



BEFORE THE  
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF  
FIRST PHASE REVIEW

ACQUISITION OF 75 SHARES OF AZAD PATTAN POWER (PRIVATE) LIMITED BY CHINA GEZHOUBA GROUP INVESTMENT HOLDING CO. LIMITED AND CHINA GEZHOUBA INTERNATIONAL ENGINEERING COMPANY LIMITED FROM CONTINENTAL PETROLEUM (PRIVATE) LIMITED AND PANASIAN INVESTMENT LIMITED THROUGH POWER UNIVERSAL COMPANY LIMITED

CASE: 781/Merger-CCP/16

Commission:

Ms. Vadiyya Khalil  
Chairperson

Mr. Shahzad Ansar  
Member

Mr. Ikram Ul Haque Qureshi  
Member



# ORDER

## I Background

- 1 On 11 February 2016, Azad Pattan Power (Private) Limited ("Azad Pattan"/ the "Applicant"/) submitted a pre-merger application (the "Application") for the approval of the Competition Commission of Pakistan (the "Commission") pursuant to Section 11 of the Competition Act 2010 (the "Application") and Regulation 5 of the Competition (Merger Control) Regulation 2007 (the "Regulations"). The envisaged transaction involves the acquisition of up to shares of Azad Pattan ("Target", Azad Jammu & Kashmir) by China Gezhouba Group Investment Holding Co. Limited ("CGGC Investment", China) and China Gezhouba International Engineering Company Limited ("CGGC International", China) (the "Joint Acquirers") from Continental Petroleum Private Limited ("Continental", Pakistan) and Panasian Investment Limited ("Panasian", Mauritius) (collectively the "Sellers"). The transaction is being carried out through Power Universal Company Limited, a special purpose vehicle (SPV) incorporated in Dubai, United Arab Emirates ("Power Universal") for the intended acquisition. The Application was submitted along with the necessary information and applicable processing fee in accordance with the provisions of the Act and the Regulations. The Commission's review of the intended merger is as under:

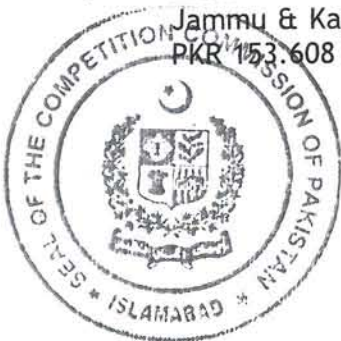
## II Merger Parties

### Joint Acquirers

- 2 The Joint Acquirers, CGGC Investment and CGGC International are both incorporated in China. CGGC Investment's principal activity is financing/ investments in property and capital operation. CGGC International's principal activity is contracting on turnkey basis, reconnaissance, design, procurement, construction, construction for project management for infrastructure projects in the fields of water conservancy and hydropower, electric power, port, highway, airport, railroad, and metropolitan railways, among other things.
- 3 The value of the total assets of CGGC Investment for the year ended 31 December 2014 was and its annual turnover was for the same period. The value of the total assets of CGGC International for the year ended 31 December 2014 was and its turnover was for the same period.

### Target

- 4 Azad Pattan is a hydropower project with a 640MW power generation capacity in Azad Jammu & Kashmir (AJ&K) with an estimated cost of USD 1,477 Million (USD 1 @ 104 = PKR 153,608 Billion). The project is located near the village of Muslimabad, AJ&K, 7



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KM upstream of the Azad Pattan Bridge on the river Jhelum. The Target is a subsidiary of Laraib Group of Pakistan, which through its wholly owned subsidiary - "Continental" has common management and control of up to . . . shares of the Target. In addition, Laraib Group has common management and investments interests in various companies, including, among others, Laraib Energy Limited (84 MW New Bong Hydropower Project through its wholly owned subsidiary Coate & Co Private Limited), Ashkot Energy Private Limited (300 MW Ashkot Hydropower Project) and Sankya Energy Limited (6.5 MW Sankya Hydropower Project). The Target is being developed as an Independent Power Producer (IPP) under the policy of the Government of Pakistan (GOP). The project is still under development. It has no commercial activities for the last financial year and has not yet achieved its first financial closing.

### Sellers

- 5 The Sellers - Continental and Panasian are investment companies holding up to . . . and . . . shares of the Target respectively. Post-merger, the Acquirers will be holding . . . from Continental and . . . from Panasian). The Sellers are solely involved as investment companies for investing equity in the Target and have no other business activities. Both sellers have no turnover or income as their sole investment is in the Target.

