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Islamic Republic of Pakistan**

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July 05, 2024

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 FATAL ACCIDENTS OCCURRED
DURING FY 2022-23**

Please find enclosed herewith, the Order of the Authority (total 17 pages) in the subject matter for information and compliance.

Enclosure: **Order of the Authority**

(Engr. Mazhar Iqbal Ranjha)



National Electric Power Regulatory Authority

ORDER

IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO SEPCO ON ACCOUNT OF FATAL ACCIDENTS OCCURRED DURING FY 2022-23

1. Sukkur Electric Power Company Limited (SEPCO) (the "Licensee") was granted a Distribution License (No. 21/DL/2011 dated 18.08.2011) by the National Electric Power Regulatory Authority (the "Authority") for providing Distribution Services in its Service Territory as stipulated in its Distribution License, pursuant to section 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("NEPRA Act").

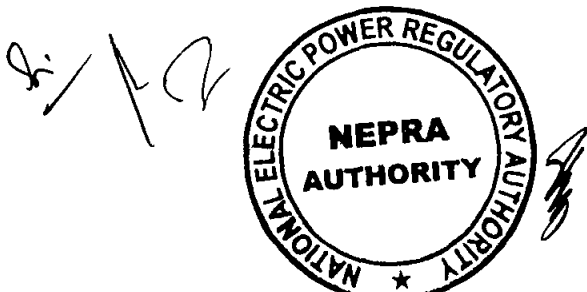
Background:

2. As per Rule 7 of NEPRA Performance Standards (Distribution) Rules, 2005 (PSDR-2005), all Distribution Companies (DISCOs) are bound to submit an Annual Performance Report to the Authority every year. Further, Form 9 of PSDR 2005 states that DISCOs shall report each and every individual incident on an immediate basis. Accordingly, the DISCOs submitted the data/information to NEPRA regarding electrical incidents resulting in death/permanent disability/serious injury to members of staff or the general public that occurred in FY 2022-23.
3. During the review of data submitted by the Licensee for FY 2022-23, it was revealed that a total number of nine (09) fatalities (6 Employees and 3 Public Persons) occurred within the service territory of the Licensee. This figure illustrates a concerning picture regarding efforts taken by the Licensee to inculcate a safety culture in its service territory.

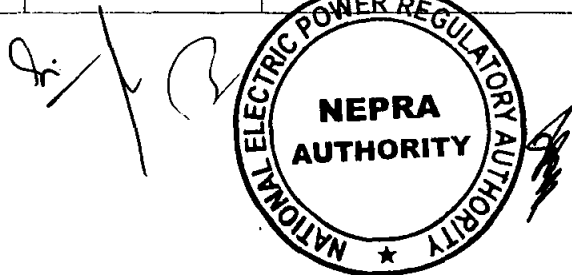
Summary of Inquiry Reports:

4. It is relevant to mention that after getting information pertaining to each individual case, NEPRA carried out a thorough evaluation of all relevant records including the internal inquiry reports submitted by the Licensee itself against the nine (09) fatalities that occurred during FY 2022-23. The summary of the same is as under:

Sr. No.	Name of Victim(s)	Date of Incident	Category	Incident Description	Responsibility / Reasons
1	Mr. Aman Ullah Memon (LM-II)	09.09.2022	Employee	The victim got electrocuted while coming in contact with the PVC of a single-phase meter from the pole.	SEPCO • Lack of Safety Measures /Culture
2	Mr. Abdul Sattar (AFM/SSA)	20.09.2022	Employee	The victim received electric shock and died while	SEPCO



