



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad.
Tel: +92-51-9206500, Fax: +92-51-2600026
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

No: NEPRA/DG (Lic)/LAG-516&517/ 8469

June 07, 2024

Chief Executive Officer,
Gujranwala Electric Power Company,
565/A, Model Town,
G.T Road, Gujranwala

Subject: **ORDER OF THE AUTHORITY IN THE MATTER OF REVIEW PETITION OF
GUJRANWALA ELECTRIC POWER COMPANY LIMITED AGAINST THE
GRANT OF GENERATION LICENCES OF G SOLAR POWER (PRIVATE) LTD.**

Reference: GEPCO letter No. MIRAD/C.M& R.A /1023-27 & dated 16.09.2022

Please find enclosed herewith the subject Order of the Authority (13 pages) in the matter of Review petition filed by GEPCO against grant of Generation Licences to G Solar Power (Private) Limited for its two Photo Voltaic (PV) based generation facilities of 4.793 MWp and 1.931 MWp respectively for your information.

Encl: Order of the Authority (13 pages)

(Engr. Mazhar Iqbal Ranjha)

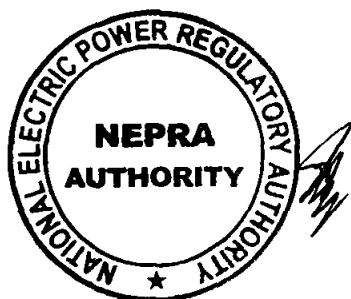
National Electric Power Regulatory Authority
(NEPRA)

Order of the Authority in the Matter of Review Petition of
Gujranwala Electric Power Company Limited against the Grant of
Generation Licence of G Solar Power (Private) Limited

June 07th, 2024
Case No. LAG-516 & 517

The Authority granted two (02) separate Generation Licences (No. SGC/171/2022 & SGC/172/2022, dated July 29, 2022) to G Solar Power (Private) Limited (GSPPL) for its two Photo Voltaic (PV) based generation facilities of 4.793 MW_P and 1.931 MW_P respectively to be located at Crescent Bahuman Limited (CBL), Mauza Bahuman, Tehsil Pindi Bhattian, District Hafizabad in the province of Punjab. The Authority also allowed Second Tier Supply Authorization (STSA) to the company/GSPPL for supplying to CBL as its Bulk Power Consumer (BPC), along with the directions to apply for the grant of Supplier Licences under Section-23 of the NEPRA Act.

(2). Being aggrieved with the above decision of the Authority, Gujranwala Electric Power Company Limited (GEPCO) filed a Review Petition on August 26, 2022 in terms of Regulation-3 of NEPRA (Review Procedure) Regulations, 2009 (the "Review Regulations"). The Authority admitted the said petition on October 26, 2022 and decided to offer an opportunity of hearing to GEPCO and GSPPL to present their case. In this regard, the hearing was planned on several occasions but the same was deferred on the request of either GEPCO or GSPPL and the same was finally held on December 08, 2022 wherein, GEPCO submitted that the Authority had issued two (02) Generation Licences to GSPPL for supplying to CBL which is its regulated consumer/customer with a sanctioned load 4.80 MW under Tariff of B-III. The said consumer approached GEPCO for an extension of load from 4.80 MW to 16.00 MW under the Tariff of B-IV and accordingly, the Grid Interconnection Study (GIS) was conducted and the required technical consent was

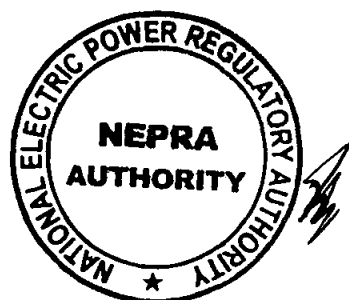


provided for the desired extension of load. However, after the issuance of the Generation Licences to GSPPL, the application for the extension of load has been withdrawn. It is pertinent to mention that GEPCO through its correspondence dated July 18, 2022 submitted a detailed case study in respect of the impact of partial solarization of industrial consumers of DISCO(s) however, the Authority approved the grant of Generation Licences to GSPPL.

(3). GEPCO submitted that the two (02) applications of GSPPL have been finalized without conducting any "hearing" or at least a consultative session of all the stakeholders and the utility/DISCO and therefore, its regulated customers have been condemned unheard. In view of the gravity of the matter and its far reaching financial, legal, technical, operational and commercial impacts thereof on the future of the Power Sector of the country, conducting formal hearings/ consultative sessions of all stakeholders is of utmost importance. However, the Authority dispensed with the same, resultantly the interests of individual consumers have been compromised.

