Annual Fee considering as Pass-Through Item so that the outstanding Annual Fee from COD onwards can be paid to PPIB.

E. Land Conversion Fee and building plan approval fee

7. NEPRA had allowed Cost of Land USD 0.627 as payable as land conversion and building plan approval fee to Petitioner in the COD Tariff Review Order dated 20 May 2020. Whereas the actual cost incurred on land conversion fee and paid to the Lahore Development Authority (LDA) in terms of the LDA Land Conversion Rules, 2020 amounts to Rs. 153.782 million, which is higher than the cost allowed. The evidence of the same is attached as **Appendix E**. Therefore, it is requested that the same may be allowed to the Petitioner.

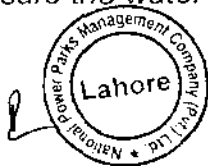
F. Operation/Startups on HSD

8. NPPMCL vide its Letter dated February 11, 2021 took up the matter of HSD operation with CPPA-G and informed that as per GTs OEM i.e. General Electric (GE), it is mandatory to operate both GTs of Balloki Power Plant on HSD fuel twice in a year for a reliable start-up and operation of GTs on liquid fuel whenever required.
9. GE also Provided the supporting documentary evidence namely "Pressure Atomized Liquid Fuel Maintenance and Trouble-shooting Guidelines (GEK121350 Rev D)" (**Appendix F**). The para IV (C) of the said guidelines is reproduced hereunder:

The unit shall be operated on liquid fuel every six months to ensure all components are exercised and operating correctly. In order to complete this requirement, the gas turbine shall be:

- a. *Either started on liquid fuel (in case the turbine was shutdown) or transferred from gas to liquid fuel at low load.*
- b. *Loaded up to LFE mode.*
- c. *Held in LFE mode for 30 minutes.*
- d. *Either shutdown or transferred back to gas.*

Ensure the water flush was successful after liquid fuel was turned off.



10. However, the Power Purchaser did not agree with Petitioner's justified request and suggested that the matter may be taken up with the regulator NEPRA.
11. In light of discussion with CPPA-G and mandatory requirement from the OEM to operate Gas Turbines on Liquid Fuel twice a year for thirty (30) minutes at LFE mode operation, NPPMCL has worked out the cost based on following cases:
 - a. Startup on HSD
 - b. Changeover from RLNG
12. NPPMCL has calculated the cost to be incurred for above cases and working is attached as **Annexure B** and the cost to operate Gas Turbines on Liquid Fuel twice a year, to fulfill OEM requirement, to be included in the Tariff. The Petitioner has now come to know that NEPRA has recently allowed similar request of another identical power plant i.e. M/s Quaid-e-Azam Thermal (Pvt.) Ltd (Bhikki power plant), therefore, it is requested that the Petitioner may also be allowed to operate its power plant on Liquid Fuel (HSD) twice a year for thirty (30) minutes each in line with the approval granted to Bhikki power plant.

G. ROE/IDC Reduction due to retrospective re-computation of ROEDC

13. Ministry of Energy (Power Division) vide its letter No. IPPs-10(18)/2020 dated October 06, 2020 conveyed the decision of the Cabinet Committee on Energy (CCoE) to NPPMCL, which was ratified by the Cabinet in case No. 648/35/2020 dated September 08, 2020 (the "**GOP Decision**"), regarding reduction in Return on Equity (ROE) of the Government owned power projects (RLNG IPPs) from 16% IRR with Dollar indexation to 12% IRR with Dollar indexation along with direction to approach NEPRA for revision of ROE component by submission of tariff revision petition to NEPRA.
14. Accordingly, NPPMCL filed petition for its Balloki power plant as per directions of the Federal Government for reduction in ROE component with NEPRA.
15. NEPRA vide the ROE Reduction Order dated February 18, 2021 reduced the ROE component from 16% IRR to 12% IRR. However, while reducing the tariff component prospectively, NEPRA recomputed and reduced the Return on Equity During Construction (ROEDC) component from USD 24.024 million to USD 17.929 million in case of Balloki which was already locked by the NEPRA through its COD Order dated May 20, 2020.



16. As a result of re-computation of ROEDC components, NPPMCL's tariff for both power plants has been further reduced from the requested tariff which is attached as **Annexure C**:
17. The annual impact of retrospective re-computation of ROEDC components tabulated above translates into further reduction of ROE by Rs.92 million for Balloki Power Plant.
18. It may be noted that when NEPRA conveyed its decision for reduction in ROE component of Company's plants in February 2021, petition for reduction of ROE of various private sector IPPs (IPPs), filed by CPPA-G pursuant to similar decision of the Government of Pakistan, was also pending before NEPRA.
19. Subsequently, the Petitioner before filing review motion petition, wrote a letter to NEPRA (**Appendix G**) that in order to reach a meaningful conclusion it was critical for NPPMCL to review NEPRA's decisions in case of IPPs which were pending before NEPRA and requested that NPPMCL may be allowed to file the review motion petition, if required, once tariff determination of private sector IPPs are issued by NEPRA.
20. NEPRA issued tariff determinations of IPPs on April 2, 2021. In the said tariff determinations, NEPRA took altogether a different stance and reduced the ROE component of IPPs prospectively i.e. **without retrospectively recomputing the ROEDC components** that were locked in COD tariffs of respective IPPs.
21. NEPRA has taken two different approaches in its determinations for reducing ROE of IPPs and public sector IPPs by ignoring that the GOP Decision regarding reduction of ROE component is similar for both cases and does not say that for the purpose of reducing the ROE component, the ROEDC should also be recomputed at the reduced rate.
22. In view of the forgoing, the Authority is requested to correct the decision regarding reduction in ROEDC of NPPMCL by making the same in line with the IPPs i.e. **without retrospectively recomputing the ROEDC components** that were locked in COD Order and COD Tariff Review Order dated February 19, 2020 and May 20, 2020 respectively.

