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THE SINDH NEW CAPTIVE POWER PLANTS SUBSIDY ACT, 2017

SINDH ACT NO. XXVI OF 2017

CONTENTS

Preamble

Sections

1. Short title and Commencement.
2. Definitions.
3. Tariff differential support.
4. Penalties.
5. Power to make rules.
6. Removal of difficulties.

THE SINDH NEW CAPTIVE POWER PLANTS SUBSIDY ACT, 2017
SINDH ACT NO. XXVI OF 2017

[09th August, 2017]

AN ACT to provide for tariff differential support to certain captive power producers in the Province of Sindh.

WHEREAS the industrial, commercial and residential consumers of electricity in the Province of Sindh are suffering due to an acute power shortage which has resulted in unprecedented periods of load shedding and the Government desires to take urgent steps to alleviate such suffering;

Preamble.

AND WHEREAS new captive power plants have been lying idle due to the decision of the National Electric Power Regulatory Authority to fix tariff for such plants which made them economically non-viable;

AND WHEREAS in order to provide subsidy to captive power producers to operate the idle plants by enhancing available electrical energy and to alleviate the suffering of energy consumers in the Province of Sindh, it is expedient to provide tariff differential support to owners of such captive power plants.

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh New Captive Power Plants Subsidy Act, 2017.
- Short title and commencement.**

(2) It shall come into force at once.

(3) It shall extend to all new captive power plants operating in Sindh.

2. In this Act, unless the context otherwise requires –
- Definitions.**

- (a) “Chartered Accountant” means a firm of chartered accountants licensed to practice in Pakistan under the applicable laws of Pakistan;
- (b) “Government” means the Government of Sindh;
- (c) “new captive power plants” means any legal entity which has established a captive power generation plant in accordance with the requirements of the Policy prior to date falling eighteen months after the commencement of this Act, and have entered into a power purchase agreement with a licensed electricity transmission or distribution company;

THE SINDH NEW CAPTIVE POWER PLANTS SUBSIDY ACT, 2017
SINDH ACT NO. XXVI OF 2017

- (d) “policy” means the policy framework for new captive power producers approved by the Board of Directors, Pakistan Electric Power Company Limited;
 - (e) “Power Producers” means the New Captive Power Producers to operate the new captive power plants;
 - (f) “Power Purchaser” means the counter-party to the Power Producers in the Power Purchase Agreement;
 - (g) “power purchase agreement” means the agreement entered into by a power producer with a licensed electricity transmission or distribution company, for the sale of electrical energy produced by the power producer from a captive power plant established pursuant to the policy;
 - (h) “tariff determination” means the tariff in respect of each power purchase agreement as determined by the National Electric Power Regulatory Authority;
 - (i) “subsidy” means the tariff differential amount to be paid to power producers under the provisions of this Act; and
 - (j) “tariff differential amount” means the difference between the amount which the power producers would have been entitled to receive in respect of an invoice issued under the power purchase agreement according to the tariff agreed in the power purchase agreement prior to the tariff determination and the amount paid or payable by the Power Purchaser for the same invoice pursuant to the tariff determination;
3. (1) After receipt of payment of an invoice issued pursuant to an power purchase agreement, the Power Producer may seek payment of tariff differential amount form Government by making an application in the prescribed form to the Government, accompanied by the following:-
- (a) copy of the paid invoice certified as having been paid by the Power Purchaser; and
- Tariff differential support.**

THE SINDH NEW CAPTIVE POWER PLANTS SUBSIDY ACT, 2017
SINDH ACT NO. XXVI OF 2017

- (b) certificate issued by a Chartered Accountant certifying the tariff differential amount payable in respect of such invoice in accordance with the provisions of this Act.

(2) Within thirty days of the receipt of all the documents referred to in sub-section(1), Government shall pay the tariff differential amount to the Power Producers.

(3) No payment of a tariff differential amount shall be liable to be paid in respect of the documents referred to in sub-section (1) submitted to Government after ten years from the commencement of this Act and in any event no Power Producer shall be entitled to claim tariff differential amount for period of seven years from the date of first application under sub-section (1):

Provided that Government may, by notification, in the official gazette, extend the aforementioned period as it deems necessary or expedient.

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| 4. | Where any Power Producer in any application, certificate, books of accounts, information or explanation required by or for the purposes of any of the provisions of this Act, makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, such Power Producer or any concerned Director shall be punishable with fine not less than five million rupees and not exceeding ten million rupees. | Penalties. |
| 5. | Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act. | Power to make rules. |
| 6. | If any difficulty arises in giving effect to the provisions of this Act, Government may, by notification in the official Gazette, make such provision or order as may appear to it to be necessary for the purpose of removing such difficulty. | Removal of difficulties. |