



Registrar

National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/DG(M&E)/LAD-02/ 10627

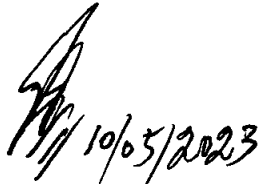
May 10, 2023

Chief Executive Officer
Islamabad Electric Supply Company
(IESCO), Street No. 40, G-7/4
Islamabad

Subject: **ORDER IN THE MATTER OF THE EXPLANATION ISSUED TO IESCO UNDER 27B OF THE NEPRA ACT READ WITH OTHER RELEVANT RULES & REGULATIONS OF THE NEPRA ACT – DELAY IN GRID INTERCONNECTION WITH ACCESS SOLAR (PRIVATE) LIMITED & ACCESS ELECTRIC (PRIVATE) LIMITED AND SUBSEQUENT LOSS TO NATIONAL EXCHEQUER.**

Enclosed please find herewith the decision of the Authority (09 pages) in the subject matter for your information and necessary action, please.

Enclosure: As Above


(Engr. Mazhar Iqbal Ranjha)



National Electric Power Regulatory Authority

ORDER

IN THE MATTER OF THE EXPLANATION ISSUED TO IESCO UNDER 27B OF THE NEPRA ACT READ WITH OTHER RELEVANT RULES & REGULATIONS OF THE NEPRA ACT – DELAY IN GRID INTERCONNECTION WITH ACCESS SOLAR (PRIVATE) LIMITED & ACCESS ELECTRIC (PRIVATE) LIMITED AND SUBSEQUENT LOSS TO NATIONAL EXCHEQUER.

1. Islamabad Electric Supply Company Limited (IESCO) (the “Licensee”) was granted a Distribution License (No. 01/DL/2001) by the National Electric Power Regulatory Authority (the “Authority”) on 02.11.2001, for providing Distribution Services in its Service Territory as stipulated in its said Distribution License, pursuant to section 20 read with 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (“NEPRA Act”).

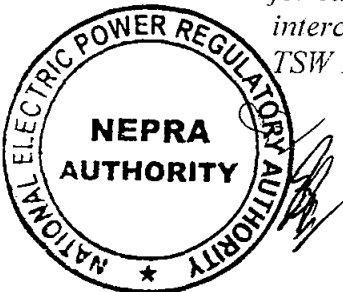
Background:

2. During the proceedings in the matter of applications of Access Solar (Private) Limited and Access Electric (Private) Limited to opt cost plus Tariff, the Authority observed that their previous Tariff lapsed as the companies could not be able to achieve their financial closes due to delay caused by the Licensee in approval of their Interconnection Studies.

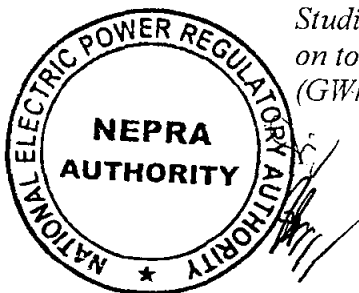
Explanation:

3. In view thereof, an Explanation was issued to the Licensee under Regulation 4(1) and 4(2) of NEPRA (Fine) Regulation, 2021 on 30.11.2022, on account of delay in Interconnection Studies submitted by Access Solar (Private) Limited and Access Electric (Private) Limited, which translated loss to the national exchequer in terms of expensive electricity. The salient points of the said Explanation are reproduced below:

3. *“...WHEREAS, NEPRA granted Generation Licence No. SPGL/03/2013 dated 22.08.2013 to Access Solar (Private) Limited (“ASPL”) for its proposed 11.5 MW Solar PV Power Plant and Generation Licence No. No. SPGL/05/2014 dated 26.06.2014 to Access Electric (Private) Limited (“AEPL”) for its proposed 10 MW Solar PV Power Plant. Both the generation facilities located Near Village Hattar, Tehsil Pind Dadan Khan, District Jhelum in the Province of Punjab. As per the generation licenses of both projects, interconnection was proposed at IESCO’s 132 kV Dandot Grid Station through two separate 11 kV feeders (osprey conductors) for each of the projects. The said companies (ASPL and AEPL) submitted separate interconnection studies (proposed at 11 kV) to IESCO and the same were vetted by TSW IESCO in 2012 and 2015 respectively with some conditions.*



