

National Electric Power Regulatory Authority (Nepra) has reportedly refused to increase generation tariff of new captive power plants (NCPPs) producing 350 megawatts of electricity, saying that this issue cannot be reviewed without a public hearing, sources in Nepra told Business Recorder on Wednesday.

This was the crux of an in-camera meeting held on Wednesday between officials of Nepra and Water and Power Ministry. Secretary Water and Power Rai Sikandar, who replaced Nargis Sethi, is allegedly the architect of this proposal to facilitate NCPPs of personalities wielding political clout.

Nepra had determined tariffs of NCPPs on January 9 this year for the following companies: (i) Thatta Power (Pvt) Limited vide letters sent on March 1; (ii) Shikarpur Power (Pvt) Ltd; (iii) Dadu Energy (Pvt) Limited; (iv) Omni Power (Pvt) Limited and; (v) Galaxy Textile Mills Ltd (letter sent on March 2).

According to the Secretary Water and Power, in terms of Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the "Nepra Act"), the Ministry of Water and Power hereby requests the Nepra to reconsider and reevaluate determination on the following: (i) on instructions from Nepra, the Discos filed power acquisition requests on various dates for purchase of energy from various NCPPs under the Interim Power Procurement (Procedures and Standards) Regulations 2005; (ii) the operative provision in the NEPR Act 1997 relevant to the IPPR is Section 32 of the Nepra Act, which provide very clear unambiguous guidelines for the Authority in disposing off such power acquisition requests by the distribution companies or the transmission companies".

Section 32(2) of the Nepra Act reads: (i) "Any" procedure prescribed by the Authority under this section shall advance the goal of minimising regulatory oversight of contracts entered into by the national grid company and distribution companies"; (ii) section 32 of the Nepra Act provides clear set of procedures for handling power acquisition" requests by the Authority. The procedures, set out in the IPPR therein; and (iii) that the Authorisation given by Nepra in 2007 is still in force, and effective, and has never been withdrawn. In February 2012, the Authority amended the authorisation through a notice.

Secretary Water and Power maintains that the permission granted by Nepra through notice published on 15th June 2007 and other communications, whereby as a short-term measure the small power producers (SPPs)/ Captive Power Plants (CPPs) were allowed to sell surplus power to any Distribution Company/Central Power Purchasing Agency (CPPA) and Bulk Power Consumer (BPCs) at mutually agreed rates is hereby modified to the extent that all SPPs/CPPs who intend to sell electric power to DISCOs / CPPA /BPCs will need to either approach Nepra directly for determination of tariff under Tariff (Standards and Procedure) Rules, 1998 or through Distribution Companies / CPPA under Nepra Interim Power Procurement (Procedure & Standards) Regulations, 2005."

According to him, it is clear from the above notice of 2012 that the requirement to file the power acquisition request was only restored vide the 2012 notice and the power purchaser was not required to file any power acquisition request between June 2007 and February last year. The 2012 notice is prospective in nature and cannot be retrospectively applied to any bilateral contract executed prior to February 01, 2012.

The 2009 Policy was approved with consultations of all stakeholders of the GoP which was also reviewed by Nepra in its regulatory meeting on July 28, 2010 and the prescribed tariff was not objected to by the Authority. It was also decided in the said meeting that "a reference shall be sent to Pepco only if the proposed tariff is found to be inconsistent with Nepra's earlier guidelines in respect of generation tariff for power plants with less than 50MW capacity. It is submitted that to date no such reference has been sent to Pepco and as such the 2009 Policy

Written by Administrator

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stood approved by the Authority."</p> <p></p> <p>Water and Power Secretary also argued that Nepra has not followed the procedures contained in the IPPR and Section 32 of the Nepra Act, and instead followed the procedures under Section 31 of the Nepra Act and the National Electric Power Regulatory Authority" (Tariff Standards and Procedure) Rules, 1998 (the Tariff Rules), thus violating its own laws/ rules while disposing off the subject Power Acquisition Request of the said distribution companies (Discos). As a matter of law Nepra was required and obligated to adjudicate upon the PARs under the IPPR and not under Section 31 of the Nepra Act.</p> <p></p> <p>In his letter, Secretary Water and Power requested Nepra to revisit and re-evaluate its determination January 9 this year being not in accordance with the applicable Nepra laws and allow the purchase energy from the NCPPs on the tariff/ terms and conditions enumerated in the sale and purchase agreement which these NCPPs have already executed prior to February 2012. The terms and condition (including the tariff) of the Sale and purchase agreement which Discos have signed with these N-CPPs are still in force and never agitated by the Discos.</p> <p></p> <p>As such the Discos are legally and morally obligated and required to fulfil their contractual obligations under the contract deed with these power producers who have already signed with the Discos and cannot deviate from the terms and conditions, legally binding sale and purchase agreement. Nepra has also been requested to condone the time limit prescribed for submission of reconsideration request by the Federal Government for the reconsideration of the Authority"s decision in the larger interest of power sector and public both.

Courtesy: B R</p>