(4). The Authority has issued two (02) separate licenses for the same technology, locations and purpose but with only differences in make, model and manufacturer of equipment and differences in elevation of installation of equipment (roof-top and on-ground solar park). In the presence of multiple existing licences involving diverse technologies, varied makes/models, different capacities and far-off locations, issuance of two licences is a breach of proven regulatory practices and compromise on established sectoral norms. The determinations made and licences issued are in the absence of formal Regulations that the Authority has to frame and promulgate, which renders whole and all of the past, present and future identical actions taken in this regard null and void.

(5). In the case of Generation Licence No. SGC/171/2022 with an installed capacity of 4.93 MWp, the submissions made in the application of GSPPL, the arguments transcribed in the determination and the contents of the Licence issued



are contradictory. In terms of Section-2 (xxva) of the NEPRA Act, "specified" means specified by regulations made by the Authority under the NEPRA Act and while admitting in the impugned determination that the honorable Authority has not been able to frame/issue the relevant regulations till date, it has rather been chosen to issue such determinations in the absence of governing regulations, thus undermining fundamentals of law.

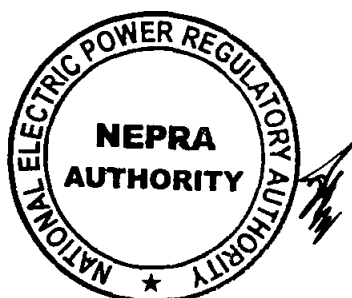
(6). The impugned determination, read in conjunction with the determination of the Authority dated May 31, 2022 for the tariff of Distribution Companies/DISCO(s), shall rather incentivize the base load consumers i.e. the BPC(s) with MDI above 50%, to opt for partial solarization thus leaving the cost differentials including the impact of cross subsidy on to the Supplier of Last Resort (SoLR) and, therefore, the regulated customers of SoLR. It is clarified that GEPCO, in its comments on the Licence application of GSPPL, has never made any reference to Section-22 of the NEPRA Act. As such, the position brought out in the impugned determination is grossly incorrect and baseless. It is, however, observed that, while imparting the impugned determination and referring to Section-22(1) of the NEPRA Act, the requirement of Section-22(2), whereby one-year notice is required, has been dispensed with.

(7). GEPCO submitted that with regard to its demand for disclosure of tariff agreed between the parties, the Authority had held that the arrangement is a B2B arrangement that does not affect any third party which is strongly objected to the fact already mentioned in our comments. GEPCO reiterated that the utility as well as a large number of its regulated customers are undoubtedly adversely affected parties. GEPCO also reiterated its point of view on splitting of generation facilities which according to it was structured to facilitate the misstatement of GSPPL in its application for the grant of Generation Licence that the expected sale of electricity shall be less than the total demand of the Buyer. Further to the above, GEPCO submitted that the difference of location (roof-top or on-ground) or manufacturer, etc. does not change the intent and purpose of the generation facility, particularly when



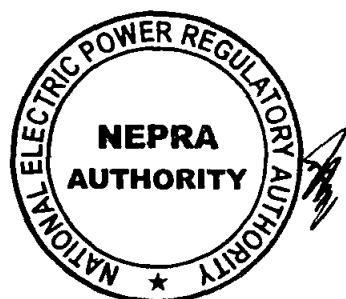
the overall premises and ultimate user are the same. In this regard, GEPCO referred to the licences that the Authority had issued in the case of Jamshoro Power Company Limited, Central Power Generation Company Limited and Northern Power Generation Company Limited whereby power plants of different makes, capacities, technologies and far-off different locations have been included in one licence.

(8). Further to the above, GEPCO submitted that the understanding forming the basis for the grant of Generation Licence, as mentioned in Para-D(xi) 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 Licence provided in the impugned determination; whereby the connection shall be at HT (11 kV) side. The Authority while directing GSPPL to apply for a Supplier Licence under Section-23E of the NEPRA Act, has 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 the BPC in terms of evolving CTBCM framework of the Power Sector of the country. 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 Licence under Section-23E of NEPRA Act? Noting that the intent and purpose of Section-23E of the NEPRA Act, read in conjunction with the approved design of the CTBCM, Licence for Market Operator and the Market Commercial Code (MCC), is to provide for competitive suppliers in addition to the Supplier of Last Resort (SoLR). Noting further that the concept of supplier (competitive as well as SoLR), as provided in the design of CTBCM and MCC, cannot prevail unless connected to the transmission and/or distribution network (the Service Providers) with metering facility accessible to Metering Service Provider. Further to the said, GEPCO also contested that the Authority has not given any time frame to GSPPL for applying for the Electric Power Supplier Licence. GEPCO also