4. **WHEREAS**, afterward, in 2019, ASPL and AEPL again approached IESCO for approval of revised Interconnection Studies for both projects. However, the same were disapproved by IESCO. IESCO proposed interconnection at 132kV level due to savings in terms of lower technical losses and less outages (SAIDI) at 132kV compared to outages at 11kV. Further, IESCO was of the view that since the coordinates of both the plants referred in interconnection studies are same therefore these plants may be considered as one plant with a cumulative capacity of 21.5MW.
5. **WHEREAS**, the matter was taken up by the Authority, whereby it was observed that in the Generation Licenses and Tariff Determinations of ASPL and AEPL, the interconnection at 11 kV was approved by the Authority and both the plants have separate LOI and LOS by AEDB. In addition, Islamabad High Court (IHC) and Cabinet Committee on Energy (CCoE) also approved these plants as two separate entities/projects for implementation. Further, NEPRA (Interconnection for Renewable Energy Projects) Regulations 2015 also provided that for Renewable Energy Projects up to 15MW each, interconnection at 11 kV may be provided with the condition that the losses remained under the limit of 3.5%. Therefore, NEPRA vide letter dated 22.04.2020 directed IESCO to proceed further into the matter and allow interconnection at 11 kV level at IESCO's Dandot Grid Station for the implementation of 11.5 MW ASPL and 10 MW AEPL Solar PV Power Plants. However, IESCO did not allow ASPL and AEPL to interconnect at the 11 kV level for their proposed Solar PV Power Plants, despite NEPRA's directions. Therefore, IESCO failed to comply with the directions of the Authority.
6. **WHEREAS**, both ASPL and AEPL filed a cost-plus tariff petition on 24.03.2020 which was decided by the Authority vide decision dated 30.12.2020. The said Tariff was modified on 19.07.2021 to allow Prior Period Development Cost ("PPDC") to the company before the Financial Close. Under the said tariff, the company was required to achieve Financial Close by 30.12.2021. However, due to the delay caused by IESCO by withholding approvals of Grid Interconnection Studies in clear disregard to CCoE's decision dated 04.04.2019 and NEPRA directions dated 22.04.2020, it could not achieve the said milestone, as result thereof the said tariff lapsed.
7. **WHEREAS**, ASPL and AEPL again approached NEPRA on 11.01.2022 for the determination of a new tariff. The companies submitted that the delay in the projects, due to the fault of IESCO, has not only derailed the process of achieving various milestones but has adversely affected several cost parameters related to the projects, especially the cost of modules and transportation. Further, their EPC contractor has expressed its inability to meet the EPC price as stipulated in the previous determination. The Authority issued tariff determinations on 07.09.2022, wherein the overall project cost for ASPL has been increased from 7.478M USD to 8.771M USD and the project cost for AEPL has been increased from 6.412M USD to 7.543M USD.
8. **WHEREAS**, due to the delay caused by IESCO in approving Interconnection Studies, firstly the overall project costs have been increased which will be passed on to the consumers in terms of a higher tariff. Secondly, if total energy generation (GWh) for the FY 2021-22 is kept constant, it is estimated that the overall

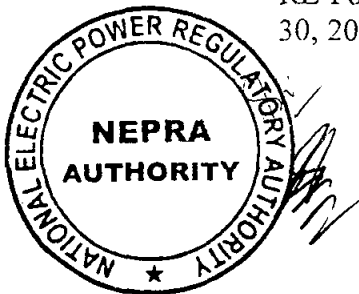


reduction/savings would be around Rs. 703 Million, if these two projects would have been added to the grid on time to replace expensive fuel.