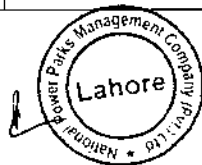
H. Increase in Housing Complex Cost

23. NEPRA had allowed an amount of US\$ 6.048 Million for construction of site housing complex, subject to adjustment at the time of COD on actual basis in the Reference Tariff Order dated 9 August 2016. Later on, the time of construction was extended by 24 months from the date of COD through the determinations dated 19 November

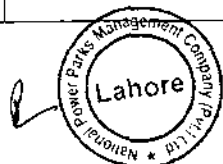


2019, 12 February 2020, 19 February 2020 and 20 May 2020 respectively while the status of imposed penalty in these determinations is given in below table:

S.No.	DETERMINATION DATE	PENALTY	REMARKS
1.	09 August 2016 (Reference Tariff)	No Penalty	N/A
2.	19 November 2019 (Modified Reference Tariff)	In case the construction of the housing complex is delayed beyond two years from date of commercial operations, a penalty shall be imposed @ KIBOR + 3% per annum of the cost allowed on account of Site Housing Complex.	The Authority decided to allow deferment of adjustment of cost for Site Housing Complex for two years from the date of commercial operations. Since, the allowed period of deferment commenced retrospectively i.e. from July 29, 2018, therefore, a period of sixteen (16) months had already elapsed and a period of only eight (8) months was remaining.
3.	12 February 2020 (Review Order)	In case the Petitioner fails to complete site housing complex within two years from COD of the Complex, a penalty shall be applicable @ KIBOR + actual premium adjusted for power producers share per annum of the approved cost of Housing Complex.	The Authority maintained its earlier decision (19-11-2019) regarding deferment of adjustment of cost for Site Housing Complex for two years from the date of commercial operations but modified the penalty to KIBOR + actual premium adjusted for power producers share per annum. Since, the allowed period of deferment commenced retrospectively i.e. from July 29, 2018, therefore, a period of nineteen (19) months had already elapsed and a

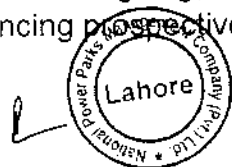


S.No.	DETERMINATION DATE	PENALTY	REMARKS
			period of only five (5) months was remaining.
4.	19 February 2020 (COD Determination)	The Authority decided to provisionally allow the payable cost on account of Site Housing. In case the Petitioner fails to complete Site Housing Complex within 2 years from COD of the Complex, a penalty shall be applicable on the basis of KIBOR + 3% per annum of the cost allowed on account of Site Housing Colony.	<p>The Authority maintained its earlier decision (19-11-2019) regarding deferment of adjustment of cost for Site Housing Complex for two years from the date of commercial operations but again modified the penalty to KIBOR + 3% p.a.</p> <p>Since, the allowed period of deferment commenced retrospectively i.e. from July 29, 2018, therefore, a period of nineteen (19) months had already elapsed and a period of only five (5) months was remaining.</p>
5.	20 May 2020 (COD Tariff Review Order)	Penalty revised as KIBOR + actual premium adjusted for power producer's share	<p>The Authority maintained its earlier decision (19-11-2019) regarding deferment of adjustment of cost for Site Housing Complex for two years from the date of commercial operations but modified the penalty to KIBOR + actual premium adjusted for power producers share per annum.</p> <p>Since, the allowed period of deferment commenced retrospectively i.e. from July 29, 2018, therefore, a period of twenty-two (22) months</p>



S.No.	DETERMINATION DATE	PENALTY	REMARKS
			had already elapsed and a period of only two (2) months was remaining.