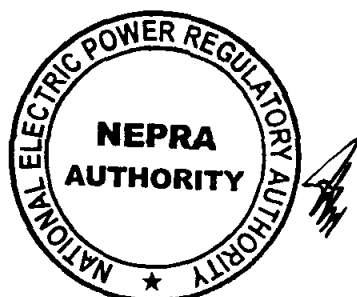


expressed that the impugned determination(s) of the Authority has referred to different Sections of the NEPRA Act (including Sections-20, 21, 22 & 23E) however, it understands that with the evolving reforms, approval of CTBCM, issuance of licence to the Market Operator, approval of MCC and other enabling regulations, the provisions of the NEPRA Act have to be read in conjunction with approved CTBCM design framework, Market Operator Licence and MCC. GEPCO emphasized that only an Electric Power Supplier can supply power to a BPC as a Competitive Supplier (as per MCC Code). A BPC has to fully arrange for its demand (Capacity Obligation) from Competitive Electric Power Supplier(s) in case it decides to leave the relevant SoLR as it cannot simultaneously purchase electric power from both. GEPCO stated that the arrangement approved under the impugned licence is against the basic principles of the regime of CTBCM and therefore, will cause a failure to it from its very inception. GEPCO submitted that without prejudice to the foregoing submissions and in addition and continuation that the determination of the Authority to allow the arrangements alike impugned determination is a serious and imminent threat to the very success of CTBCM framework as it provides an incentive to BPC(s) for not adopting the requirements of MCC. Further to the said, GEPCO submitted a case study on partial solarization through B2B arrangement for large industrial consumers wherein it concluded that off-peak consumption will decrease during day time without change in peak units however, the capacity would stay as the MDI will remain the same after partial solarization. GEPCO submitted that irrespective of the quantum involved, the matter has far-reaching impact on the power sector and the same has been finalized without conducting any formal hearing of stakeholders therefore, the Authority may hold the issuance of licences for such arrangement till the time a consensus is arrived.

(9). The Authority also allowed an opportunity to CBL to give its perspective in the matter to justify the arrangement that it had entered into with GSPPL for supplying to it. In this regard, CBL submitted that it is one of the companies of Crescent Group which has built an outstanding reputation in the business

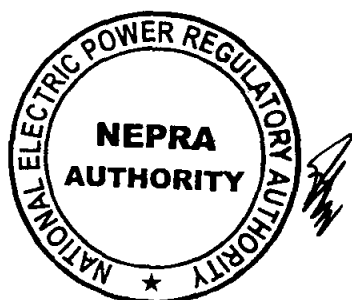


community of the country with over sixty (60) years of experience in diversified business in the textile, sugar, banking, insurance, food, agriculture and steel sectors. Further to the said, CBL submitted that it is a value driver company with the aspiration to establish itself as a well renowned global denim brand founded in 1995 and is recognized as the first fully integrated denim plant in the country. The core business consists of exporting high quality fabric and Jeans to Europe, the USA, Australia and the Asia Pacific regions. The result has helped CBL attain a unique blend of highly motivated individuals well equipped with a global perspective, thus enabling it to suitably serve the needs of the customer worldwide. The company has pioneered the local denim industry and has established strong corporate values while ensuring an environmental friendly manufacturing process. With all the continuous efforts, CBL has now become one of the largest denim manufacturing units in Asia with more than 7000 employees, exporting Levi's to the USA & Europe. In this regard, CBL through the use of high-tech equipment and modern techniques, is able to cope with the latest trends without compromising on quality and make the company the preferred choice of top denim brands of the world. CBL has set up its generation facility as Captive Power Plant (CPP) that gives us the flexibility and reliability to control and maintain an uninterrupted power supply for the production facilities. CBL is the first textile company in the country to implement the Six Sigma business philosophy and get its employees trained as black belts in various functional areas. CBL submitted it is located in a relatively far-flung area and is primarily getting supply from the concerned utility which is GEPCO. In view of the location of the facility, the transmission and distribution network of the DISCO/GEPCO is not very reliable and CBL faces outages resulting not only in disruption in power supply for the process but also in wastage of the material, resulting in heavy losses and quality control issues. In order to cope with the said situation, CBL has set a CPP consisting of various fossil fuels including Furnace Oil, Natural Gas and Diesel oil. In the last decades, the prices of all the said fuels have gone exponentially high increasing the cost of production which is causing serious issues about competitiveness in the international market. Further to the said, CBL