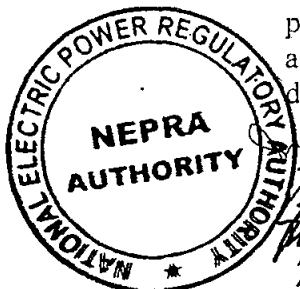
9. **WHEREAS**, IESCO has prima facie, violated Regulation 4 of NEPRA (Interconnection for Renewable Generation Facilities) Regulations, 2015, Clauses 6.7 and 7 of Connection Code of NEPRA Distribution Code, 2005, and is in non-compliance with the directions of the Authority."

Submissions of the Licensee:

4. In response, the Licensee vide letters dated 14.12.2022 and 20.12.2022, submitted the response against said Explanation. The summarized points of the Licensee's response are as under:
- a. A Grid Interconnection Study (GIS) for 11.52 MW Solar Power Plant namely Access Solar (ASPL) was submitted by the project company and accordingly, IESCO approved GIS vide letter No. 19339-44/CEO/IESCO/CE(P&E) HT-1352 dated 19-09-2012. The facts were apprised to NEPRA vide this office letter No. 3474-76 dated 03.05.2013 in light of prevailing Renewable Energy Policy-2006. As per the aforementioned policy, power plant having interconnection length up to 5km have to be connected at 11 kV voltage level and if the length was more than 5km then it has to be connected to the next higher voltage level.
 - b. Although, the Authority approved 1st upfront tariff for the project company on March 28, 2014, and 2nd upfront tariff on December 30, 2015, however, ASPL failed to execute the project within the given time frame.
 - c. Subsequently, the project sponsors submitted a grid interconnection study in respect of another 10 MW Solar Power Plant namely M/s Access Electric (AEPL) which was located at the same premises as that of ASPL. The said GIS was also approved by IESCO vide letter No. 11656-57 dated 24.04.2014 in light of prevailing RE Policy 2006. However, the project company again failed to execute the project within the allowed timeline.
 - d. Since the Federal Government did not notify the upfront tariff, the tariffs determined by the Authority lapsed and the project company went into litigation in Islamabad High Court from July 2016 to December 2018. After the decision of the Islamabad High Court, the 3rd tariff for subject solar power plants was approved by NEPRA on January 30, 2018, which was also later reviewed on October 11, 2018. However, the tariff once again expired due to non-issuance of a notification by the Federal Government.
 - e. It is pertinent to mention here that after the revised decision of the Cabinet Committee on Energy ("CCOE") pursuant to an amendment therein issued on April 4, 2019, the renewable energy projects that had already been issued LOS were allowed to proceed towards the achievement of their requisite milestone as per the RE Policy, 2006, therefore, the Authority determined the 4th Tariff on December 30, 2020.



- f. Under the said tariff, the project companies were required to achieve Financial Close by December 30, 2021. Subsequently, another Tariff petition was filed by the project companies on 11-01-2022, which was later amended on 21-06-2022. After due process, the AEPL tariff determination was issued by the Authority vide S.R.O 1993(1)/2022 dated 31-10-2022, and the ASPL tariff determination was issued vide S.R.O 1993(1)/2022 dated 31-10- 2022.
- g. During this period, certain communications were exchanged between various stakeholders, including NEPRA, AEDB, CPPA-G, NTDC, and the project companies, with objectives to ensure that the Grid Interconnecting Studies (GIS) rendered by the project companies were in line with the applicable standards and codes. After resolution of the relevant issues, IESCO approved the interconnection studies and intimated the same to the project companies vide letter No. 539 1-95 dated 28.05.2020, with a copy to the Registrar NEPRA. The GIS was also required to be vetted by NTDC; accordingly, the vetting by NTDC was also communicated vide General Manager (PSP) NTDC vide letter No. 300/1614-17 dated 26.04.2021, also requiring IESCO to incorporate the latest grid-wise developments in the vicinity of Chakwal.
- h. Further, IESCO not only approved the GIS but also keeping in view the financial close deadline of the project companies, issued Power Evacuation Certificate to CPPA-G for the acquisition of power and construction of interconnection lines by IESCO vide letter No.11478-84 dated 8.12.2020.
- i. IESCO therefore denies the allegations contained in your letter through which the purported explanation has been sought. Allegedly, the project companies have attributed their own failures and mismanagement to IESCO, which rests upon hypothetical and biased assertions.
- j. The position which IESCO has been defending during the entire course of activities, involving the interconnection of the solar generation with IESCO's network at 132 kV and fixing the discrepancies in the "grid interconnection studies" were only based upon professional analysis and cogent facts; the objective of which was only to defend the best interest of the consumers by keeping the consumer-end cost at the minimal and ensure safety and reliability of the network.
- k. It may also be noted that the consultant of Project Company while finalizing the GIS claimed to have interconnection facility within a range of 5 km in order to meet the criteria of RE Policy-2006, which however was against the on-ground facts as the actual length of the interconnection is 7.8 km. The said consultant also agreed to our position and later on after the enforcement of Regulation-2015, he changed the claim to be more than 5km.
- l. It is also apprised that IESCO, has issued a power acquisition request vide Director General (MIRAD) letter No. 139-53 dated 30.11.2022.
- m. With regards to the aforementioned letter, it is submitted with all due regard that the project companies had informed NEPRA about its frivolous allegation regarding the alleged omission or negligence on part of IESCO in this issue vide its tariff petition dated 11.01.22. Your kind attention is invited towards Regulation 4(1) & 4(2) of the



