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National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/SA(M&E)/LAD-35/ 12518

August 08, 2025

Chief Executive Officer,
Sukkur Electric Power Company Limited (SEPCO),
Administration Block, Thermal Power Station,
Old Sukkur

Subject: Order of the Authority in the matter of Show Cause Notice issued to SEPCO on account of the Establishment of Safety Directorate/Department under Regulation 4(8) & 4(9) of NEPRA (Fine) Regulations, 2021

Please find enclosed herewith, the Order of the Authority (total 09 page) in the subject matter for information and compliance.

Enclosure: As above

Wasim Anwar Bhinder
(Wasim Anwar Bhinder)



National Electric Power Regulatory Authority

ORDER

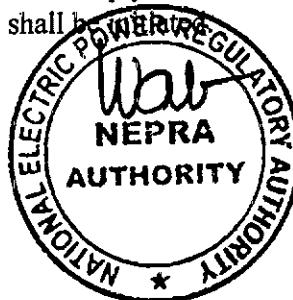
IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO SEPCO ON ACCOUNT OF THE ESTABLISHMENT OF SAFETY DIRECTORATE/DEPARTMENT UNDER REGULATION 4(8) & 4 (9) OF NEPRA (FINE) REGULATIONS, 2021.

1. Sukkur Electric Supply Company (SEPCO) (the "Licensee") was granted a distribution license (No. DL/21/2011) by the National Electric Power Regulatory Authority (the "Authority") on 18.08.2011 pursuant to section 20 read with 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("NEPRA Act")

Background:

2. According to NEPRA Act 21(2)(f)- of the duties and responsibilities of distribution licensee- "follow the performance of the non-compliance to the Power Safety Code 2024, "Non-compliance with the requirements of the Power Safety Code and other applicable documents, the Authority may initiate legal proceedings under the relevant provisions of NEPRA laws"
3. According to Article 11 of the compliance with performance standard- "The Licensee shall conform to the relevant Performance Standards as may be prescribed by the Authority from time to time."
4. According to Section 5.1 of the non-compliance to the Power Safety Code 2024 - "Non-compliance with the requirements of the Power Safety Code and other applicable documents, the Authority may initiate legal proceedings under the relevant provisions of NEPRA laws".
5. According to Section 7 of the Power Safety Code 2024, all the licensees are required to establish their independent directorate/department of Occupational Health Safety and Environment before December, 2021, and the same was informed to SEPCO vide NEPRA letter dated 10.09.2021. Moreover, a reminder dated 02.03.2022 followed by a final notice dated 19.10.2022 were also issued. However, no response from Licensee was received despite lapse of the stipulated time.
6. Meanwhile, the same issue was raised during the hearing of Licensee dated 15.05.2023 at NEPRA in the matter of **Adjustment/Indexation Requests Filed by SEPCO In Tariff Adjustment for FY 2023-24**. During the hearing, the Authority took serious notice and strictly directed the Licensee to comply with the Authority's direction, within 30 days, failing which stern action shall be taken.

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7. Keeping in view the above directions, a letter dated 30.05.2023 was issued to licensee and again directed to comply with directions and establish an independent Health, Safety and Environment Directorate/Department well within time. However, no response from licensee was received.
8. The Authority took serious notice and decided to initiate legal proceedings against the licensee on account of non-compliance with the Authority direction despite giving ample opportunities.

Explanation:

9. Accordingly, an Explanation was served to the licensee dated 18.08.2023. The Licensee was required to submit its reply within fifteen (15) days of receipt of this Explanation, failing which, it shall be presumed that the Licensee has nothing to say in its defense and the Authority shall proceed on the basis of available record. In response, the Licensee submitted its reply against the served explanation vide its letter dated 17.10.2023. The submitted reply was analyzed and after detailed deliberation, the Authority rejected the response of the Licensee and directed to issue a Show Cause Notice to the Licensee under regulation 4(8) and 4(9) of NEPRA Fine Regulation, 2021.