				covering/fixing the back sheet of 11KV Fareedabad panel trolley at grid.	<ul style="list-style-type: none"> Lack of Safety Measures /Culture
3	Mr. Habibu-ur-Rehman (Fitter-I)	25.11.2022	Employee	The victim came in contact with fire flashover and died later while energizing the affected feeder through Bus-Coupler at grid.	<p>SEPCO</p> <ul style="list-style-type: none"> Lack of Safety Measures /Culture
4	Mr. Nazar Muhammad (ALM-I)	27.07.2022	Employee	The victim got electrocuted while working on 11 KV City Miro Khan Feeder near Gopang petrol Pump (under construction), Arzi Bhutto Road Miro Khan.	<p>SEPCO</p> <ul style="list-style-type: none"> Lack of Safety Measures /Culture
5	Mr. Ghulam Nabi Jatoi (Ex-Employee)	10.07.2022	Public	The victim, an ex-employee, received electric shock while working on system of 11 KV City-I feeder under Operation Sub Division SEPCO Chandka Larkana.	<p>SEPCO</p> <ul style="list-style-type: none"> Lack of Safety Measures /Culture Working of ex-employee illegally on lines
6	Mr. Murtaza Ali Korai (ALM-I)	24.08.2022	Employee	The victim was ascending a PCC pole where two parallel 11kV feeders, namely the 11KV Station Road and 11KV Industrial Feeder, were operational. While working on the PCC pole to replace a damaged insulator on the 11KV Industrial Feeder, the person inadvertently came into contact with the broken insulator and suffered an electric shock. In the instant case, PTW was taken only on 11 kV Industrial feeder, however, PTW on 11kV Station Road feeder was not taken. Therefore, the aforementioned insulator came under the induction zone of the live feeder. Consequently, the victim	<p>SEPCO</p> <ul style="list-style-type: none"> Lack of Safety Measures /Culture



				fell from the PCC pole and died.	
7	Mr. Ali Hyder Mallah (LM-II)	29.08.2022	Employee	The victim got electrocuted while working on 11 KV Manzoor Sakhi Rani Feeder, when he was not on duty, without PTW, emanating from 132KV Grid Station Dadu.	Others
8	Mr. Bashir Soomro	02.08.2022	Public	The victim on its own act climbed the poles without any intimation to SEPCO to connect the direct line/PVC cable illegally and was electrocuted from open joints of other's PVC cable.	Others
9	Mr. Amir Mehar	02.08.2022	Public	The victim on its own act climbed the poles without any intimation to SEPCO to connect the direct line/PVC cable illegally and was electrocuted from open joints of other's PVC cable.	Others

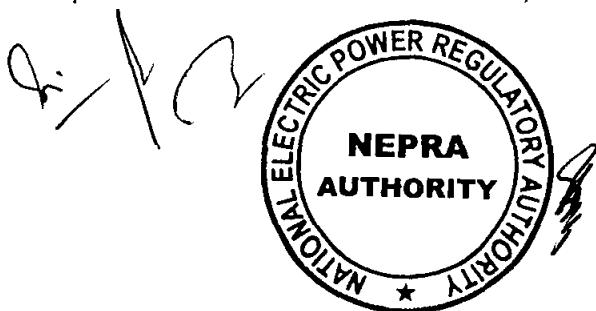
Based on the aforementioned summary, the following is the final outcome:

Description	Number of Fatalities	Responsibility	
		SEPCO	Others
Employees	06	05	01
Public	03	01	02
Total	09	06	03

5. Moreover, according to Rule 4(g) of PSDR-2005, the Licesnee should establish and enforce appropriate rules, regulations, and operational procedures as outlined in its Distribution Code or relevant documents to ensure the safety of both its employees and the general public, however, it has failed to do so.