National Electric Power Regulatory Authority Fine Regulation 2021, which have been reproduced below:

Procedure.— (1) If any person acts or omits to act in a manner which in the opinion of the Authority constitutes violation of the provisions of the Act or the applicable documents, the Authority may either order an investigation into the matter in terms of Section 27A of the Act or shall within fifteen (15) days of coming to know of the violation, cause the Registrar to seek an explanation from such person hereinafter referred to as the said person.

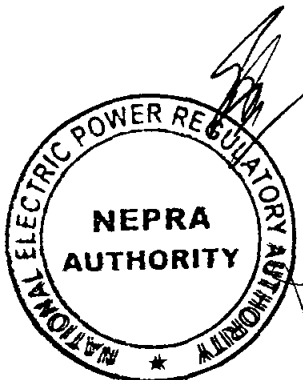
(2) The Registrar shall require the said person to either admit or deny the occurrence of the violation within a period of fifteen (15) days from the receipt of the request.

- n. Pursuant to the above, it is submitted that NEPRA may seek explanation within 15 days of coming to know about the violation. There is also no proviso or explanation in the said regulation which provides for extension or condonation of the time fixed by the law. It is settled law that where the law requires a certain act that has to be done in a particular manner and within a specific time frame, then it should be done in the same manner and within the same timeframe or else the act would be null and void being time-barred. Hence in our opinion, NEPRA could have sought the explanation within 15 days of 11.01.22 (that's the date of coming the said allegations into its knowledge), but the letter of explanation which we received was sent on 30-11-2022. Hence our submission is that the subjected explanation letter is time-barred and accordingly null and void in the eyes of law.
- o. In view of the above, it is submitted that, although the explanation does not lie, due to it being time barred, we have however explained the factual circumstances which suggest that the fault does not lie at IESCO's end. Accordingly, it would not be justified to maintain the impugned explanation letter. It is therefore very humbly submitted that the explanation letter may kindly be withdrawn, please.
- p. It is humbly submitted that the opportunity for a hearing may kindly be provided so that IESCO may clarify the factual position in person.

Hearing:

5. The Licensee vide the aforementioned response requested the opportunity of being heard. Accordingly, a hearing in the matter of Explanation issued to the Licensee was held on 29.12.2022, wherein, CEO of the Licensee along with his team, made the following submissions:

- a. IESCO approved the Grid Interconnection Studies (GIS) of the said projects in 2020. However, the delay caused due to some reasons which are as below:
- i. As per NEPRA (Interconnection for Renewable Generation Facilities) Regulations, 2015, the plants having a capacity above 12MW should be connected to the Grid at 132 kV level.
- ii. Since both the plants were located at the same location and even though their coordinates were same. Therefore, they must be treated as one plant.