Show Cause Notice:

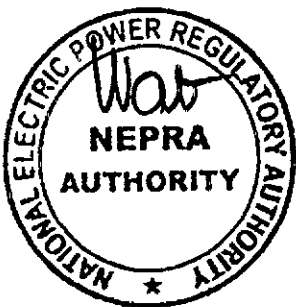
7. In compliance to the Authority's decision, a Show Cause Notice along with the Order recording reasons of rejection of Explanation was issued to the Licensee on 08.08.2024. The salient features of Show Cause Notice are narrated as under:

9. "WHEREAS, the Authority issued an Explanation to the Licensee under Regulation 4 (1) and 4 (2) of NEPRA Fine Regulation, 2021 on 18.08.2023. The basis of Explanation to the Licensee included the following ;

8. *WHEREAS, the Authority always promotes the Occupational Health Safety and Environment in power sector of Pakistan, and from time to time different seminars/meetings with licensees are conducted on HSE to promote HSE culture; and*

9. *WHEREAS, the Authority took serious notice of numerous number of fatal and non-fatal accidents occurring at workplaces in the power sector of Pakistan, and the Authority vide its letters dated September 10, 2021, followed by a reminder dated March 02, 2022, and Final Notice dated October 19, 2022, issued directions to its licensee to establish an independent and functional directorate/department of Occupational Health, Safety and Environments latest by December 2021 with dedicated, experienced, qualified and trained HSE Staff, under the direct control of Chief Executive Officer or equivalent; and*

10. *WHEREAS, the Authority directed licensee that the minimum number of HSE personnel shall be evaluated on a case-to-case basis, depending upon the level of risk, criticality of operational activities, and the need of supervision. Moreover, HSE positions shall not be filled by*



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irrelevant officials without relevant qualifications and certification or charged for on ad-hoc basis/additional charge. The appointed/deputed HSE personnel shall have technical background and possess at least one of the approved safety qualifications; and

11. WHEREAS, the Authority during the hearing in the matter of Adjustment/Indexation request filed by licensee for Adjustment in tariff for FY 2023-24 took serious notice for non-compliance with the Authority's directions issued to the Licensee and directed that a final chance is hereby given to the licensee to establish a Safety Directorate. The same was also communicated to the licensee vide letter dated 30.05.2023; and

12. WHEREAS, the licensee was directed in light of Section (48) of NEPRA Act to comply with the directions of the Authority and submit a compliance report within stipulated time, if the licensee fails to comply with directions of the Authority, legal proceedings may be initiated against licensee under applicable laws; and

13. WHEREAS, after a lapse of stipulated time frame given by the Authority, the licensee has prima facie failed to comply with the directions of the Authority to establish the Health Safety and Environment directorate/department and to promote safety culture in its service territory; and

14. WHEREAS, the Licensee has prima facie failed to respond to the Authority directions and has committed violations of Section 7.1 and 5.1 of Power Safety Code, read with Section 21(2)f of NEPRA Act, Article 11 of the terms and conditions of License's Distribution Licensee, and is in non-compliance with the repeated directions of Authority, thereby, is also in violation of section 48 of the NEPRA Act; and

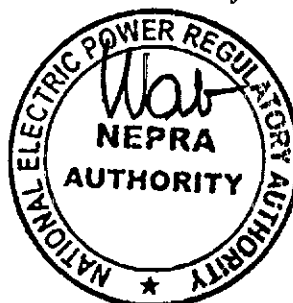
Response of Licensee:

8. In response, the Licensee vide its letter dated 18.11.2024 replied to the Show Cause Notice. A summary of the same is as under;

Preliminary Objections and Submission:

2. That prima facie, the subject "Show Cause Notice" is totally against the law and facts of the case and has been issued without any lawful authority, inter-alia for the following reasons: .
- a. That NEPRA was established under the Regulation of the Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act) which also specifies its authorities and duties. The Rules and Regulations are regarded as subordinate laws that outline the protocols and other requirements for the use of the authority granted by the NEPRA Act of 1997. A cursory examination of the "Show Cause Notice," however, indicates that no clause of the parent statute-the

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NEPRA Act of 1997—is mentioned, indicating that it violates the terms of the NEPRA Act of 1997.

b. That subject matter is nullity in the eyes of the law because, rather than citing any provisions of the substantive law, namely the NEPRA Act, 1997, some reference is made to regulations 4(8) and 4(9) of the purported Fines Regulations, 2021, which have no connection to or support from the NEPRA Act, 1997.

c. Although NEPRA has the authority to impose "fines," a process must be followed first; regrettably, no such mechanism has been established or recommended as of yet. According to the NEPRA Act, procedures must be outlined in "Rules" for the imposition of fines and in "Regulations" for the issue of "show cause notices". The data that are now accessible, however, make it clear that no such "Rules" or rules have been framed. Importantly, the 2018 revisions to the NEPRA Act allowed for the formulation of the required rules and regulations to be completed within "One year" (emphasis added), that is, before April 2019. Nevertheless, nothing has been done in almost five years, which is obviously against the NEPRA Act. Therefore, the subject show cause notice is liable to be withdrawn on this score alone.

