



Whistleblower Pakistan

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The Chairman,
National Electric Power
Regulatory Authority (NEPRA),
Attaturk Avenue (East), NEPRA Tower,
Sector G-5/1,
Islamabad.

TRUSTEES

Ms. Yasmeen Lari

Justice (R) Nasira Iqbal

Ms. Shahana Kaukab

Mr. Sohail Muzaffar

Justice (R) Zia Perwaiz
(Secretary General)

Justice (R) Dr. Ghous
Muhammad
(Vice Chairman)

Syed Adil Gilani
(Chairman)

Subject: Latest Status of various issues.

Dear Sir,

The attention of the Authority is drawn towards the news item published in leading newspapers of Pakistan with regard to over-burdening of KE consumers. The news item was published in Daily newspapers under different headings such as:

- “NEPRA assailed over ‘windfall profits’ of KE” - Daily Dawn;
- “NEPRA accused of over-burdening KE consumers” - Daily Business Recorder.

2. In the news item it was mentioned that on just two accounts i.e.:

(i) non adjustment of consumer-end tariff as per the T&D losses set in NEPRA’s approved Multiyear Tariff (MYT) Determination; and

(ii) not accounting for the actual efficiency of K-Electric (KE) Power Plants, the consumers of KE have so far paid an additional Rs. 62 billion during the last few years.

3. Whistleblower Pakistan would like know how and when NEPRA will order the KE to refund the over-charged amount. It is also published in the newspapers that the Authority has constituted a fact-finding Committee in the matter. WBP requests that the Report of the Committee be shared with

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Stakeholders and a decision should not be announced in a closed room in favor of KE. WBP place it on record that despite the demand of stakeholders NEPRA did not share the report of casualties of more than 2500 people in Karachi during the heat wave in 2014-15. Load-shedding and non-supply of electricity was considered as one of the main reasons for these casualties. NEPRA has very secretly exonerated the KE and did not share the report with stakeholders. WBP will ensure that this does not happen in this case.

4. Besides the above stated issue, there are several pending issues which require decision from NEPRA With regard to some issues the Authority in its various decisions has held the following:

- The Authority took cognizance of **under-utilization and undue load shedding** and lastly issued Show Cause Notice under NEPRA (Fines) Rules, 2002 to KE by following due process of law, however, KESCL filed Civil Suit against issuance of the Show Cause Notice and the Honorable High Court of Sindh at Karachi has suspended the operation of the Show Cause Notice.
- The Authority took cognizance of **over-billing/detection billing** and issued Show Cause Notice under NEPRA (Fines) Rules, 2002 to KESCL by following due process of law; however, KESCL filed a Civil Suit against the issuance of the Show Cause Notice and the Honorable High Court of Sindh at Karachi has suspended the operation of Show Cause Notice.
- The Authority applied the already determined **Claw Back Mechanism** and determined an amount of Rs. 5,413 million to be shared by KESCL with the consumers for the year 2011-12 and 2012-13; however, KESCL filed a Civil Suit against the decision of the Authority and the



Honorable High Court of Sindh at Karachi has restrained the Federal Government from notifying the decision of the Authority.

- The Authority has also taken cognizance of **meter rent charged** by KESCL across the board and lastly issued Show Cause Notice under NEPRA (Fines) Rules, 2002 and further proceedings in this regard are pending adjudication.
- The Authority took cognizance of **hook connections/Kunda** issued by KESCL and issued explanation under NEPRA (Fines) Rules, 2002 by following due process of law; however, KESCL has challenged the same by filing a Constitutional Petition in the Honorable High Court of Sindh at Karachi and the Honorable court has restrained NEPRA from taking any coercive action against KESCL.
- The issues of corrigendum and **purchase of 650 MW by KESCL from NTDC** are also pending adjudication in the Honorable High Court of Sindh at Karachi and further proceedings will be taken in the light of decisions of the Honorable Court.

[From the Authority's decision in the matter of KESCL Fuel Charges Adjustment for the months of July, August and September, 2014 dated 02.01.2015- Para 13]

5. Issue of Plant Under-utilization and observing Load-shedding: On this issue the Authority in its decision dated 02.01.2015 in para 18 stated that "the Authority has noted with grave concern that KESCL is subjecting its consumers to undue and unauthorized load shedding by continuously underutilizing the available energy of its system (own + external)".

6. Issue of 650 MW electricity withdrawal from the NTDC Generation Basket: On this issue the Authority in its decision



stated that “it was also noted that KESCL is keeping its available generation capacity idle and relying more on the energy purchased from NTDC in violation of the terms of the power purchase agreement signed between the mentioned utilities. By doing so, KESCL is necessitating the operation of most expensive power plants in NTDC system as well as aggravating the menace of load shedding in the whole country.”