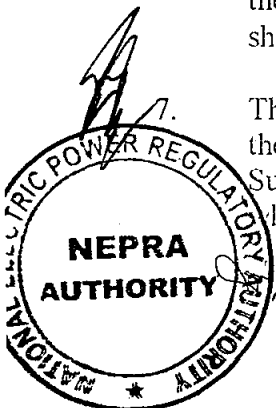


- iii. Just to interconnect at 11kV level instead of 132kV level, they declared two different plants.
- b. It was highlighted that the tariff was given before the interconnection approval, after fulfilling all requirements by the companies.
- c. IESCO further stated that the companies went to litigation in Islamabad High Court (IHC) in 2016, due to which the project got delayed. In 2019, the companies provided fresh Interconnection Studies to IESCO for approval. However, IESCO never disapproved their Interconnection Studies through any letter.
- d. These plants came under Renewable Energy Policy 2006, according to which, if the Grid and plant distance is more than 5km and its capacity is more than 12MW, then it will be interconnected through 132 kV level. IESCO's concern was as these both plants are at the same premises, should be interconnected to Grid through same route/lines, and the distance between the grid and plants was also more than 5km, therefore, IESCO took stance to connect these plants at 132kV level.
- e. During the litigation in IHC, IESCO asked companies to provide them with Interconnection Studies, but they did not provide the same.
- f. In 2019, when the companies again approached IESCO for approval of fresh Interconnection Studies, IESCO did a comparison, which revealed that the losses on 132kV level are lower than 11kV level. In 2013, IESCO's network loading position was different, so they allowed Interconnection at 11 kV level, however, in 2019 IESCO's network conditions changed, therefore, it was felt appropriate to interconnect these plants at 132kV level. The said comparison of losses has also been provided to NEPRA.

Analysis/Findings:

- 6. The Licensee has claimed that it had approved the Grid Interconnections Studies of both projects in 2012 & 2014 as were submitted by the companies, despite the fact that the interconnection length was more than 5KM which was against Renewable Energy Policy 2006 and the interconnection was to be made at higher voltage level instead of 11kV. The Authority has considered the submission of the Licensee and observes that Licensee's response in this behalf is ambiguous. On one hand, it is claiming that it had approved the studies, whereas on other hand, it is pointing out the loopholes in view of RE policy 2006. If the project companies could not meet with the requirements of RE policy 2006, then how the Licensee approved the same. Further, if the Licensee approved the studies to be connected at 11kV level, then how the Licensee could have objected on same studies in 2019 to be connected at 132kV level, despite the fact that the Licensee had to do some works (up-gradation) in the vicinity of Chakwal. All this shows that the Licensee is hiding its inefficiencies by putting lame excuses.

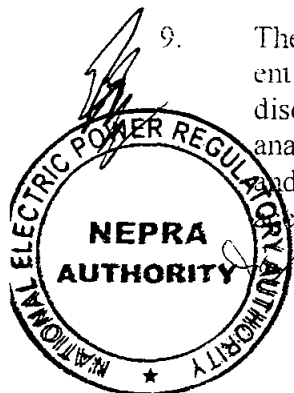
The Licensee has submitted that the Authority determined 4th Tariff on 30.12.2020 and the project companies were required to achieve Financial Close by 30.12.2021. Subsequently, another Tariff petition was filed by the project companies on 11.01.2022, which was later amended on 21.06.2022. After due process, the ASPL and AEPL tariff



determinations were issued by the Authority on 31.10.2022. The Authority has considered the submission of the Licensee and observes that the Licensee has submitted distorted facts. The Licensee has mentioned the timelines for 4th tariff and subsequently for achieving financial close, however, it has not mentioned the reasons behind not achieving the financial close deadlines by the project companies. Factually, the financial close could not be achieved due to delay in approval of grid interconnection studies by the Licensee, which impacted in higher project cost and ultimately higher consumer end tariff.

