

SENATE OF PAKISTAN



SEVENTEENTH PARLIAMENTARY YEAR 2019-2020

REPORT NO. 01 OF 2020

SPECIAL REPORT OF THE SENATE STANDING COMMITTEE ON POWER

ON

"TO REVIEW THE ISSUES OF HIGH TARIFF, CAPACITY CHARGES, HEAT RATES AND CALCULATION OF PAY BACK PERIODS OF IPPS"

PRESENTED BY

SENATOR FIDA MUHAMMAD

(CHAIRMAN COMMITTEE)

SENATE SECRETARIAT

SPECIAL REPORT OF THE SENATE STANDING COMMITTEE ON POWER REGARDING EXCESS PROFITS PAID TO RFO BASED IPPS

I, Senator Fida Muhammad, Chairman Senate Standing Committee on Power have the honor to present the Special Report of the Committee on excess profits paid to RFO based IPPS.

2. The composition of the Committee is as follows:-

1.	Senator Fida Muhammad	Chairman
2.	Senator Syed Shibli Faraz	Member
3.	Senator Nauman Wazir Khattak	Member
4.	Senator Ahmed Khan	Member
5.	Senator Agha Shahzaib Durrani	Member
6.	Senator Mushahid Ullah Khan	Member
7.	Senator Dilawar Khan	Member
8.	Senator Dr. Ghous Muhammad Khan Niazi	Member
9.	Senator Moula Bux Chandio	Member
10.	Senator Syed Muhammad Ali Shah Jamot	Member
11.	Senator Muhammad Akram	Member
12.	Senator Molvi Faiz Muhammad	Member
13.	Senator Siraj ul Haq	Member
14.	Minister for Power	Ex-Officio Member

3. In pursuance of sub-rule (1) of Rule 183 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the Standing Committee on Power, in its meeting held on 15th May, 2019 constituted a three member Sub-Committee to look into the issue of excess profits paid to RFO based IPPS. The composition and Terms of Reference of the Sub-Committee are given as under:-

COMPOSITION

i.	Senator Nauman Wazir Khattak	Convener
ii.	Senator Muhammad Akram Khan	Member
iii.	Senator Agha Shahzaib Khan Durrani	Member

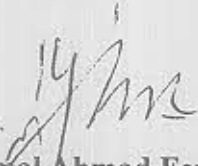
TERMS OF REFERENCE

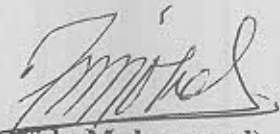
"To review the issues of high tariff, capacity charges, heat rates and calculation of pay back periods of IPPs."



4. The Sub-Committee accordingly held its meetings on 9th July, 2019, 26th July, 2019, 1st August, 2019 and 21st August, 2019 at Parliament House, Islamabad. During the Sub-Committee's meetings threadbare discussions were held on the TOR mentioned above.

5. The Sub-Committee, after thorough deliberations, presented its report to the main committee during its meeting held on 11.11.2019. The Committee unanimously adopted the report of the Sub-Committee and in a subsequent meeting decided to present it before the House as a Special Report of the Committee. Accordingly, the attached Report is being presented before the House.


(Kamal Ahmad Feroz)
Secretary Committee


(Senator Fida Muhammad)
Chairman
Senate Standing Committee on Power

SENATE SECRETARIAT

REPORT OF THE SUB-COMMITTEE OF THE STANDING COMMITTEE ON POWER

Regarding Excess profits to RFO based Independent Power Producers

1. Senator Nauman Wazir Khattak, Convener of the Sub-Committee of the Senate Standing Committee on Power, have the honor to submit, on behalf of the Sub-Committee, this report to the main Committee.

2. In pursuance of the sub-rule (1) of the Rule 183 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the Standing Committee on Power, in its meeting held on 15th May, 2019 constituted a three (3) member Sub-Committee. The composition and the Terms of Reference of the Sub-Committee are given as under:-

COMPOSITION

i.	Senator Nauman Wazir Khattak	Convener
ii.	Senator Muhammad Akram Khan	Member
iii.	Senator Agha Shahzaib Khan Durrani	Member

TERMS OF REFERENCE

“To review the issues of high tariff, capacity charges, heat rates and calculation of pay back periods of IPPs.”