d. In the year 2018, the NEPRA Act, 1997 was amended and section 7 (f) was omitted. In addition to that section 29 was also omitted and regarding fine, a new section 27-B was inserted which is the only provision in the NEPRA Act providing for imposition of fine and the same is reproduced as under: -

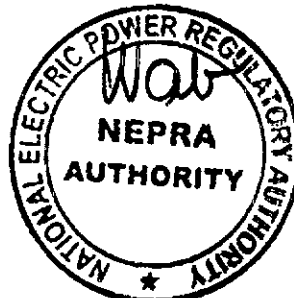
"27B. Penalty for default or contravention. - Any person who acts in contravention of this Act or the rules and regulations made thereunder or fails to comply with the conditions of a license issued or registration granted to that person and such person is a party to such contravention shall be punishable in case of—

(a) a company, with a minimum fine of ten million Rupees which may extend to two hundred million Rupees.....

e. That now the only substantive provision regarding imposition of fine available in the NEPRA Act is section 27B. However, quite surprisingly, NEPRA has not initiated the proceedings in hand under said law; rather the proceedings were initiated under the NEPRA (Fines) Regulations,

That through the 2018 amendments, section 46 (relevant to the Rules) was also amended and a new sub-section 46(2)(d) was inserted which states that "rules" defining the "procedures" to be followed in the event that the provisions of applicable documents are violated, shall be framed and as per amendment in section 47, it was also made a condition precedent that for issuance of show cause notices, regulations shall be framed. Since there are no Rules providing for the procedure to be observed before imposition of fine are in field and neither the regulations pertaining to the show cause notices are formulated as yet, therefore, the, "show cause notice" is unlawful, unmandated, and consequently

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unmaintainable in the eyes of the law, as required by section 46(2)(d) of the NEPRA Act, 1997. Said section is reproduced for ready reference: -

46. Rules. — (1) The Federal Government may, either on its own motion or on recommendation of the Authority and by notification in the official Gazette, make rules for matters required to be prescribed under this Act: Provided that the power to make rules conferred by this section shall be subject to consultation with the Authority and the Provincial Governments and be subject to previous publication for eliciting public opinion thereon within a period of not less than fourteen days from the date of publication: Provided further that in case of a disagreement between the Federal Government and the Provincial Governments, such rules shall be referred to the Council of Common Interests for a decision thereon

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) procedure for seeking nominations of members of the Authority and the Appellate Tribunal from the Provincial Governments.

(b) publication of rates and charges of electricity consumption.

(c) procedure for submission of various reports to the Council of Common Interests or to the Federal Government and the manner of preparation of such reports;

(d) procedure for inquiry and investigation into the affairs of an applicant for a licence and for any contravention of any provision of this Act; (emphasis added)

(e) seeking information; and

(f) any other matter incidental or consequential.

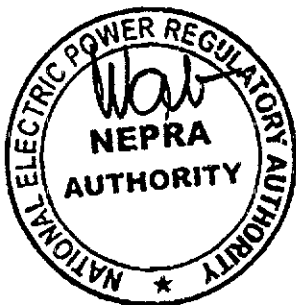
(f) That NEPRA had initiated the proceedings under NEPRA (Fines) Regulations 2021 which are not provided in section 47 of the NEPRA Act, 1997 (the Act). Said section is also reproduced as under:

47. Regulations. — (1) The Authority may, for performance of its functions under this Act and by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act and the rules.

(2) Without prejudice to the foregoing powers, such regulations may provide for—

(a) appointment of officers, members of staff and such other persons and the terms and conditions of their service;

(b) the form and manner of applications to be made for a licensee for generation, transmission or distribution facilities;



- (c) the fees and documents to be accompanied with the applications for licensees;
- (d) procedure for metering, billing and collection of electric power charges by the licensees;
- (e) procedure for resolving disputes amongst the licensees and consumers;
- (f) manner and procedure of show cause notices; (emphasis added) and
- (g) any other matter incidental or consequential.

f. It is submitted with respect that section 47 of the Act does not authorize NEPRA to frame "Regulations" for the purposes of imposition of fines owing to any contravention of the provisions of NEPRA laws. Instead, section 46(2)(d) requires inter-alia that for the procedure in case of any contravention of any provision of the Act, Rules are to be framed. Such Rules are not in field, therefore, any action taken by NEPRA regarding imposition of fine is against the provisions of the NEPRA Act, 1997

g. The following case laws are also referred in support of the contention that if something is prescribed to be done in a particular manner then that thing should have been done in that manner and not otherwise:

2020 S C M R 2129 Where a law required doing of something in a particular manner it had to be done in the same manner and not otherwise.