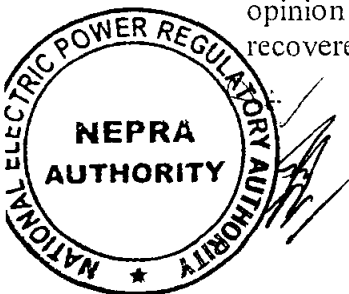
8. The Licensee has submitted that, during aforementioned course of time, certain communications were exchanged between various stakeholders, including NEPRA, AEDB, CPPA-G, NTDC, and the project companies, with objective to ensure that the Grid Interconnecting Studies (GIS) rendered by the project companies was in line with the applicable standards and codes. The Licensee has further submitted that after resolution of the relevant issues, it approved the interconnection studies and intimated the same to the project companies vide letter dated 28.05.2020. The Licensee has also submitted that the GIS was also required to be vetted by NTDC; accordingly, the vetting by NTDC was also communicated vide NTDC letter dated 26.04.2021, requiring IESCO to incorporate latest grid wise developments in the vicinity of Chakwal. The Authority has considered the submissions of the Licensee and observes that submissions of the Licensee are not based on ground realities. It is a matter of record that AEDB and CPPA-G wrote a number of letters to approve the interconnections studies, so that the project companies could achieve financial close, however, the Licensee failed to do so. Hence, the claim of the Licensee to made communications with AEDB and CPPA-G is unjustified. The Licensee made communications with these entities including NEPRA just to seek clarifications for unnecessary matter which caused delay in approval of studies. The Authority has gone through the claim of the Licensee that it had approved the studies vide its letter dated April 28, 2020 and observes that the communication made by the Licensee with Access Solar & Access Electric reveals that both interconnection studies have been checked and generally found satisfactory with the fulfillment of certain observations. It seems that the Licensee partially approved the studies and put certain conditions such as switching off of transformers, depression of voltage profile, and approval of protection scheme, etc. which was not workable for both plants in achievement of financial close. The Authority further noted with concern that despite the requirement/fact that the studies were to be vetted by NTDC too, the Licensee wrote letter to CPPA-G and NTDC on 08.12.2020, and 09.04.2021, after a lapse of almost seven and eleven months respectively. In response, GM (Planning), NTDC vide its letter dated 26.04.2021, intimated the licensee to carry out few corrections in the vicinity of the said power projects regarding 500kV New Chakwal grid station. However, the Licensee did not do anything in this regard in a timely manner. All this shows the non-seriousness of the Licensee towards the approval of Grid Interconnection Studies, which caused the delay and projects companies could not achieve financial close.

9. The Licensee has submitted that the position which it has been defending during the entire course of activities, involving the interconnection at 132kV and fixing the discrepancies in the grid interconnection studies were only based upon professional analysis and cogent facts. The Authority has considered the submission of the Licensee and observes that the mentioned position was taken by IESCO with the NEPRA and accordingly after due deliberations, it was clarified to the Licensee that both projects



are independent, and interconnections shall be made at 11kV level. Accordingly, the decision was communicated vide letter dated April 22, 2020, by directing the Licensee to proceed further and allow interconnection at 11kV level at the Licensee's 132kV Dandot Grid Station for implementation of 10MW Access Solar and 11.5 MW Access Electric power plants. However, the Licensee failed to do the same.