3. The Sub-committee accordingly held its meetings on 9th July, 2019 at Parliament House, 26th July, 2019 at Parliament House, 1st August, 2019 at the office of National Electric Power Regulatory Authority (NEPRA), Islamabad and 21st August, 2019 at Parliament House, Islamabad. During the Sub-Committee's meetings threadbare discussions were held on the TOR mentioned above.

4. Energy is the Life blood of a country and electricity in particular is the engine of growth and industrial development for any developing country. The agenda at hand was therefore of utmost importance as the future of Pakistan's Power sector stability was dependent on it. The Sub-Committee discussed in detail elements of high tariff, capacity charges, heat rates, payback period and the financial



calculation leading to higher profits. A detailed analysis was presented by the Convener as to how over payments to IPPs have enhanced the impact of IPPs on circular debt. The Financial analysis also included an elaborate review of IPPs namely Atlas Power, Nishat Chunian, Nishat Power, Liberty Power and Attock Gen - during the period from 2012 to 2018.

5. The Committee observed that some of the aforementioned IPPs enjoyed substantially higher ratios of profits than the rate of returns allowed by NEPRA being calculated on the basis of 15% Return on Equity (RoE).

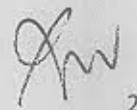
This needed to be looked into. NEPRA was of the view that payments were made following the international standards and that more than one financial principle of cash flow and accounting had been applied.

6. The Committee was not satisfied with NEPRA's explanation and asserted those IPPs which have earned excessive profits due to misrepresenting or hiding any information from the regulator had caused the higher than allowed return. These IPPs must return the additionally earned illegal amount to the consumers of Pakistan. A list of 17 questions was presented to NEPRA for response in the next meeting.

7. In the subsequent meeting NEPRA informed the Committee that the IPPs have got restraining orders from the court and as such the matter was sub-judice. The Committee opined that restraining orders do not bar NEPRA to provide requisite information to the Committee.

8. The Committee maintained that NEPRA has the Powers under the Law to review any determination or investigate any violation of the Act and rules or any wrong doing by Licensees. Therefore, NEPRA should protect consumers' interest by putting a stop to the process of IPPs getting extraordinary profit margins. In this context it was learnt that NEPRA had already taken Suo Motto notice to enquire into the matter of abnormal profits vide NEPRA TRF-IPPs/11660 dated 26.9.2013, but later did not pursue these proceedings. These proceedings need to be immediately resumed and pursued at the appropriate level and forum.

9. In view of the very important responsibility to maintain a balance between the interest of Consumers and Service providers, particularly Investors in Generation of Power, the Authority Chairman and Members, representing the provinces are required to be persons of known integrity and eminent professional capability to decide on the complex issues of Electricity regulation. There were strong reservations over the selection process of NEPRA's Chairman and Members. The Committee viewed that Chairman and Members heading various divisions within



2

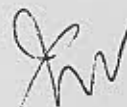
NEPRA should be persons of known integrity and competence, possessing adequate relevant qualification and should be selected from the market. The position of Chairman NEPRA is particularly important as he represents the federation and is an interface between the Government with respect to the implementation of the policies laid down by Government and CCI. The committee also recommends a review of the Selection process from the inception of NEPRA in 1997.

10. NEPRA claimed to follow recommended international standards in determining tariff rates, charges and other terms and conditions for supply of electric power services.

11. NEPRA briefed on mechanism of tariff determination. It further informed that three power policies have been introduced till date, first being in 1994, second in 2002 and latest in 2015. Various foreign and local power producers were given incentives and guarantees for production purchase and profits under all the three power policies. Detailed deliberations and threadbare discussions revealed that there were apparently serious malpractices carried out by the IPPs to earn huge illegal profits. This, in the considered opinion of the Committee, could have been avoided if NEPRA had played a more active role in enforcement, particularly in rectifying the matter of excessive profits when it took cognizance of the matter. NEPRA did not appear well prepared on the subject before the Committee and kept justifying its position that it was bound by terms and conditions of the agreements between the successive governments and IPPs and that the matter is sub-judice.