Show Cause Notice:

6. The Authority took notice of the aforementioned fatal accidents and decided to initiate legal proceedings against the Licensee under NEPRA Fine Regulations, 2021. Accordingly, NEPRA vide its letter dated August 30, 2023, served a Show Cause Notice (SCN) to the Licensee on account of nine (09) fatalities (06 Employees and 03 Public Persons) that occurred during FY 2022-23 for violating Performance Standards, Distribution Code, Power Safety Code, and other applicable documents. The salient points of the said SCN are as follows;



2. **WHEREAS**, pursuant to section 21(2)(f) of the NEPRA Act, the Licensee is required to follow the performance standards laid down by the Authority for the distribution and transmission of electric power, including safety; and
3. **WHEREAS**, pursuant to Rule 4(g), of Performance Standards (Distribution) Rules, 2005, and clause SR 4 of Distribution Code, 2005:
- i. All distribution facilities of a distribution company shall be constructed, operated, controlled and maintained in a manner consistent with the Distribution Code, Power Safety Code, Consumer Service Manual, and other applicable documents.
 - ii. A distribution company shall ensure that its distribution facilities do not cause any leakage of electrical current or step potential beyond a level that can cause harm to human life, as laid down in the relevant IEEE/IEC Standards; prevent accessibility of live conductors or equipment; and prevent development of a situation due to breakdown of equipment which results in voltage or leakage current that can cause harm to human life, property and general public including without limitation, employees and property of the distribution company.
 - iii. A distribution company shall implement suitable, necessary, and appropriate rules, regulations and working practices, as outlined in its Distribution Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required for such purposes including without limitation basic first aid training.
4. **WHEREAS**, pursuant to Clauses PSC-1, PSC-2, & PSC-6.3 of Power Safety Code:

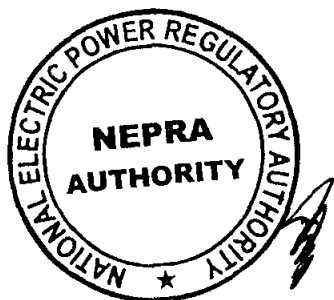
PSC-1 Purpose:

The purpose of this safety code is to ensure that the licensee's networks are planned, developed, operated, and maintained in an efficient & safe way without compromising on safety of any kind related to the systems, personnel & others.

PSC-2 General Instructions of Power Safety:

The licensee shall abide by the safety requirements as set out in Power Safety Code, Distribution Code, Power Safety Manual, Performance Standards (Distribution) Rules 2005, Grid Code & other applicable documents.

The licensee shall promote a healthy & safe culture and provide all employees, contractors, and the people concerned and the public with a safe & healthy place to work. The Licensee shall ensure that safe working is integrated into every aspect and area of business. Moreover, safety culture shall be based on personal leadership, collaboration, and involvement.



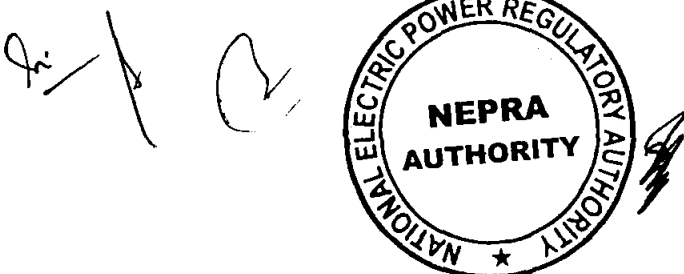
The licensee shall adhere to the highest standards in all work practices so as to ensure protection of employees and any other affected by what licensee do. Each licensee shall ensure in day to day work that facilities/support programmers are provided to safeguard the health, welfare & well-being of their staff.

PSC-6.3 General Provisions of Safety:

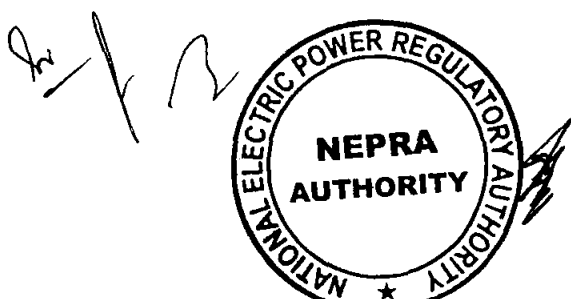
The general provisions of safety shall be provided by each licensee covering the following:-