7. Issue of Non observance of Economic Merit Order

(EMO): This is an issue being agitated by the Stakeholders for the last 4-5 years, namely that KESCL is not observing the Economic Merit Order (EMO) in operation of its Power Plants as well as in purchasing electricity from external sources. NEPRA, instead of deciding this issue permanently, is giving its decisions on provisional basis for the last many years. In this regard, under para 19 of the decision dated 02.01.2015, it is stated that “The current month’s variation is being allowed on provisional basis subject to adjustments if it is found that KESCL, while dispatching power from the generation sources of its system, has not followed the Economic Merit Order, the matter which is being dealt with KESCL separately.”

8. Over Charging by K-Electric from its four categories of consumers since July 2009 till date and onward due to

Inadvertent Error by NEPRA: It is mentioned in para 2 of NEPRA’s decision dated 31.03.2014 that four categories of consumers were erroneously adjusted in KESCL’s SoT attached with decision dated June 30, 2010 as per following details:



Tariff Categories	Adjustment that should have been made	Erroneous Adjustment Made
A1 - Residential 1-100 units	2.79	3.33
A1 - Residential 101-300 units	2.79	2.99
A1 - Residential 301-700 units	2.79	3.19
D1 - Agriculture	2.79	2.67

The detail of the case is given in the decision of the Authority dated March 31, 2014 in the matter of Review of Schedules of Tariffs attached with the Quarterly Adjustment Decisions for the period July 2009 to March 2012. It is stated in the decision that NEPRA rectified the error and issued a corrigendum dated November 20, 2012 but the said corrigendum was challenged by KESCL before the High Court of Sindh at Karachi through Suit No.1740/12 by virtue of which the said decision of the Authority was suspended to the extent of rectification of Ps. 14/kWh in K-Electric's Schedule of Electricity Tariff (SoT). In short the said error is still continuing.

9. There are several issues which are pending in the High Court of Sindh as KE has filed the Petitions in the High Court of Sindh against NEPRA's decisions. Since NEPRA has to defend its decisions in the High Court, all stakeholders would like to know the latest status of the cases in Court. Furthermore, as the consumers of KE are suffering adversely due to these cases, they would like to have a copy of the Court orders in which the Court has restrained NEPRA not to decide the case on merit. Stakeholders also want to know, in each individual case, what NEPRA did to get these cases decided expeditiously in the High Court of Sindh as these are cases of public interest and the



losses being incurred in some cases are fatal in nature for the consumers.

10. Similarly, some cases are also pending before NEPRA, but there is no decision: amongst these violation of Economic Merit Order by KE on one or the other pretext, non-provision of TOU meters, illegal load-shedding etc. are very important and are pending for the last many years.

11. An important issue which was recently raised by one of the Stakeholders as a complaint before NEPRA, in which the complainant stated that KESC was resold in 2009 to Abraaj Capital Group; Amended Implementation Agreement (AIA) was signed to this effect in 2009. In addition to others, one concession given through this AIA was to take out approximately Rupees 70 billion "contingent liability" in KESC's financial accounts due to its long running dispute with NTDC on "Marginal versus DISCO" Tariff rate. Referencing to the "ECC decision dated 14 October 2008" and Federal Cabinet decision dated 8 April 2009, the AIA mentioned setting-aside/ writing-off Rupees 31 billion of this huge liability in favor of KESC while the remaining amount of approximately Rs.39 billion was passed on to the KESC Company (Rupees 21.2 billion*), KESC consumers (Rupees 4.7 billion) and Ex-WAPDA DISCOs' consumers (Rupees 13.6 billion) for eventual payment to NTDC as per an agreed payment Plan.

(*Rupees 21.2 billion = Rupees 4 billion Upfront + Rupees 17.2 billion @ Rupees 400 million per month for 43 months).

12. To help KESC pay for its allocated NTDC liability amount as per agreed payment Plan, NEPRA included an extra Paisas 41.33 per kWh in KE's Tariff in the 30 June 2009 Determination.



Logically speaking, the charging of the Ps. 41.33/kWh should had been stopped once KESC have recovered the said amount and, charging of this amount thereafter should have been discontinued. But NEPRA did not revise the SoTs and thus KE is over-charging around Rs.4-5 billion on this account for the last many years. Inquiry Report on this complaint is still pending.

The delay in providing the above information and documents and/or responding to the above queries will help KE to continue its exploitation and the role of NEPRA will be considered as providing assistance in continuing the same.

Yours
faithfully

(Syed Adil Gilani)
Chairman

Copy forwarded to the Registrar, National Electric Power Regulatory Authority (NEPRA), Attaturk Avenue (East), NEPRA Tower, Sector G-5/1, Islamabad.