24. It is submitted that in terms of EPC Agreement, provision of land for the purposes of storing the equipment, construction material and batching plants was the responsibility of the Licensee for which land was temporary acquired under section 35 of the Land Acquisition Act, 1896. As per the conditions of this temporary acquisition, land was to be returned to the owners after restoring the same in proper cultivable condition. Since the said land became uncultivable due to extensive construction activity and the restoration cost was considerable and not covered in the Reference Tariff, therefore, it was decided to permanently acquire the said land for the purpose of construction of housing facility. However, this resulted in delay in construction and completion of the housing facility but considerable cost, required on restoration of said land to proper cultivable position was saved. Later on, the construction of housing facility could not be started due to selection of Balloki project by the Federal Government for urgent privatization for which the process was initiated by the Privatisation Commission of Pakistan in October, 2018, which was coupled with further delay on account of Covid-19 pandemic situation and consequent lockdowns and travel advisories. Since the Covid-19 situation in the country improved and Government allowed construction activities in the country, therefore, the Board of Directors in their 55th meeting held on 4th February 2021 resolved to initiate the process of hiring of construction contractor for which tenders were invited through publication in the national newspapers. Resultantly pursuant to the competitive bidding process, the Petitioner received only one bid amounting to Rs. 2,542 million. A copy of said financial bid is attached as an **Appendix H**. The Board of Directors of the Company decided that since the natural competition in the bidding process could not be achieved therefore it scrapped the bid and directed that bidding process be conducted afresh.
25. Accordingly, the bidding documents were modified for re-bidding process and construction of housing facility. The tendering process is expected to be completed by March 2023. It is expected that the housing facility will be completed by February 2025. Increase in the cost and time extension up to June 2025 is required for completion of the housing facility at Balloki plant.
26. In view of foregoing, it is requested that a period of twenty-four (24) months commencing prospectively from the date of issuance of Notice to Proceed pursuant



to culmination of fresh bidding process may kindly be allowed, the penalty imposed may kindly be waived/dispensed with and the cost of construction may kindly be revised to Rs. 2,542 Million instead of already determined cost of USD 6.048 Million.

I. Simple Cycle Tariff

27. In the COD Order, NEPRA did not provide any rationale or basis for reaching the simple cycle tariff approved by it, which was considerably lesser than the amount requested by the Company.
28. The Simple Cycle Efficiency / Heat Rate of 41.06% (after sharing of savings achieved), as referred to at para 16.6 of the Order, has been agreed with the Power Purchaser as tested at the time of Simple Cycle Commissioning and witnessed by Power Purchaser and Independent Engineer. By considering the said Efficiency/Heat Rate and RLNG price of Rs. 1248.2571/MMTBU referred to para 4.1.15 of tariff adjustment at COD Order dated February 19, 2020, the Fuel Cost Component for Simple Cycle Tariff works out to be Rs. 13.3308/kWh (para 16.7 of the Order) and the same was requested to be allowed as Fuel Cost Component of simple cycle tariff. Detailed calculations already shared with NEPRA are being submitted again as **Appendix I**. However, NEPRA has determined Fuel Cost Component of Rs. 11.6345/kWh which appears to be a result of calculation error as it is not aligned with the tested Efficiency / Heat Rate of the simple cycle. Since, due to this calculation error, simple cycle operations of plant would generate fuel loss of Rs. 1.6963/kWh, therefore, the Authority is requested to correct the calculation error and allow Rs. 13.3308/kWh as Fuel Cost Component of Simple Cycle Tariff.
29. Furthermore, the simple cycle tariff was requested for any outage period, including forced outage. However, without providing any reasons or rationale, NEPRA has only allowed the simple cycle tariff during maintenance outage, scheduled outage or major overhaul outage. The exclusion of forced outage defeats the purpose of seeking the simple cycle tariff. This has not been appreciated by NEPRA in its Order.
30. Additionally, the Order also states that simple cycle operations will not be applicable under existing gas supply arrangements of the Company. In this regard, it is submitted that there is no nexus between the gas supply arrangements and simple cycle operations.

J. O&M Indexation

31. NEPRA in its Reference Tariff Determination dated 9 August 2016 determined the base value for US CPI as 237.111, which was accordingly also agreed in the O&M Agreement executed on May 05, 2017 with the O&M Contractor. NEPRA further determined that at COD, the O&M components shall be adjusted as per the signed O&M Agreement, LTSA Agreement and actual recurring administrative expenses.



32. However, in the COD Determination dated 19 February, 2020, instead of allowing the base value of US CPI as 237.111, already determined in Reference Tariff Determination and accordingly agreed in the O&M Agreement, NEPRA used US CPI of 251.99. Subsequently, NEPRA again revised this figure to 251.588 vide COD Tariff Review Order dated 20 May 2020.
33. The impact of the differential in US CPI of 237.111 and US CPI of 251.588 from the COD till date comes to Rs. 362 million, which the Petitioner is unable to pay to the O&M Contractor despite its claim. The detail working of said impact is attached as **Annexure D**. while the copy of O&M Contractor's claim for the same is attached as **Appendix J**. It is, therefore, requested that the base value of US CPI may kindly be corrected to 237.111 as was determined in the Reference Tariff Order dated 09 August, 2016.

K. Prayer / Request

In view of the above submissions, it is respectfully prayed that while accepting this Petition for Modification of Tariff Determination, the learned Authority may kindly allow the costs claimed under various heads mentioned above. Any other relief may also kindly be granted.

NPPMCL shall be pleased to provide any additional documents and information, clarification or explanation that may be required by the Authority in order to reach a just and equitable decision.



Petitioner
National Power Parks Management Company (Private) Limited
Through its Chief Executive Officer
Mr. Dhanpat Kotak