- *The provisions for workers/operators to object to doing work on safety grounds*
- *The use & wearing of safety equipment & protective clothing*
- *Physical fitness & personal conduct of the worker before and during on job*
- *Arrangement and procedure of job briefing before the work is started*
- *Requirements to safe guard the public and property when work in progress*
- *Requirements for housekeeping in a safe working conditions*
- *Arrangements and requirements of fire protection*
- *Requirements, arrangements and use of proper tools and plants for the proper and safe storage lifting and carrying of different types of material*
- *Procedure and reporting requirements of patrolling of lines*
- *Procedure for tree trimming*
- *List of common protective devices and equipment used for the safety purposes.*

5. **WHEREAS**, according to Performance Standards (Distribution) Rules, 2005, the Licensee is obligated to submit the details of fatal accidents for employees as well as the general public that occurred in its service territory. Accordingly, in FY 2022-23, the Licensee has reported a total number of eleven (11) fatalities (8 Employees & 3 Public Persons); and
6. **WHEREAS**, according to Performance Standards (Distribution) Rules, 2005, the Licensee is obligated to submit the details of fatal accidents for employees as well as the general public that occurred in its service territory. Accordingly, in FY 2022-23, the Licensee has reported a total number of nine (09) fatalities (06 Employees & 03 Public Persons); and
7. **WHEREAS**, the Authority has taken serious notice of such casualties and is of the view that the Licensee has failed to operate and maintain its distribution facilities in a safe and reliable manner. Hence, it can be said that the Licensee has, prima facia, violated Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution License read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, Clause 4 of Safety Requirements, Clauses PSC-1, PSC-2, & PSC-6.3 of Power Safety Code and other applicable documents; and
7. The Licensee submitted its response vide its letter dated October 06, 2023, against the SCN served. The summarized points of the Licensee's response are narrated below:



1. Another matter is being adjudicated by a judicial forum which bears similar legal issues as in the instant matter. Until the final decision of the competent authority is rendered that requires determination by a judicial forum, it is requested that the Authority not impose a fine on SEPCO until the final determination.
2. The Authority has placed reliance on the Power Safety Code 2021 in their Show Cause Notice; however, it must be emphatically stated that the Power Safety Code does not apply to SEPCO as SEPCO has never signed up to the provisions of the Power Safety Code and hence it lacks the force of law. The Authority's reliance on the Code is inappropriate as it is not applicable to the current matter. The Power Safety Code cannot be uniformly applied to all Licensees – its application to entities such as LESCO and PESCO has no grounds for its application to entities such as SEPCO, which is not a signatory of the Power Safety Code. It must be stated, however, that the provisions of the Power Safety Code have been complied with by SEPCO on principle. SEPCO has adhered to all relevant safety procedures and protocols as much as possible.
3. That it is respectfully submitted that no provision of law is mentioned or cited in the 'Subject' of the Show Cause Notice under which it is issued. The Authority cannot make a fishing expedition and shoot in the dark. Is the Show Cause Notice being issued pursuant to Sections 27A and B of the Regulation of Generation, Transmission and Distribution of Electric Power Act ("NEPRA Act"), or is it being issued pursuant to the NEPRA (Fines) Regulations 2021 or the NEPRA (Fines) Rules 2002? It is, therefore, submitted that this reply may be treated as an interim reply subject to modification upon receipt of the clear legal position on the matter.
4. That the Authority's reliance on the Performance Standards (Distribution) Rules, 2005 is misplaced. The relevant portion of the Performance Standards has not been properly defined; the particulars of the violations have not been identified. SEPCO has, by all accounts, adhered to the precepts of the relevant provision of the Performance Standards Rules, specifically Rule 4(g), in as much as it applies to SEPCO. SEPCO has complied with all the stipulations of the relevant laws, including the Power Safety Code. The provisions of the Performance Standards Rules being relied on by the Authority do not relate to the context of the instant matter. Furthermore, the provisions of Rule 4(g) are not specific in nature; their applicability is not properly defined.
5. The Authority has placed reliance on Article 21(f) of the NEPRA Act, read along with Rule 4(g) of the Performance Standards Rules and Article 11 of the Distribution License. It is submitted that SEPCO has adhered to the safety measures and protocols of all relevant provisions of law. Furthermore, there was no negligence nor omission on account of SEPCO. Based on our thorough investigation, it has been determined that the accidents occurred due to individual mistakes, and no negligence was observed on the part of SEPCO. Furthermore, there was no indication of any system failure, and all personnel involved adhered to the proper use of Personal Protective Equipment (PPEs) and Tools & Plants



