

# ANWAR KAMAL LAW ASSOCIATES

Ref. No.C/NEPRA/686/17

**BY EMAIL, FAX & TCS** Dated: 23<sup>rd</sup> Sept., 2017  
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051-2600026

The Chairman,  
National Electric Power  
Regulatory Authority (NEPRA),  
Attaturk Avenue (East), NEPRA Tower,  
Sector G-5/1, Islamabad.

Subject: Licensee Proposed Modification (LPM) in the Generation License (No. IGSPL/60/2015, dated June 10, 2015) of Huaneng Shandong Ruyi (Pakistan) Energy (Private) Limited.

Reference: Advertisement Published in 'Business Recorder' dated 19.08.2017. The following two letters sent in relation to the above named company:

- C/NEPRA/288/15 dated 27.04.2015
- C/NEPRA/662/15 dated 05.11.2015

Dear Sir,

Mr. Anwar Kamal, senior Associate of Anwar Kamal Law Associates (AKLA), is a tax paying citizen of Pakistan and a consumer of electricity. Since 2002 he has assisted the National Electric Power Regulatory Authority on various issues with regard to the grant of Generation Licenses, Tariff Determinations, framing of Rules etc. It is also a great honor for him that the Supreme Court of Pakistan and the Lahore and Islamabad High Courts have appointed him as amicus curiae in various electric power related cases to assist the Honorable Courts. AKLA have also assisted the High Courts and Supreme Court as legal counsel to the public sector organizations as well as NEPRA in the cases of New Captive Power Plants (NCPPs), K-Electric etc.

2. AKLA have been participating in many of the proceedings of NEPRA conducted by it in the matter of the grant of Licenses, Modification of Licenses, Tariff Determinations etc. AKLA have also been participating in the process of Monthly Fuel Charges Adjustment since May 2014 without any gap. The participation of AKLA in NEPRA's proceedings and assisting the Authority is only in the 'Public Interest'.

3. At the very outset AKLA would like to put it on record that after the process of reform introduced in the Power Sector of Pakistan and induction of NEPRA as Regulator, the situation of the Power Sector of Pakistan is deteriorating continuously in terms of both electricity availability and affordability.

4. Over the 20 years period of the reforms process, under the Regulated regime, not only the IPPs but the GENCOs, WAPDA Hydroelectric Power, K-Electric and the DISCOs have adopted the approach to pass on their inefficiencies to the consumers and earn more and more profit. The urge to earn profit is not by bringing-in efficiency but by burdening the electricity consumers and the National Exchequer. This fact can easily be verified if the Tariffs of Generation, Transmission and Distribution of over 20 years are compared. The record of the amount paid from tax payers' money against the inefficiencies of the Power Sector in the name of subsidies, clearance of Circular debt, writing-off of bad debts etc. is evidence of AKLA's statement.

5. AKLA are of the firm opinion that the exclusive Regulator of the Electric Power Sector of Pakistan is solely responsible for the deterioration of the electric Power Sector in the country. AKLA do not know whether the deterioration of the Power Sector of Pakistan is due to incapacity of the Regulator or any other reasons, better known to the Regulator.

6. AKLA would now like to submit their comments on the subject LPM. NEPRA has published the advertisement regarding the Licensee Proposed Modification (LPM) of Huaneng Shandong Ruyi (Pakistan) Energy (Private) Limited and invited comments of all stakeholders in favor / or against the LPM.

7. The modification in the License was proposed by the Licensee to modify the Ramping rate (MW/min) and time required to synchronize to Grid (Hrs) in its Generation License. The numbers given in the existing License and the proposed modified numbers are compiled in the following table:

Ramping Rate					
Unit Load Range	Given in the Existing license (MW/Min)	Proposed Modification (%MW/Min)			
		Unit Load Range %age	Cold Start	Warm Start	Hot Start
From 50% to 100% MCR	33	0 - < 25%	0.2	0.6	1.0
From 30% to 50% MCR	19.8	25 - 50%	0.3	0.8	1.0
under 30% MCR	13.2	50 - 100%	0.3	0.3	0.8



Time required to Synchronize to Grid (Hrs.)		
	Given in the Existing license	Proposed Modification
Cold Start	4.25	10.0
Warm Start	2.00	8.0
Hot Start	0.75-1.0	2.5
Very Hot Start	-	1.5

8. The statement of the reason in support of the modification published in the newspaper is that the China-Pakistan Economic Corridor ("CPEC") being the Government of Pakistan's ("GOP") top priority has meant significant pressure on CPEC's early harvest projects to be completed at a rapid pace. The Project being an early harvest project faced similar pressure and the push to meet the exacting pace resulted in an oversight by the Company. This oversight caused erroneous performance data for the ramping rate and the consequent incorrect time required to synchronize to grid being approved in the Generation License.

9. Electricity consumers, even if they accept the reason given by the company for the oversight and ignore the same, cannot ignore the due diligence role of NEPRA in not noticing the erroneous performance data for the ramping rate and the consequent incorrect time required to synchronize to grid. NEPRA's failure is not understandable.

10. Unfortunately, NEPRA has approved the Generation License on the basis of incorrect erroneous performance data for the ramping rate and the consequent incorrect time required to synchronize to grid. This shows the quality of checks, analysis, evaluation and decision making in NEPRA. It needs to be noted that AKLA are not Power Sector experts but they are raising common sense queries before NEPRA considering themselves socially responsible for highlighting these. AKLA are putting their queries in broad terms because of their resource constraints.

11. Under the heading of Impact on Tariff it is stated that there will be no impact on Tariff. Although AKLA are not Technical experts and do not know how the proposed modification will impact the Tariff, it is obvious that the time to synchronize the grid and ramping rate is an important parameter and must have impact on Tariff, rates and charges. It is a fact that the Company has adopted an Upfront Tariff determined by NEPRA. AKLA do not know whether

NEPRA has considered these technical aspects while determining the Tariff or not? However, one thing is clear: that the regime of Upfront Tariff is not technically and legally justified for the Power Sector which is inducting Power Plants on the basis of long term PPAs, that too on the basis of 'Take or Pay' regime. NEPRA is required to carry out a detailed study of the proposed modification on Tariff as well as on the terms and conditions of PPA which affect the Tariff, like PLAC charges, Start-up charges etc..

12. AKLA are of the firm opinion that NEPRA's incapacity, for whatsoever reasons, has caused and is causing irreparable financial losses to the electricity consumers and economic losses to Pakistan. The ultimate effect of NEPRA's imprudent and uneconomic decisions is in the shape of closure of industries, unemployment, inflation, increase in poverty, social disorder, law and order situation, trade deficit etc.

Yours faithfully

(Anwar Kamal Law Associates)

Copy forwarded to the:

1. The Human Rights Cell of the Supreme Court of Pakistan, Constitution Avenue, Islamabad.
2. The Auditor General of Pakistan, Constitution Avenue, Islamabad. By TCS & Email [agp@agp.gov.pk](mailto:agp@agp.gov.pk)
3. The Registrar, National Electric Power Regulatory Authority (NEPRA), Attaturk Avenue (East), NEPRA Tower, Sector G-5/1, Islamabad.
- ✓ 4. Whistleblower Pakistan, 72-F/II Jami Commercial Street No.9, Phase VII, DHA, Karachi. By Email: [saadr2@gmail.com](mailto:saadr2@gmail.com)
5. Mr. Muhammad Arif Bilwani, 2-A, South Park Avenue, Phase-2, Defense Housing Authority, Karachi. (Ph. No. 0300-8229570).



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