submitted that during the last decades, there has been greater emphasis on climate change worldwide. In consideration of the said, there has been enormous pressure from all the stakeholders to reduce the carbon footprints by cutting the consumption of fossil fuels for power generation and instead utilizing Renewable Energy (RE) resources for power generation. CBL submitted that now its clients which are all top fashion brands, have a policy to reduce the emissions of greenhouse gases in their complete supply chain to the tune of 40% by 2025 whereas it has so far arranged only 28% therefore the utilities must realize these facts which the export-oriented industries are facing and should facilitate to bring the precious foreign exchange for the country instead of creating bottleneck for one reason or the other. CBL submitted that the supply of electric power from GSPPL will mainly reduce the supply from CPP which is operated on fossil fuel to meet the requirement of its clients which are under obligation to have input/material from carbon neutral sources. In view of the above, the Authority should consider a broader aspect of the issue and should reject the Review Motion of GEPCO and maintain its earlier decision whereby it had allowed the grant of Generation Licences to GSPPL and allowed supplying to it from its two distinct solar based generation facilities.

(10). The Authority considered the above submissions and observed that at the time of the processing of the applications of GSPPL, the concerned DISCO i.e. GEPCO raised various issues which the Authority had deliberated and addressed in its original determination dated July 29, 2022 and the same are reiterated. Now, GEPCO in its Review Motion has again raised various issues including (a). the Authority did not conduct any "hearing/consultative session" of the stakeholders; (b) DISCO and its regulated customers have been condemned unheard; (c). the Authority has not specified the relevant regulations, thus undermining fundamentals of law; (d). the impugned determinations, read in conjunction with the determination of the Authority dated May 31, 2022 for the tariff of DISCO(s), shall incentivize the BPC(s) with MDI above 50%, to opt for partial solarization; (e). the demand for disclosure of tariff agreed between the parties has not been met;



(f). splitting of the generation facility was structured to facilitate misstatement of GSPPL; (g). the overall premises and ultimate user are the same then why two separate licences have been issued; (h). the understanding that the project will be connected to the LT side of CBL without feeding to the utility is in contradiction with details mentioned in Schedule-I of the Generation Licences; (i). the Authority while directing GSPPL to apply for a Supplier Licence under the NEPRA Act, has admitted it is not entitled to sell electric power to BPC; (j). the Authority has not provided reasons why a B2B arrangement is required to apply for competitive supplier licences; (k). no time frame for applying for the supplier licences has been given; (l). a BPC has to fully arrange its demand from competitive electric power supplier(s) if it decides to leave the SoLR; (m). a BPC cannot simultaneously purchase electric power from SoLR and the competitive supplier(s); (n). the determination of the Authority to allow the arrangement is contrary to the framework of the CTBCM and it poses a serious/imminent threat to its success.

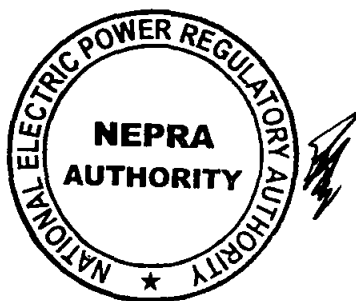
(11). In consideration of the above the Authority will like to clarify that in its original determination of July 29, 2022 it had deliberated and addressed the issues that different stakeholders and reiterates the same. Further to the said, the Authority to avoid any doubt hereby gives its determination on the observations of GEPCO. On the observations of GEPCO that the Authority did not conduct any "hearing/consultative session" of the stakeholders and the DISCO and its regulated customers have been condemned unheard, the Authority hereby clarifies that the submitted applications of GSPPL were processed in terms of the NEPRA Licensing (Application, Modification, Extension and Cancellation) Procedure Regulations, 2021 (the "Licensing Regulations") and NEPRA Licensing (Generation) Rules 2000 (the "Licensing Rules"). In this regard, the Authority in terms of Regulation-7 of the Licensing Regulations, published a Notice in the press seeking comments of the general public, interested and affected parties. Further to the said, separate letters were also issued to different stakeholders including the host utility i.e. GEPCO and the Authority received comments from the same which were duly considered and