(T&P). Additionally, no failures within the facility's distribution network were identified. As such, it is requested that the Authority provide cogent reasons as to why SEPCO is being penalized for the fatalities in question.

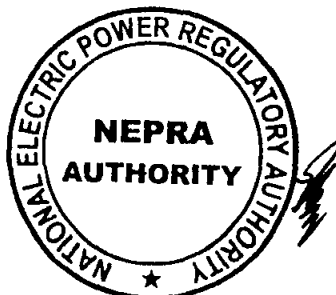
6. A question is raised on how the fatalities that have occurred are attributed to SEPCO. Further, how has the quantum of fines been calculated? These are relevant to the matter at hand, and the Authority cannot impose a fine without first delineating how the fatalities and their related fines are attributed to SEPCO. Procedural impropriety has occurred on the part of the Authority, and it is submitted that the Authority cannot unilaterally impose a fine on SEPCO without first adhering to the procedures of the relevant laws.
7. The Authority has committed grave errors in law by acting contrary to the principles of natural justice, whereby it has acted as the complainant, prosecutor, and judge. Thus, it has acted in violation of the principle of 'nemo judex in causa sua' by becoming the judge in its own case.
8. For the sake of context and factual veracity, it is submitted that most of the incidents that occurred during the financial year of 2022-2023 happened during heavy rainfall and flooding. The local administration pressured SEPCO to continue with the supply of electricity.

Furthermore, the incident concerning individuals of the public is attributed to illegal kunda connections. These illegal connections were made without the knowledge of SEPCO and did not adhere to any safety standards. SEPCO has, since then, removed all illegal kunda connections, and lodged FIRs against the individuals responsible.
9. In furtherance of the preceding, it is submitted that there is no violation of any of the applicable documents on the part of SEPCO and for the fatal accident, due compensation stood already paid. SEPCO takes compliance with all regulatory frameworks and applicable documents extremely seriously. It is the utmost priority of SEPCO to operate in full accordance with the law, regulations, and standards set forth by the Authority. It is understood that any violation of these documents could result in fines imposed by the Authority.

Hearing:

8. The Authority considered the response of the Licensee and decided to provide an opportunity for a hearing to the Licensee under NEPRA (Fine) Regulations, 2021, before further proceeding in the matter. Accordingly, the said hearing was held on December 27, 2023, wherein, the CEO of the Licensee along with his team made the following submissions:
 - (i) The Legal Counsel of SEPCO submitted that NEPRA issued the SCN on August 30, 2023, on account of fatal accidents occurred in FY 2022-23, to which SEPCO has responded as well.
 - (ii) There are similar types of cases that are being adjudicated by the NEPRA Appellate Tribunal and High Court. There are certain questions that are still pending for determination by judicial forums.