2021 S C M R 1979 When a statute/law described or required a thing to be done in a particular manner, it should be done in that manner or not at all.

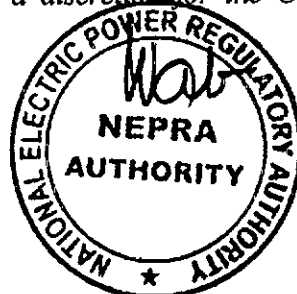
2010-Supreme Court-750 That it is a well settled principle of law that in a case where statute provides a procedure for doing of a thing in a particular manner, that thing should be done in that manner and in no other way or it should not be done at all.

In view of the judgments of Honorable Supreme Court of Pakistan, the impugned show cause notice is not sustainable in the eyes of law.

h. That SEPCO is a Company to be managed by its Board of Directors. In para 8 of the "show cause notice in question, it is mentioned by NEPRA itself that licensee shall establish "occupational health, safety and environment (HSE) management system Manual depending upon its own requirements and organizational need... emphasis added), therefore, to formulate any system, the Code provides a discretion for the licensee to establish as per its own requirements etc. It is thus submitted with respect that the allegations so levelled are nothing but a transgression of the Regulator in the day-to-day business affairs of its Licensee which should not be permitted. Para wise reply of the Show-Cause Notice:

i. That from the plain reading of the above para, it is crystal clear that no violation as such was there for which any penal action could be initiated against SEPCO, and the referred law itself provides a discretion for the Company to

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formulate any other Directorate if so desired. However, notwithstanding the given legal position, the Board of Directors of SEPCO has already accorded approval for the Health, Safety and Environment (HSE) Department within SEPCO with a special Resolution dated 22.6.2023 and a department in this regard stood already established and notified in July, 2023. Thus prima facie, there is absolutely no violation on the part of SEPCO regarding any applicable document of NEPRA.

Hearing:

9. Keeping in the view of above and in the best interest of justice, a hearing was scheduled on 14.05.2025. During hearing, following submissions were made by the Licensee:
- The Director General (HR), SEPCO, submitted that, in compliance with the directions of BoD SEPCO, a Health and Safety Directorate has been established. However, due to the ban imposed by the Election Commission in 2023 and the lack of permission from the Ministry—owing to the ongoing privatization process of SEPCO—further developments have been delayed.
 - Moreover, a Junior Engineer has been hired and is certified in NEBOSH and IOSH to provide internal support. Additionally, existing staff members are undergoing, National Examination Board in Occupational Safety (NEBOSH) and Institution of Occupational Safety and Health (IOSH) training to strengthen internal capacity. These staff members are also conducting regular field visits to inspect safety tools, protective equipment (T&P), and other materials

Finding/Analysis:

10. Keeping in view the submissions of the Licensee given in its reply against Show Cause Notice and during the hearing, following are the findings:
- The Authority has considered the preliminary objections/submissions as reproduced at para 8 (2) (a to g) above and observes that the Authority has initiated legal proceedings under Fine Regulations 2021 and in terms of Regulation 4, the Authority may direct the Registrar to issue an Explanation to the Licensee for consistent failure in adhering the provisions of NEPRA Act, rules & regulations made thereunder and terms & conditions of its license. It is categorically mentioned in Article 19 of the distribution license of the Licensee that it will comply with the Power Safety Code (PSC) and it is further mentioned in the PSC that the Licensee has to establish a Health & Safety Directorate/Department Furthermore, it is well established principle that rules/regulations are made to facilitate but not hinder the enabling legislation; therefore, absence of rules/regulations cannot take away Authority's statutory powers to issue a Show Cause Notice. In view thereof, the argument of the Licensee seems not justified.
 - The Licensee has submitted that it is a Company to be managed by its Board of Directors. NEPRA itself mentioned that the licensee shall establish "occupational health, safety and environment (HSE) management system Manual depending upon its own requirements and organizational need. Therefore, to formulate any system, the Code provides a discretion for the



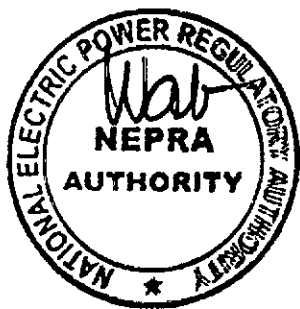
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licensee to establish as per its own requirements. The Licensee has further submitted that the allegations so levelled are nothing but a transgression of the Regulator in the day-to-day business affairs of its Licensee which should not be permitted.