addressed in the determination dated July 29, 2022. In view of the said, the contention of GEPCO that the Authority did not consult it and its consumers is factually incorrect. Further to the said, the Authority hereby refers to the provisions of Rule-3(4) of the Licensing Rules which stipulates that a public hearing may be arranged but the said provision is not obligatory in nature therefore, the same is not binding. Further to the said, the Authority hereby also clarifies that under the NEPRA Act, relevant rules and regulations there is no explicit provision to hold any specific consultative session in processing any application for the consideration of the grant of generation licence. In this regard, the regulatory framework envisages only seeking comments of stakeholders and the same had been done in this particular case therefore, the observations of GEPCO that the Authority did not conduct any "hearing/consultative session" of the stakeholders and DISCO and its regulated customers have been condemned unheard is not in line with the factual position of the case and the envisaged regulatory framework.

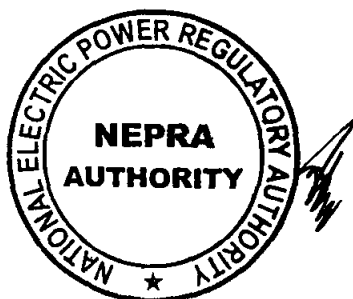
(12). Regarding the comments of GEPCO that the relevant regulations in terms of Section-2(ii) read with Section-2(xxva) and Section-47 of the NEPRA Act, have not been framed thus undermining fundamentals of law, the Authority has reviewed, considered and deliberated the matter again and has observed that the legislature did not obligate it for specifying the regulations under Section-2(ii) of the NEPRA Act as it used the word "may". In this regard, the Authority hereby clarifies that in the legislative construction, the use of the word "may" is optional in nature and not a mandatory requirement under the law and the legislature provided discretionary powers to the Authority to exercise the same considering the circumstances. In view of the said, the Authority considers that the objections of GEPCO that it has not framed/issued relevant regulations, thus undermining fundamentals of law does not merit any consideration.

(13). About the observation of GEPCO that the impugned determinations, read in conjunction with the determination of the Authority dated May 31, 2022 for the tariff of DISCO(s), shall incentivize the BPC(s) with MDI above 50%, to opt for



partial solarization, the Authority will like to clarify that the said determination has a history which needs to be understood and must be kept in view before making any comment(s). The Authority would like to clarify that it had allowed the said proposition after thorough deliberation for the very reason that the proliferation of solarization has seen an exponential rise. The DISCO(s) as well as the CPPAG had been agitating that for hybrid BPC(s) maintaining connections from the utility as well as supply from any third party source therefore, the charges associated with this arrangement may be rationalized and accordingly, the Authority changed the mechanism for hybrid BPC(s) through its above-mentioned determination dated May 31, 2022. In this regard, the Authority would like to clarify that GEPCO did not object to the prescribed mechanism instead through its current Review Motion relating to another case, has raised the issue which is against the regulatory norms and standards. The Authority considers that if GEPCO had any observations, it should have adopted the right regulatory approach and taken up the matter accordingly instead of mixing different cases. In view of the said, the Authority is of the considered opinion that observations of GEPCO are uncalled for being not relating to the current case therefore, the same are rejected.

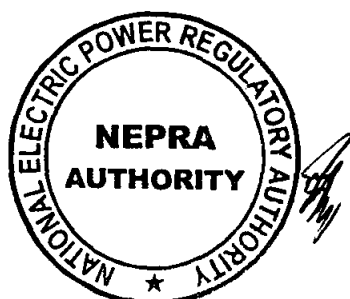
(14). The Authority has observed that in its original comments as well as in the current Review Motion, GEPCO had stressed that the tariff agreed between the parties i.e. GSPPL and its BPC/CBL has not been disclosed. In this regard, the Authority reiterates its findings in the matter given in the original determination dated July 29, 2022. Further to the said, the Authority would like to stress that GEPCO which is an important stakeholder in the power sector of the country should understand how a B2B transaction works. In a competitive market arrangement, the parties are at their free will agreeing to any tariff which is not subject to any approval from any stakeholder including the regulator. The very reason for the same is that the agreed tariff does not affect third person therefore, the parties are at their will to make the agreed tariff public or otherwise. In the current case, the Authority once again clarifies that the tariff between GSPPL and



its BPC/CBL is a bilateral matter that will not affect any third party including GEPCO therefore, the request to disclose the agreed tariff does merit any consideration and the same is declined.

