

REPORT FOR COMMERCIAL CODE REVIEW

PANEL ON COMMENTS RECEIVED FROM

STAKEHOLDERS

AUGUST 28, 2015

1 BACKGROUND

In accordance with clause 3.4.4 of the Commercial Code ("**Code**"), this report is being prepared for circulation to the members of the review panel and onward submission to NEPRA for approval of proposed amendments contained herein.

Briefly, Panel for Commercial Code was established on July 9, 2015 (Attached as Annex A) and meeting held on August 13, 2015 (minutes enclosed at **Annex B**) with stakeholders of the power sector with a view to address their issues and concerns on the implementation and operation of the Commercial Code of the CPPA-G.

Thereafter comments were also received from certain quarters, which have been tabulated below, along with a response/clarification/action for the concerns raised, which will also be submitted to NEPRA for further necessary approvals and consents thereon.

2 COMMENTS

	Comment from Stakeholder	CPPA-G Comment	Action Proposed
Islamabad Electric Supply Corporation			
1.	Annexure 3 – Para 4 – Under the heading "Revenue Collection & Remittance Statement (sent by DISCOs)", the column "Previous Day Transactions (Collection)" would be inserted in the current statement as desired by NEPRA	Agreed	A new bullet will be added stating "Previous Day Transactions (Collection)"
2.	Annexure 3 – Para 4 – Under the heading "Revenue Collection & Remittance Statement (sent by DISCOs)", retained amount under "Retention", often containing a breakup of the amount e.g. office expenses, pension, salaries, taxes and Suppliers / Contractors	Agreed.	The words, " <i>e.g. office expenses, pension, salaries, taxes and Suppliers / Contractors payment etc.</i> " after the word "Retention".

	payment etc. (Today's Transfer to General Account)		
3.	There are many common delivery points in IESCO receiving electricity from NTDC. Consequently MDI is being charged as the sum of maximum load recorded at different delivery points at different times (date as well as hours) which is not true reflection of peak load drawn by IESCO and always gives much higher figures than the actual demand. S.M.S (Secured Metering System) is already installed at all CDPs in IESCO. To charge the correct MDI for any month, it is required to have addition / sum figures of all the CDPs reading at any point of time and maximum of that sum during any month should be taken as MDI reading to be charged to the DISCOs during that month.	This is an operational point which cannot be made part of the Commercial Code. IESCO may take up the matter with NTDC for review in terms of the Grid Code.	Nil
National Power Control Centre			
4.	Clause 7.1.5(ii) should be deleted from the commercial code and some other methodology be decided, because System operator do not possess any such facility through which information required could be made available.	This is a contingency provision and therefore its deletion is not required. Two options have been given to address a contingency	Nil
5.	In addition to clause 8.1.5, it is proposed that a format for the information mentioned in the clause, must be designed with mutual consensus of IPPs, GENCOs, Hydel and NTDC/ NPCC uniformly adopted by all stakeholders.	8.1.5 already requires that the CPPA-G and System Operator must agree on the format of exchanging information electronically. Since the information mentioned in this clause is for the record purposes of these two entities only, the consensus of the generation companies and other stakeholders on the	Nil

		format of this record is not required.	
6.	In clause 8.2.1 (x), the words <i>“the allocation of electric power to said Distribution Company shall be reduced temporally during the next settlement period (i.e. next month) in accordance with the power pool allocation policy,”</i> is not practicable, because there is no such technology available with the system operator / NTDC, through which electricity reduction can be regulated. Only way left is simply disconnection of related transmission line.	It is clarified that the allocation of electric power to said distribution company refers to the overall allocation quota of that company. As such, no physical system is required to regulate the flow of electricity.	
Independent Power Producers Advisory Council			
7.	The Code should expressly provide for saving of the existing agreements.	Agreed.	A new clause 2.5 may be added stating that <i>“The provisions of this Code shall not be interpreted in a manner which operates to extinguish any rights or liabilities of Parties to Power Purchase Agreements and Implementation Agreements which are in field at the time of the notification of this Code.”</i>
8.	Section 8.5 of the Code requires CPPA-G to send the market participant within 10 working days of beginning of each month a Preliminary Settlement Statement setting out the net energy and generation capacity bought from the IPP, which is followed by a 5 working day period for complaint by a market participant, if any. Further, within 20 working days of the beginning of each month, CPPA-G shall send the Final Settlement Statement to each market participant, followed by a 5 working day period for the	It is clarified that clause 8.5 gives maximum number of days within which the invoicing and settlement cycle is to take place. These are not minimum number of days and therefore the companies can complete the cycle earlier without waiting for a full 25 days to have passed.	Nil