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- (iii) In one of the determinations by the NEPRA Appellate Tribunal, it was mentioned that NEPRA does not have the power to provide compensation to the victims.
- (iv) The SCN issued by NEPRA is very much defective. We don't know what is the case made against us. The SCN only highlights the reproduction of various rules/regulations.
- (v) There is no linkage that SEPCO distribution system is malfunctioning or any negligence on SEPCO's part which resulted in these fatalities.
- (vi) There is no contravention of law mentioned in the SCN. We don't know under which provisions of law, NEPRA is proceeding against us.
- (vii) The majority of fatalities occurred due to individual's own negligences. SEPCO has conducted inquiries of the accidents and penalties to the individuals have been imposed who were found to be responsible for those accidents.
- (viii) NEPRA cannot proceed against SEPCO if the fatalities occurred due to individual own acts.
- (ix) The Legal Counsel of SEPCO further submitted that the company should not be held responsible if the contravention of law is established at the Individual level. However, if the contravention reaches to CEO/BoD level i.e. no T&P/PPE provided, then the company should be penalized.
- (x) The CEO is acting on behalf of BoD, and cannot be held responsible if the contravention of law is established. In that scenario, BoD should be held responsible.
- (xi) SEPCO has provided the latest and best quality PPE/T&P to its employees to work on lines.

9. **Additional Submissions:**

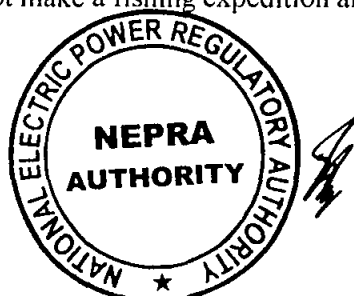
The legal counsel of the Licensee vide its letter dated January 02, 2024 submitted more grounds in addition to the aforementioned submissions. The same are reproduced below:

"A. NON-SPEAKING SHOW CAUSE NOTICE

That SEPCO received a Show Cause Notice dated 30th August 2023 from the Authority in relation to the fatal accidents occurred in the service territory of SEPCO in the Financial Year (FY) 2022-2023. That there are several fundamental discrepancies in the Show Cause Notice, rendering it ineffective and unlawful, therefore the Show Cause Notice may please be kept in abeyance and any liability in relation to on the following grounds:

- (i) That it is respectfully submitted that no specific provision of law is mentioned or cited in the "Subject" of the Show Cause Notice under which it is issued. The Authority cannot make a fishing expedition and shoot in the dark. The question

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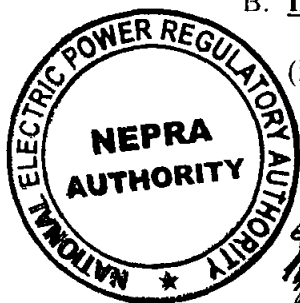
whether the Show Cause Notice is being issued pursuant to Sections 27A and 27B of the Regulation of Generation, Transmission and Distribution of Electric Power Act ("NEPRA Act"), or is it being issued pursuant to the NEPRA (Fines) Regulations 2021 or the NEPRA (Fines) Rules 2002 or pursuing Performance Standards (Distribution) Rules, 2005 remains unanswered/unaddressed. The legal uncertainty in the Show Cause Notice is in contravention with right to a fair trial guaranteed under the Constitution of Pakistan.

The Company submits that liability of any kind cannot be imposed against the Company based on the ambiguous and uncertain Show Cause Notice. There are no specific allegations or cases made out which require SEPCO to answer. In support of its arguments, SEPCO places reliance on the Judgment of the Honourable Supreme Court in the case cited as **2023 SCMR 1319** whereby the Honourable Apex Court held that "Show cause notice is served by an authority under the relevant provisions of law in order to provide a reasonable opportunity to defend the allegations

..... in other words, it provides a levelheaded course of action to ensure impartiality, justness and rectitude to the person in receipt of notice with an opportunity to explain why he is not guilty of any violation of law---Show cause must contain all the allegations categorically and unambiguously, including the legal provisions related to the transgression of law or default."

- (ii) ...
- (iii)...
- (iv)...
- (v) ...
- (vi) In furtherance of the preceding, it is submitted that the Authority in the Show Cause Notice failed to point out any specific violation of any of the applicable documents on the part of SEPCO and for the fatal accidents, in any event, due compensations have already been paid to the victim employees. SEPCO takes compliance with all regulatory frameworks and applicable documents extremely seriously. It is the utmost priority of SEPCO to operate in full accordance with the law, regulations, and standards set forth by the Authority.
- (vii) ...
- (viii) The Show Cause Notice does not state that the Authority has rejected the explanations provided by the Company and is non-speaking to the extent that the versions offered by the Company have not been recorded or rebutted as is required under the provisions of law.