12. The Committee views that the accrual of profits of IPPs are very sensitive to factors other than the allowed rate of Return, such as Fuel cost, Operation and Maintenance (O&M) cost and Financial charges as these constitute more than 90 % of the tariff compared to RoE contributing to only 7% of the tariff. The tariff components with respect to Determination of NCPL are shown in charts attached as Annexures 2 and 3. It is viewed that the reasons of abnormal profits could be the following:

- (i) United States CPI rate indexation allowed as per policy of the Federal Government.
- (ii) Incorrect or inflated information provided to NEPRA about Cost of Projects and contracts made with EPC contractor and O&M expense contract and efficiency.
- (iii) Gains from factors outside tariff, such as "Partial loading"
- (iv) Unforeseen savings in cost elements.



(v) Misrepresentation of financial costs to obtain advantage of IPP's profits being Tax free.

(vi) Mismatch between timing of O&M Costs.

Since almost 60 % of the tariff relates to Fuel cost, which is directly dependent on efficiency, the point of efficiency/heat rate was of concern to the Committee, particularly, the matter that the government owned power plants generally have low efficiency/heat rate as compared to private sector power plants.

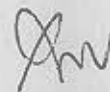
13. The Committee, however, was not satisfied with the justification given by NEPRA. Based on the financial data provided by NEPRA it was revealed that Atlas Power, Nishat Chunian, Nishat Power, Liberty Power, Attock Gen had obtained an abnormally high profit by deceiving the government and NEPRA. These IPPs gave incorrect information to NEPRA about the projected future expenses and obtained high tariff. This resulted in an average huge profits to the tune of Rs.8 billion per IPP, resulting in high tariff to the end consumer.—

14. Despite strong reservations the Committee was of the opinion that IPPs be given a fair chance to be heard by NEPRA. The committee recommends the following:

- i. NEPRA to determine a revised rate for all above IPPs after giving a full opportunity to all IPPs and all stakeholders to express their point of view, contention in the matter.
- ii. The recovery of ill-gotten money from the company as well as their initial sponsors.
- iii. Initiation of criminal proceedings against the IPPs through an investigation agency along with confiscation of assets.

15. The Committee directed the NEPRA to bring out factual position after hearing the IPPs and submit its report to the Committee for finalization of the report. The Committee further directed to analyze the financial statements of all NEPRA licensees to ascertain the facts in terms of their revenues earned in comparison with the tariff granted by NEPRA based upon their cost estimates.

16. NEPRA was also directed to follow Competitive bidding/reverse bidding process in granting tariffs in future to the IPPs and should abandon the cost plus policy at once. The matter of allowing a competitive market to establish a



reasonable price according to the amended NEPRA Act 2018 needs to be expedited.

RECOMMENDATIONS

- i. All five IPP's were evaluated. As per NEPRA the total excess payment is Rs. 39.020 billion with the breakup as below:

Nishat Power	7.116 Billion PKR
Nishat Chunian	7.819 Billion PKR
Attock Gen	11.045 Billion PKR
Liberty Power	9.247 Billion PKR
Atlas Power	3.793 Billion PKR

(Details attached as annexure 1).

The above amounts are to be recovered on immediate basis by CPPAG. In case IPPs are not willing to cooperate; the same should be adjusted in entirety from their upcoming monthly energy payments. Once the above amount has been recovered, only then can the IPPs object to the working provided by NEPRA and upon proof/correction in the NEPRA working, the full or partial amount be refunded to them.

- ii. Some of the Tariff elements like Partial Load Adjustment Factor (PLAC), not specifically mentioned in the NEPRA tariff were paid to IPPs, which runs into a few billion rupees. NEPRA to calculate all the amounts paid to IPPs outside the allowed tariff. The said calculation shall be forwarded by NEPRA to CPPAG within 1 month of this committed decision, the said amount as per the calculation of NEPRA is to be recovered on immediate basis by CPPAG. In case IPPs are not willing to cooperate; the same should be adjusted in entirety from their upcoming monthly energy payments.

Once the above amount has been recovered, can the IPPs object to the working provided by NEPRA and upon proof/correction in the NEPRA working, can the amount/partial amount/no amount be refunded to them. CPPAG is responsible for this unauthorized payment of PLAC to IPP's.



