



National Electric Power Regulatory Authority

Islamic Republic of Pakistan

Registrar

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

No. NEPRA/TRF-92/HUBCO-2008/14111-14

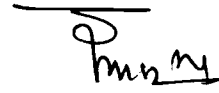
November 7, 2014

Chief Executive Officer,
Hub Power Company Ltd.
Islamic Chamber Building,
Block No. 9,
Clifton, Karachi.

Subject: Decision of the Authority in the Matter of Motion for Leave for Review filed by Hub Power Company Ltd. (Narowal) against Authority's Decision No. NEPRA/TRF-92/HUBCO-2008/5320-24 dated May 23, 2014 regarding adjustment in its Fuel Cost Component for April 2014 (Case No. NEPRA/TRF-92/HUBCO-2008)

Enclosed please find herewith the subject decision of the Authority (05 pages) in the matter of Motion for Leave for Review filed by Hub Power Company Ltd. against Authority's Decision dated 23.05.2014 regarding adjustment in its fuel cost component for April 2014, for information and compliance.

Enclosure: As above

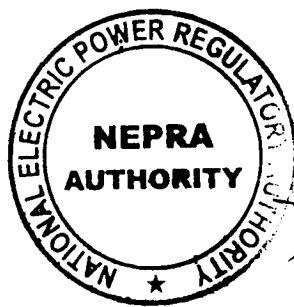

(Syed Safeer Hussain)

CC:

1. Secretary Ministry of Water & Power, Islamabad
2. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad
3. Secretary, Ministry of Finance, Islamabad.
4. General Manager, CPPA, 229-WAPDA House, Shahrah-e-Quaid-e-Azam, Lahore.

Decision of the Authority in the matter of Motion for leave for review filed by HUB Power Co. Ltd., Narowal against Authority's decision no. NEPRA/TRF-92/HUBCO-2008/ 5320-24 dated May 23, 2014 regarding adjustment in its Fuel Cost Component for April 2014

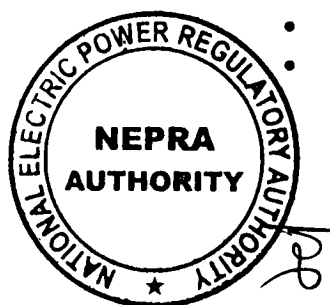
1. The Authority vide its decision dated January 6, 2010, prescribed the adjustment mechanism for variation in fuel price for the RFO/ HSFO based IPPs as under;
"Except for Attock Gen. Ltd., the adjustment in the fuel cost component due to variation in fuel price of RFO / HSFO based IPPs will be based on the invoices of Oil Marketing Companies (OMC) instead of prescribed fuel price mechanism".
2. In line with the aforesaid decision of the Authority, HUB Power Company Narowal's (herein referred to as "HUBCO") fuel price adjustments were being processed as per invoice of its fuel supplier i.e. M/s Bakri Trading Co. Pakistan Ltd. Bakri used to provide full disclosure of the cost incurred on the imported furnace oil, as its price differed/ varied from the market price and accordingly HUBCO was invoiced as per the actual import price. PSO price is considered as the market price since around 90% of RFO is imported by PSO.
3. From October 2013 onward, HUBCO / Bakri refused to provide break-up of its built-up cost for the imported fuel as it had been providing in the past and instead, benchmarked its price with the market price and submitted that it will continue the same practice in future.
4. The Authority considered the request of HUBCO and decided to maintain its earlier decision dated January 6, 2010, and directed that adjustment in fuel cost component due to variation in fuel price of HUBCO shall be based on the invoices of Oil Marketing Companies.
5. Bakri, from October 2013, started invoicing HUBCO by benchmarking its price for the imported fuel with the market price. Accordingly in the light of the above decision of the Authority, from October 2013 onward, the fuel price of HUBCO for the imported fuel was processed as per the invoice of Bakri which was now benchmarked with the market price instead of actual incurred cost.
6. In April 2014, HUBCO, again, requested the Authority to revert back to the practice of adjustment of imported fuel cost on actual cost basis instead of bench marking the same to the market price. HUBCO submitted that they will provide necessary details of the built-up cost. HUBCO also submitted that for adjustment of its fuel cost on actual basis, applicable



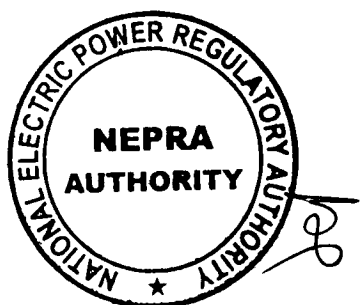
USD exchange rate will be the rate charged by the L/C retiring bank prevailing on the date when the product is ex-bonded.

7. The Authority on the aforesaid request of HUBCO noted that mechanism for adjustment of imported fuel cost by linking it with market price was adopted previously on the request of the petitioner, hence the Authority rejected the instant request and advised that the decision cannot be reviewed at a later stage.
8. Accordingly in the light of Authority's decision, Fuel Price adjustment of HUBCO for April 2014 was processed considering market price as the bench mark price, instead of invoice of the OMC and the same was notified vide No. NEPRA/TRF-92/HUBCO-2008/5320-24 dated 23rd May 2014.
9. HUBCO filed a motion for leave for review, vide letter No. nil dated June 5, 2014, against the above decision of the Authority. A brief of HUBCO's submission through its review motion are as under;
 - i. HUBCO in terms of the applicable tariff regime, should neither gain nor lose on account of the mechanism determined by NEPRA in relation to fuel price adjustment.
 - ii. The Impugned determination may kindly be reviewed and modified on, inter alia, the following grounds:
 - a. The RFO/HFO/LFO pricing is deregulated in Pakistan.
 - b. In terms of the Fuel Supply Agreement (FSA) between Bakri and HUBCO, the fuel price is to be notified by Bakri. This approach is in accordance with the laws of Pakistan including the OGRA laws.
 - c. Bakri's price on Cost-Plus basis may be either more or less than the PSO price. On certain occasions Bakri was entitled to a higher price, on other occasions it got a lower price.
 - d. Bakri's notified price for June 2014 is PKR. 1,568 / ton less than the PSO price. It would be in violation of NEPRA laws for the Authority to allow Bakri the PSO price (which will be higher in June 2014) notwithstanding the Fact, that the actual price of Bakri is less than the PSO price. Therefore, it would be inequitable, unfair and unjust for the Authority to determine the Company's FCC;

- On the basis of Actual cost where Bakri price is less than PSO and
- On the basis of PSO price where Bakri price is higher than PSO.