### III Transaction

- 6 The transaction involves the collective acquisition of . . . controlling interests in the Target by the Joint Acquirers from the Sellers through Power Universal, an SPV incorporated in Dubai, United Arab Emirates (the "Transaction"). The Transaction cost is estimated at

### IV Thresholds

- 7 The intended merger meets the notification thresholds prescribed in Regulation 4(2) (a), (b), (c) & (d) of the Merger Regulations, with the value of the Acquirers' assets exceeding PKR 300 million and the combined assets of the merging parties exceeding PKR 1 billion. The total turnover of the Acquirers exceeds PKR 500 million, the combined turnover of the merging parties exceeds PKR 1 billion and the Transaction value also exceeds PKR 100 million. The collective entitlement of the Joint Acquirers to voting shares in the Target will also be up to . . . as a consequence of the intended Transaction.

### V Relevant Market

#### Relevant product market

- 8 The relevant product market in this case is the Electric Power Generation industry in general and the private Hydel sector in a narrower context.

#### Relevant geographic market

9 The geographic market for the intended merger is determined to be the whole of Pakistan.

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## VI Competition Assessment

10 The competition assessment in Phase-I has resulted in the following findings:

a. The Target's market share is highlighted below:

Power Generation	Installed Capacity (MW)	Market Share (%)
<b>Total Hydel Power Generation</b>		
WAPDA Hydel		
IPPs Hydel		
Azad Pattan Hydel		
<b>Other sources (Thermal, Wind, Nuclear, etc.)</b>		
<b>TOTAL</b>		

Source: CDM Executive Board, Azad Pattan Hydropower Project, 26.11.2011

- b. The Water and Power Development Authority (WAPDA) is a government-owned public utility maintaining power and water in Pakistan. WAPDA includes Tarbela and Mangla dams among its resources and operates 19 Hydel Power plants having total generation capacity  $11,700$  MW with up to  $35\%$  share in the relevant market. While rest of Hydel projects are IPPs and their generation capacity is approximately  $11,700$  MW with up to  $35\%$  share in the relevant market. Once operational, the Target will be contributing approximately  $1,000$  MW of energy with up to  $3\%$  share in the relevant market of Electric Power Generation. While the rest (approximately,  $10,700$  MW with up to  $32\%$  share in the relevant market) of electric energy demand is met by thermal, wind and nuclear power plants in Pakistan.
- c. Power Universal is an SPV incorporated for the purposes of intended acquisition by the Joint Acquirers. The Transaction comprises of the acquisition of  $100\%$  shares of the Target, which are currently held by the Sellers i.e. Continental and Panasian.
- d. The Target is under development as a Hydel IPP approved under the Power Policies of the GOP. Hydel IPPs are allowed a cost *plus* regime and a tariff allowing an internal rate of return (IRR) on equity of  $15\%$ . The electric energy generated by the Target will be sold to the Central Power Purchasing Authority (CPPA) under a Power Purchase Agreement (PPA) with a term of thirty (30) years. As such the project is not subject to market conditions due to the contractual PPA arrangement relating to tariff (determined by the Regulator) which is subject to adjustment and indexation factors as agreed in the PPA.
- e. The Acquirers are not directly engaged in any business in any upstream or downstream market of electricity generation and transmission in Pakistan. However, CGGC International holds  $100\%$  shares of SK Hydro Private Limited (SK Hydro), a company incorporated to develop, build, own, operate and transfer to the government at the end of a concession term, a 870 MW Suki Kinari Hydropower Project on Kunar River, Kaghan Valley in Khyber Pakhtunkhwa province of Pakistan. SK Hydro is an independent project and it has no relation with Laraib Group or the Target. Keeping in view the overall Hydel energy generation in Pakistan, the Acquirer's share in the relevant market is negligible and there are no significant horizontal overlaps or vertical links in the relevant market.

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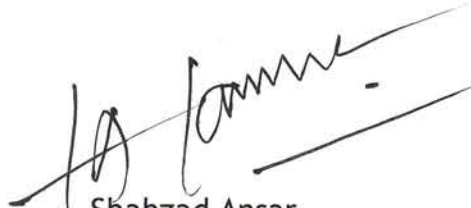


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- f. As noted above, the market share of the Target in the relevant product market is estimated to be around . Post-merger, there will be no change in the market share of the Target as a result of the intended acquisition.
- g. The intended acquisition does not meet the presumption of dominance as is envisaged under section 2(1)(e) read with section 3 of the Act.

## VI Conclusion

- 11 In conclusion, there is no evidence that the intended acquisition is likely to result in substantial lessening of competition by creating or strengthening of a dominant position in the relevant market. The intended merger is hereby authorized under Section 31(1) (d) (i) of the Act.
- 12 It is so ordered.

  
Shahzad Ansar  
Member

  
Ikram Ul Haque Qureshi  
Member

  
Vadiyya Khalil  
Chairperson



Islamabad MARCH 8<sup>th</sup>, 2016