B. INDIVIDUAL LIABILITY AS OPPOSED TO CORPORATE LIABILITY



- (i) The Company submits, without prejudice to the aforesaid, that the unfortunate fatal accidents during the FY 2022-2023 were a result of individual negligence. Specifically, the fatalities involving members of the public were attributed to the negligence and recklessness of the public themselves, particularly the unauthorized installation of illegal hooks (kunda) within the service territory of SEPCO and on the other hand, the fatalities involving employees were primarily caused by the negligence of supervisory staff and or employees, and this responsibility lies squarely with them, not the Company.

- (ii) The Company has devised a comprehensive set of Standard Operating Procedures (SOPs) with a primary focus on safeguarding the well-being of both its employees and the general public. That any breach of these safety procedures by an employee, along with a disregard for the established SOPs, would not attribute liability to the Company.
- (iii) It is evident from the attached inquiry reports, SEPCO has gone to great lengths to prioritize employee safety. The company has equipped its technical staff with state-of-the-art protective suits. Furthermore, during any maintenance work involving electricity, employees are mandated to obtain a Permit Work (PTW) from SEPCO. The maintenance team is authorized to proceed only within the period specified in the issued PTW, ensuring both employees and public safety.
- (iv) However, instances have been identified where employees have chosen to disregard these important SOPs, putting themselves and their sub-ordinates in life-endangering risks. Despite the Company's proactive measures to ensure strict adherence to SOPs, some individual employees have failed to comply. It is important to mention that the Company is taking all reasonable steps to enforce SOP compliance, and any staff members neglecting these protocols will face disciplinary actions.
- (v) That the Company asserts that instances mentioned above does not invoke the liability of the corporation, neither directly nor vicariously, the principle of vicarious liability has very limited scope subject to stringent criteria laid down by the superior courts. Moreover, the principle of vicarious liability cannot be made basis for imposing liability on the Company as it is alien to the NEPRA's legal framework.
- (vi) That it is evident from the attached inquiry reports that the Company prioritize the safety of its employees and general public and any individual who disregard the SOPs regarding the safety faces strict legal actions against them. The employees who are responsible for fatalities due to their negligent actions face not only legal prosecution but also departmental disciplinary measures to ensure that in future no such actions of negligence are committed.
- (vii) In conclusion, the Company reiterates that while it condemns the unfortunate incidents, it asserts that in its stance that individual actions leading to non-compliance with safety protocols do not invoke liability for the corporation.
- (viii) The NEPRA Authority has conducted inquiries without ascertaining the viewpoint of the company and hence such inquiry reports lack transparency, fairness, and equity. Any inquiry reports should incorporate the views of the Company and independent witnesses with opportunities being provided to the Company and its employees for cross-examination...



10. **Findings/Analysis:**

NEPRA Act and distribution license issued to all distribution companies impose a statutory obligation on the distribution licensees to follow safety standards laid down by the Authority. In this regard, reference is made to Section 21 of the NEPRA Act and Article 11 of the distribution license of the Licensee:

Section 21(2) (f) NEPRA Act

The Licensee shall follow the performance standards laid down by the Authority for distribution and transmission of electric power, including safety, health, and environmental protection instructions issued by the Authority or any Governmental agency;

Article 11 Distribution License - Compliance with Performance Standards

Compliance with Performance Standards – The Licensee shall conform to the relevant Performance Standards as may be prescribed by the Authority from time to time.