10. It is a matter of record that after lapse of four months of NTDC's letter, the Licensee again approached NEPRA 04.08.2021, for seeking clarification on Energy and EPC cost calculations of the projects. In this regard, the Authority took serious note of such a frivolous letter from the Licensee requiring basic information which was clearly evident under Interconnection Studies. Therefore, the Authority vide letter dated 02.09.2021, categorically communicated to the Licensee that this seems to be an unlawful attempt to delay the project by not processing and approving the grid interconnection studies, which is unacceptable. Despite the clear directions by NEPRA, the Licensee did not do the needful.
11. It is pertinent to highlight that in whole year of 2021, AEDB and CPPA-G time & again wrote to the Licensee to comply with the CCoE decision and to facilitate the projects by providing necessary approvals enabling the project companies to achieve financial close within the allowed time period i.e. 30.12.2021. Similarly, CPPA-G requested the Licensee many times to provide certain information/comments before finalizing EPA. However, the Licensee did not respond to any of the organizations as there is no record produced by the Licensee in this regard. Keeping in view all the deliberate delaying tactics of the Licensee, Access Solar and Access Electric could not achieve the financial close by 30.12.2021, and consequently their cost-plus Tariff expired, and consumers suffered from expensive electricity instead of cheaper ones.
12. Moreover, the companies again approached NEPRA on 11.01.2022, for the determination of a fresh Tariff. The companies submitted that the delay in the projects, due to the fault of the Licensee, has not only derailed the process of achieving various milestones but has adversely affected several cost parameters related to the projects, especially the cost of modules and transportation. Further, their EPC contractor has expressed its inability to meet the EPC price as stipulated in the previous determination. The Authority issued new tariff determinations on 07.09.2022, wherein the overall project cost for ASPL has been increased from 7.478M USD to 8.771M USD and the project cost for AEPL has been increased from 6.412M USD to 7.543M USD. According to new tariff, both plants must achieve financial close by 07.09.2023.
13. It is relevant to highlight here that if the grid been provided on time, the projects would have achieved COD sometime in Sep 2022. However, with new tariff, the COD shall be achieved sometime in April 2024, subject to achievement of Financial Close on the given time of one year, i.e., **total delay of 20 months**. Moreover, if total energy generation (GWh) for the FY 2021-22 is kept constant, it is estimated that the overall reduction/savings would be around Rs. 703 Million, if these two projects would have been added to the grid on time to replace expensive fuel. However, for the delay of twenty months, the total savings works out to be around Rs. 1,172 Million, which will be directly pass on to the consumers. In this regard, the Authority is of the considered opinion that this amount of loss occurred due to delay caused by IESCO shall be recovered from Licensee.



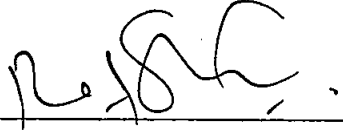
14. The Licensee has taken the ground that explanation can only be issued for the violation within a period of 15 days from the date of coming into knowledge of such violation. While every effort should be in direction of implementing the law & acting promptly, it is specifically highlighted that 15 days period mentioned in Regulation 4(1) is not a mandatory period but is directory in nature. Hence the objection raised by the Licensee that the Explanation is time-barred does not merit consideration, solely for the reason that the explanation has not been issued within 15 days period, where the circumstances overwhelming demonstrate clear breach of IESCO. NEPRA believes that proceedings under NEPRA (Fine) Regulations, 2021, must be initiated within the spirit to discourage the breach of NEPRA law as a consequence of which Access Solar and Access Electric projects have suffered immensely.

15. **Decision**

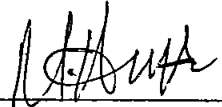
Therefore, taking into account the submissions of the Licensee in light of the NEPRA Act, NEPRA (Fine) Regulations, 2021, and other applicable documents, the Authority is of the considered opinion that the Licensee has failed to provide any satisfactory reply to the Explanation issued to it, therefore, decides to issue a Show Cause Notice to the Licensee in terms of Rule 4 (8) & (9) of the NEPRA (Fine) Regulations, 2021.

AUTHORITY


Rafique Ahmed Shaikh
Member (Technical)



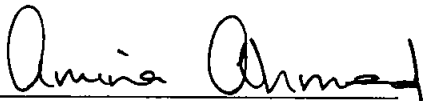
Engr. Maqsood Anwar Khan
Member (Licensing)



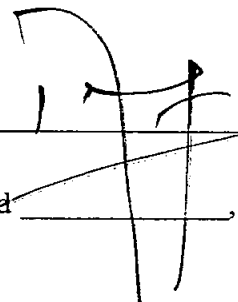
Mathar Niaz Rana (nsc)
Member (Tariff & Finance)



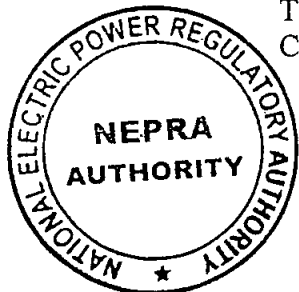
Amina Ahmed
Member (Law)




Tauseef H. Farooqi
Chairman



Dated _____, 2023




10/05/23