	<p>Generation Companies to submit an invoice in accordance with the PPAs. As of now, the Company is entitled to issue invoices much earlier, and as per the arrangement proposed under the Code, it will not be able to issue the same unless up to 25 working days have passed from the start of a month. This would curtail the IPPs' rights under the PPAs in a significant manner and lead to inter alia, liquidity challenges.</p>		
9.	<p>Section 8.7.1 of the Code gives a market participant the right to challenge the final settlement claim with a valid justification within 60 working days after its receipt. The same is not in line with the PPAs as the period under the PPAs is much longer and the scope is much wider. Hence, the same should be modified so that it falls in line with the PPAs.</p>	<p>Agreed.</p>	<p>Clause 8.7.1 may be amended to read as follows: <i>"A Market Participant may challenge the Final Settlement Statement with a valid justification within sixty (60) working days after its receipt, <u>or such other period as may be otherwise agreed between the Market Participants under their respective power purchase agreements.</u>"</i></p>
10.	<p>Section 8.8.1(ii) of the Code specifies that the Generation Companies are to submit an invoice as per the PPA with or novated or administered by CPPA-G. Therefore, it should be clearly specified what is the position of the IPPs whose PPAs are not novated to CPPA-G. As stated earlier, for such IPPs, NTDC or WAPDA, as the case may be, will continue to remain the counter party to the PPA and consequently, fully responsible to fulfil obligations thereunder.</p>	<p>It is clarified that the words used in clause 8.8.1 (ii) are <i>"Each Generation Company shall submit an invoice as per its PPA with or novated to or administered by CPPA-G"</i> which protects the procedure of submission of invoice in the PPA, regardless of novation or administration. The need for specification does not therefore arise since the invoicing procedure in the PPA is the one which is being upheld.</p>	<p>Nil</p>
11.	<p>Section 8.8.2 of the Code makes CPPA-G an agent of DISCOs, who shall not be held liable for non-payment</p>	<p>It is clarified that 8.8.2 is holding the CPPA-G as agent of DISCOs for the purpose of invoicing under 8.8.1. It is with</p>	<p>Nil</p>

	to market participants. It is unclear that in such a situation, who would shoulder the responsibility of non-payments and any consequences flowing from the same. Subject to the aforesaid comment, it would be logical that the payment arrangement between CPPA-G and the DISCOs should be a matter of internal arrangement, and should not be linked with payment obligation towards the IPPs under the PPAs.	this reference that the CPPA-G is not being held liable for payments to be made against invoices between parties to their respective contracts. Accordingly, the payment arrangement is not being linked with payment obligation it is just being clarified that mere processing of invoices will not make CPPA-G liable for payment responsibilities of the DISCOs.	
12.	Section 9 relates to the payment to the market participants and provides for an order of priority of payments to be made to Generation Companies, NTDC and CPPA-G. As per the same, Capacity Payments and delay payments fall at the very end of the list, which would lead to delay for indefinite periods. The payment system envisaged under the Code is totally contrary to the scheme under the PPAs and is therefore unacceptable.	Agreed	Clause 9.4.5 may be substituted with the following: <i>“CPPA-G shall order the transfer of payments corresponding to invoices raised by Market Participant as per relevant provisions of their respective Power Purchase Agreement.”</i>

3 CONCLUSION

This report has been compiled on the basis of comments received up till August 28, 2015. It does not in any way bar or restrict any party from raising further issues or concerns as and when they arise. This report is being submitted to NEPRA in order to ensure that the concerns of the stakeholders to the Commercial Code are addressed simultaneously with the review process initiated by NEPRA with regard to the licence modification of NTDC dated 29 May, 2015 and consequently, the National Electric Power Regulatory Authority (Market operator Registration, Standards and Procedure) Rules, 2015.

In order to ensure continued facilitation to stakeholders the CPPA-G has also decided to develop a web portal allowing for comments to continue to be received and processed for the functioning of the Review Panel under clause 3.4 of the Commercial Code on a permanent and need basis.