- e. Bakri is a local company with 100% foreign investment and has invested its time and resources to ensure sustainable and reliable Fuel supply to the Company to enable HUBCO to meet its obligations under the PPA.
 - f. Measuring the market price for fuel on the threshold of the PSO price will not allow healthy competition in the market.
 - g. Linking Bakri's actual fuel price to PSO price appears to be in violation of the anti-trust/ competition laws of Pakistan.
 - h. PSO price is not otherwise retained by the Authority as a benchmark for the determination of fuel price of other IPPs. The Authority has on several occasions allowed more than the market / PSO price to Attock Gen since its commercial operations in 2009 as FCC.
 - i. Other pricing mechanisms are in operation in the market and have been accepted as such by NEPRA for the purposes of determining the FCC.
 - j. Since COD of HUBCO i.e. April 21 2011, Bakri with an exception to a period from October 01, 2013 to April 15, 2014 has been notifying its fuel price on cost-Plus Basis along with documentary evidence to substantiate its claim. During the short period as mentioned above, Bakri took a challenge by linking its price with the market and soon realized such practice was not in accordance with the competition laws of the Country.
 - k. Bakri's subsequent request through the Company for reverting to the cost plus basis is in accordance with:
 - The FSA
 - The NEPRA laws
 - The OGRA laws and
 - NEPRA's main determination dated 23 May 2008 based on HUBCO's tariff petition filed before the construction of its project.
10. HUBCO also requested the Authority to provide them an opportunity of hearing to provide further information, clarification or explanation that may be required by the Authority during the review process.
11. The Motion for Leave for Review was admitted by the Authority on 2nd July 2014, to provide an opportunity of hearing to HUBCO to present its case in detail.



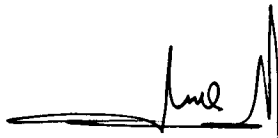
12. The hearing in the matter was initially fixed on 22 July 2014, but was, later on, held on August 27, 2014 at Islamabad, which was attended by HUBCO, its legal advisors and Fuel Supplier i.e. M/s Bakri Pakistan.
13. HUBCO during the hearing, presented its case and explained the reasons for change in the mechanism and requested the Authority to allow him to revert back to the old practice of adjustment of cost of imported fuel as per actual cost incurred for which HUBCO agreed to provide necessary details/ documents .
14. On the basis of submissions made by HUBCO in writing and during the hearing, the Authority noted that;
 - i. Authority's decision dated January 6, 2010 wherein adjustment in the fuel cost component due to variation in fuel price of RFO / HSFO based IPPs is to be based on the invoices of Oil Marketing Companies (OMC) was prescribed after a consultative process and having inputs from all stakeholders.
 - ii. To ensure transparency, the Authority can ask the petitioner for provision of the actual import documents / invoices of cost break up and other necessary information / documents, since the impact of fuel price adjustment is ultimately passed on the consumers, therefore, the Authority has to satisfy itself regarding the genuineness and validity of any cost claimed by any licensee.
 - iii. HUBCO's price was bench marked with market Price only on HUBCO's own request as they had refused to provide the breakup of their built-up cost.
 - iv. The existing practice of adjustment of FCC of HUBCO by linking it with market price and not as per invoice of OMC will be inconsistent with the Authority's decision of Jan 6, 2010 in the sense that FCC of other IPPs is being adjusted as per the invoices of OMCs and in HUBCO's case the invoice of OMC is being disregarded.
 - v. HUBCO / Bakri has agreed to provide details of its cost built up and relevant documents in support of their adjustment requests for which they have submitted written confirmations. They have also submitted that they will continue to claim Fuel Price adjustment on cost plus basis in future.
15. In view of the foregoing, the Authority has decided that fuel price adjustment of HUBCO will be processed as per Authority's decision dated January 6, 2010 i.e. based on the




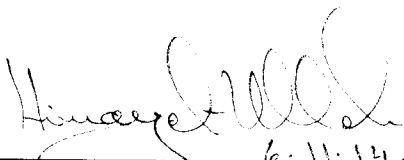
invoices of Oil Marketing Companies (OMC) for which HUBCO will provide details / break-up and supporting documents of its built-up cost.

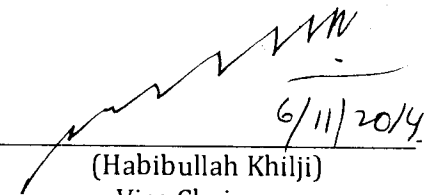
16. The Authority, further directed HUBCO to provide details / break-up and supporting documents of its cost built-up for the previous period i.e. from October 2013 to September 2014 during which its Fuel Price adjustment was benchmarked with market price, for Authority's review.

AUTHORITY

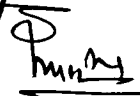

(Khawaja Muhammad Naeem)
Member


(Maj (R) Haroon Rashid)
Member


(Himayat Ullah Khan)
Member


(Habibullah Khilji)
Vice Chairman




07.11.14