(15). The Authority has considered the observations of GEPCO wherein it has raised the issue that the company has installed two different generation facilities for which the Authority has granted licences and the splitting of the generation facility was structured to facilitate misstatement of GSPPL. In this regard, GEPCO submitted that the overall premises and ultimate user are the same then why two separate licences have been issued? In this regard, the Authority would like to elaborate that the two generation facilities are distinct in nature and there is no bar on any company to have separate licences for its two or more distinct facilities. In this regard, under Generation Licence No. SGC/171/2022, dated July 29, 2022, GSPPL has set up ground-based facility whereas against Generation Licence No. SGC/172/2022, dated July 29, 2022 has installed rooftop facility. In consideration of the said, the Authority has considered the objections that GEPCO has raised and has observed that there is no violation of the provisions of the NEPRA Act, relevant rules and regulations in the grant of the two generation licences to GSPPL therefore, the submissions of GEPCO are not considered of any substance not being in-line with the regulatory framework and the applicable documents.

(16). GEPCO in its Review Motion highlighted that the understanding that the project will be connected to the LT side of CBL without feeding to the utility is in contradiction with details mentioned in Schedule-I of the Generation Licences. In this regard, the Authority has observed the generation facility is connected to the LT side and not the 11 KV side/HT side and the information contained in Schedule-I has a typo error which is corrected through this determination and may be read as LT side/415 volt etc.

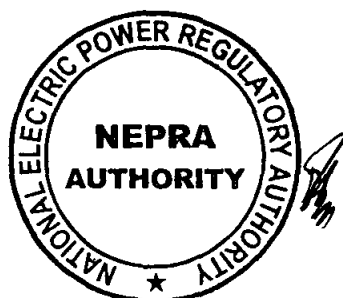


(17). In its comments GEPCO has raised that the Authority while directing GSPPL to apply for the Supplier Licences under the NEPRA Act, has admitted that it is not entitled to sell electric power to the BPC. In this regard, the Authority clarifies that the directions given are in line with the provisions of the NEPRA Act and the applicable documents. Regarding the observation of GEPCO that the Authority has not provided reasons why a B2B arrangement is required to apply for a competitive supplier licence, it is clarified that the said requirement is in-line with provisions of the NEPRA Act, relevant rules and regulations and therefore, there is no ambiguity in the matter.

(18). The Authority has observed that GEPCO in its Review Motion has made the observation that no time frame for applying for licences for supplier(s) has been given. In this regard, the Authority directs GSPPL to apply for a supplier licences as stipulated in the NEPRA Act, relevant rules and regulations within thirty (30) days of issuance of this order/decision.

(19). On the observation of GEPCO that a BPC has to fully arrange its demand from competitive electric power supplier(s) if it decides to leave the SoLR and it cannot simultaneously purchase electric power from the SoLR and the competitive supplier, the Authority clarifies the said provision given in the CTBCM was initially envisaged for BPC(s) arranging electric power through the said arrangement. However, the Authority considering the practical problems of the BPC(s) in the matter, has initiated an amendment to remove this difficulty therefore, the observation is not appropriate.

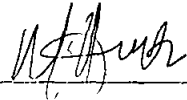
(20). On the observation of GEPCO that the determination of the Authority to allow the arrangement is a serious/eminent threat to the success of the framework of CTBCM, the Authority clarifies that the arrangement allowed in the current case of GSPPL is in line with the regulatory framework and does not pose any threat to any parallel framework including that of CTBCM. In consideration of the above, the



Authority stresses that its determinations in the matter of the grant of Generation Licences to GSPPL for supplying to CBL are in-line with the regulatory framework and principles of law. In view of the above explanation, the Authority considers that the Review Petition of GEPCO does not merit any consideration and therefore the same is rejected.

Authority

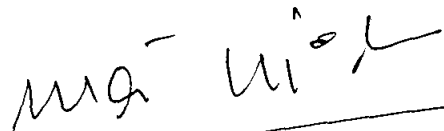
Maqsood Anwar Khan
(Member)



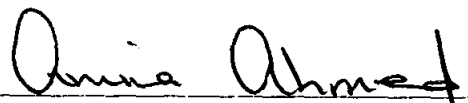
Rafique Ahmed Shaikh
(Member)



Mathar Niaz Rana (nsc)
(Member)



Amina Ahmed
(Member)



Waseem Mukhtar
(Chairman)

