



Supreme Prosecutors Office News Release

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The Special Investigation Division (SID) of the Supreme Prosecutors Office has concluded its investigation of alleged violations of the Anti-Corruption Act by Chen O-ming, Tu O-yi and Li O-shen of Taiwan Power Company (“TaiPower”) and by Yeh O-ching of the Bureau of Energy of the Ministry of Economic Affairs. Prosecutors have found no substantive evidence of the alleged corruption and offenses, and accordingly have concluded the investigation. The relevant investigation is as summarized below:

I. Gist of the Informant’s Report and Initiation of Investigations

1. It is alleged that TaiPower fails to generate power from its own reserve capacity, but instead purchases power from private power plants at high prices. TaiPower had purchased the turbines, reactors and nuclear furnaces for its 4th nuclear power plant (“Nuclear Plant #4”) as pre-fabricated products, but still has not completed the construction of the plant in 12 years. TaiPower carried out a major inspection and maintenance of the first reactor at its 2nd nuclear power plant (“Nuclear Plant #2”) on March 23, 2012, and discovered that 7 of the anchor bolts were defective; instead of buying locally manufactured bolts at NT\$2,400 each, TaiPower purchased bolts from the original foreign manufacturer at the price of NT\$13,330,000 per bolt. It is therefore alleged that TaiPower personnel are guilty of violating the Anti-Corruption Act.
2. When comparing TaiPower’s 3-phase power price adjustments in 2012 with the 2008 power price adjustment, the proportions of power purchases under these two proposals differed by as much as 27.91%. TaiPower was purchasing power from private power plants at higher prices, and still constantly increasing the proportion of power so purchased. It is therefore alleged that TaiPower personnel are guilty of violating the Anti-Corruption

Act.

3. During the period that the defendants Chen O-ming, Tu O-yi and Li O-shen were employed by TaiPower, they were aware that TaiPower had entered into power purchase agreements with such gas-fired power companies as Chang O, Jia O, Xin O, Guo O, Hsin O and Sen O from 1997 to 2000. However, although interest rates in Taiwan were lowered dramatically since 2003, the defendants Chen O-ming, Tu O-yi and Li O-shen had agreed to the aforementioned private power companies' proposal for shortening the gas-fired power generation cost return period, when negotiating with these companies regarding the fuel cost adjustment mechanism in 2006~2007. It is therefore alleged that the defendants Chen O-ming, Tu O-yi and Li O-shen are guilty of violating the Anti-Corruption Act. The defendant Yeh O-ching, being the former Director-General of the Bureau of Energy of the Ministry of Economic Affairs, was aware that the 2960th session of the Executive Yuan Cabinet meeting had lowered the percent reserve margin to 16%, but the Ministry of Economic Affairs still stipulated transitional provisions in its "Proposal for Stage 4 Establishment of Private Power Generation Operators" ("Stage 4 Proposal"), and approved O-Yuan Power Co., Ltd. to become registered. It is therefore alleged that the defendant Yeh O-ching is guilty of violating the Anti-Corruption Act.

II. Investigation Results

1. Regarding TaiPower's purchase of power from private power companies at high prices (including abnormal increase of power purchase proportion)
 - (1) Explanation for TaiPower purchasing power from private power companies at prices higher than the cost of TaiPower's own power production
There are differences between the ways that power plant depreciation, generator operating models, generator capacities and purchase prices for power purchase agreements are calculated by TaiPower and by the private power companies. It is not possible to compare them directly and conclude that the prices of power purchase from private power companies are higher.
 - (2) Explanation for the abnormal increase in the proportion of

power purchased by TaiPower from private gas-fired power companies

The informant cited the proportion of power purchase under TaiPower's 2008 power price adjustment as 19.59%, and 3-phase power price adjustments in 2012 as 22.45%; he therefore concluded that there was an abnormal increase in the proportion of power purchased by TaiPower from private gas-fired power companies. However, the complainant had possibly failed to take into account the fact that O Yuan had begun commercial operations only on June 30, 2009, resulting in the proportion of TaiPower's power purchase being increased to 22.45%.

- (3) Based on the above, one cannot find that the TaiPower personnel have committed any violations of the Anti-Corruption Act merely based on the unilateral accusations of the informant.
2. With regards to the defendants Chen O-ming, Tu O-yi, Li O-shen and Yeh O-ching

- (1) With regards to the defendants Chen O-ming, Tu O-yi and Li O-shen

The many negotiations between TaiPower and the 6 gas-fired private power companies all relate to whether the capital cost in the power purchase agreements should be revised to reflect interest rate fluctuations, or whether the fuel cost rate should be changed to become floating adjustments. These matters are within the scope of civil disputes, and are distinguishable from constitutive elements of the Anti-Corruption Act. It is therefore not possible to consider these facts offenses under the Anti-Corruption Act.

- (2) With regards to the defendant Yeh O-ching

The Bureau of Energy, after compiling the legal opinions of all parties, had included transitional provisions in the draft of the Stage 4 Proposal. The administrative process for the entire proposal – from research, seeking of opinions, discussions, drafting of proposal, submission for approval, special discussion meetings by the Council for Economic Planning and Development, discussion and approval by the Financial and Economic Taskforce of the Executive Yuan,

approval by the Executive Yuan, and ultimate issue by the Ministry of Economic Affairs – was comprehensive. The Stage 4 Proposal (including the transitional provisions) had been approved by the Executive Yuan, the transitional provisions were explained, and the background, review basis and detailed agenda and explanations for the proposal were all set out in the Ministry of Economic Affairs' agenda and minutes for the meeting, which were provided to participants of the meeting together with the notice for convening of the meeting. Therefore, one cannot conclude that the defendant Yeh O-ching had committed any criminal offenses, and cannot find him guilty of the Anti-Corruption Act.

3. There is insufficient evidence to indicate that the defendants had committed the alleged offenses, merely by virtue of Nuclear Plant #4 being still under construction

Nuclear Plant #4 had been subject to many problems, including failure to award the contract for the main equipment as a package contract, resulting in the tender being changed to design and equipment supply contracts; the Executive Yuan's announcements for stopping construction and then resuming construction, subcontractors becoming bankrupt due to global economic downturn, rising of raw material costs, arbitration procedure for stop work compensation, design problems, contractual performance disputes, bankruptcy of the main contractor's company, shortage of gravel supply, and shortage of labor. One cannot conclude that the TaiPower personnel were guilty of violations of the Anti-Corruption Act, merely on the ground of Nuclear Plant #4 being still under construction due to the aforementioned factors.

4. There is no illegality in Nuclear Plant #2 purchasing bolts from original foreign manufacturer

With regards to the services procurement for TaiPower Nuclear Plant #2's broken anchor bolts, since original design and installation regulations governing the anchor bolts were determined by the U.S. Qi-O company, the broken bolts would result in an extension of the plant's major repairs period by more than 3 days (or extension of the major repairs would result in power restrictions being imposed). The repair work was

contracted to Qi-O as a package, and was consistent with the provisions of “Services Procurement Measures in Emergencies” and the Government Procurement Act. There was no illegality.

5. Based on the above, there is insufficient evidence to show that “TaiPower personnel”, the defendants Chen O-ming, Tu O-yi, Li O-shen and Yeh O-ching were guilty of offenses under the Anti-Corruption Act. As no positive evidence of any other illegalities has been found, the investigation is accordingly concluded.