- iii. The Authority while considering the submission of the Licensee, disagrees with the Licensee interpretation. While considering that a licensee has discretion in tailoring an HSE Management System to its specific organizational needs, the Authority reiterates that this discretion does not absolve the licensee from complying with the minimum standards, principles, and performance benchmarks prescribed under the applicable regulatory framework. Further, the licensee has failed to established such system even having its own discretion due to which these legal proceedings were initiate. The issuance of the Show Cause Notice is affirmed as a lawful exercise of the Authority mandate to ensure licensees operates in a manner that upholds public safety, service quality, and accountability, rather than an interference in the Licensee affairs.
- iv. The Licensee has further submitted that, it is crystal clear that no violation as such was there for which any penal action could be initiated against the Licensee, and the referred law itself provides a discretion for the Company to formulate any other Directorate if so desired. However, notwithstanding the given legal position, the Board of Directors of SEPCO has already accorded approval for the Health, Safety and Environment (HSE) Department within SEPCO with a special Resolution dated 22.6.2023 and a department in this regard stood already established and notified in July, 2023.

The Authority has gone through the submission of the Licensee and observes that the Licensee has to establish an HSE department in its service territory. However, the Licensee has failed to do so in the given time frame despite repeated direction of the Authority and failed to submit any satisfactory response. Mere approval on paper but nothing on ground could not exempt the Licensee from its liabilities. Further, the discretion power means the Licensee has to hire staff for such directorate depending upon its own requirements. The discretion neither authorize the Licensee to ignore or compromise with minimum safety standards nor restricts regulator to ask or direct the licensee. This shows the careless and lethargic approach of the Licensee towards health and safety which resulted in the 17 fatal accidents during FY 2023-24.

- v. Additionally, the Licensee has stated that a Junior Engineer has been hired to assist in establishing a safety directorate. However, during a hearing on 14.05.2024, the DG-HR of the Licensee indicated that existing staff members are undergoing NEBOSH and IOSH training to strengthen internal capacity. This raises the question that how it is possible for these certified training courses to be conducted internally, which means that the Licensee is trying to mislead the Authority by making false and frivolous statements. Furthermore, to date, the Licensee has not provided any record or evidence regarding all the statements as claimed by it in the above program. In addition, whether the Licensee being prudent utility understands that one Junior Engineer is sufficient for its entire safety management system, if it so, then this shows the lack of



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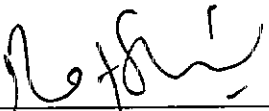
seriousness of the Licensee towards inculcating safety culture in its service territory.

Decision:


11. Foregoing in view, it is concluded that the Licensee has failed to submit a satisfactory response against the served Show Cause Notice. Therefore, it can be said that the Licensee has failed to formulate/establish a Safety Management System for the purpose to construct, operate and maintain its distribution system in accordance with the Performance Standards, Distribution Code, Power Safety Code, and other applicable documents. Overall, it can be said that the Licensee is responsible for fatal/non-fatal accidents in its territory, and it is in violation of section 7 (3) (b), 21 (2) (f), section 44, & section 48 of the NEPRA Act, and Section 5.1 & 7.1 Power Safety Code read with other enabling provision of rules and regulation and other applicable documents.
12. In the light of the submissions of the Licensee, evidence available on record and provisions of relevant NEPRA laws and terms and conditions of distribution license issued to the Licensee, the Authority observes that the Licensee has failed to perform its statutory obligation and to establish a Health, Safety and Environment Directorate in its service territory and is clearly in violation of , NEPRA Act, Power Safety Code and other applicable documents. In view of foregoing, the Authority hereby imposes a fine of Rs. 10,000,000/- (Ten Millions) on the Licensee.
13. Further, the Licensee is directed to pay the fine amount of Rs. 10,000,000/- (Ten Millions) in designated bank of the Authority within a period of 15 days from the date of issuance of this order and forward a copy of the paid instrument to the Registrar Office for information, failing which the Authority may recover the amount due under section 41 of the NEPRA Act as arrears of the land revenue or through any other appropriate legal means in addition to taking any other appropriate legal action against the Licensee for non-compliance.

AUTHORITY

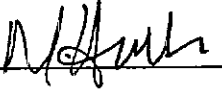
Rafique Ahmed Shaikh
Member (Technical)




Amina Ahmed
Member (Law)

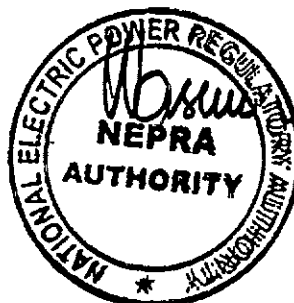


Engr. Masood Anwar Khan
Member (Development)



Waseem Mukhtar
Chairman





Dated 8th Aug, 2025