The Licensee is required to follow the design parameters of the distribution network and take all possible measures as laid down in the NEPRA Performance Standards Distribution Rules, Distribution Code, and Consumer Service Manual to ensure that there is no leakage of current from its distribution facilities to avoid any danger or harm to human life and property. Based on the details of individual cases briefed at length in the preceding paragraphs, the major findings of the NEPRA are as follows:

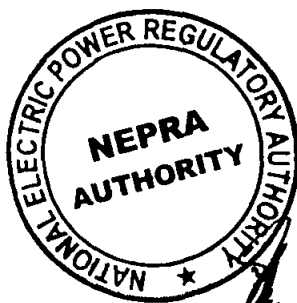
10.1. LACK OF SAFETY MEASURES/CULTURE:

It has been observed that five (05) fatalities of the Licensee employees occurred due to lack of safety measures/culture in the Licensee's service territory. Further, details are the following:

- i. Mr. Aman Ullah Memon (LM-II)
- ii. Mr. Abdul Sattar (AFM/SSA)
- iii. Mr. Habib-ur- Rehman (Fitter-I)
- iv. Mr. Nazar Muhammad (ALM-I)
- v. Mr. Murtaza Ali Korai (ALM-I)

In addition to the above, Mr. Ghulam Nabi Jatoi (Ex-Employee) was also working illegally on 11 kV feeder, in an unsafe manner, which led to his fatality. It is the prime responsibility of the Licensee to ensure that retired employees should not work on HT/LT lines. It is noted with concern that DISCOs in most of the time are utilizing their retired employees due to lack of staff which is in clear violation of its own SOPs. Rather than asking retired employees to work, DISCOs are not even allowed to carry out work through employees having aged more than 55 years.

The root cause of the accidents was casual attitude, risky decisions, supervisory lapses, carelessness, unprofessional behavior, and non-



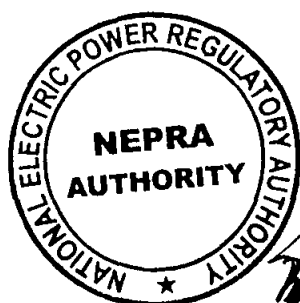
compliance with safety-related operating procedures by the Licensee's staff. Failure to ensure the issuance of PTW, using improper PPE, and lack of supervision of work under safety precautions at the worksite are also contributing factors to this accident. Moreover, the execution of work in an unplanned and haphazard manner is also a reason for the fatal accident.

Pursuant to performance standards laid down for the distribution licensees, the Licensee is required to implement suitable, necessary, and appropriate rules, regulations, and working practices, as outlined in the Distribution Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required to create awareness among employees and inculcate safety environment.

NEPRA Performance Standard (Distribution) Rules

Rule 4(g) – Overall Standard (Safety)

- (i) *All distribution facilities of a distribution company shall be constructed, operated, controlled and remained in a manner consistent with the applicable documents.*
- ii) *A distribution company shall ensure that its distribution facilities do not cause any leakage of electrical current or step potential beyond a level that can cause harm to human life, as laid down in the relevant IEEE/IEC Standards; prevent accessibility of live conductors or equipment; and prevent development of a situation due to breakdown of equipment which results in voltage or leakage current that can cause harm to human life, property and general public including without limitation, employees and property of the distribution company.*
- iii) *A distribution company shall implement suitable, necessary, and appropriate rules, regulations and working practices, as outlined in its Distribution Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required for such purposes including without limitation basic first aid training.*



Distribution Code

SR 4, Safety Management Criteria

- a. *All distribution facilities of a distribution company shall be constructed, operated, controlled and remained in a manner consistent with the applicable documents.*
- b. *A distribution company shall ensure that its distribution facilities do not cause any leakage of Electrical Current or Step Potential beyond a level that can cause harm to human life, as laid down in*

the relevant IEEE/IEC Standards; prevent accessibility of live conductors or equipment; and prevent development of a situation due to breakdown of equipment which results in voltage or leakage current that can cause harm to human life, property and general public including without limitation, employees and property of the distribution company.

- c. *A distribution company shall implement suitable, necessary, and appropriate rules, regulations and working practices, as outlined in its Distribution Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required for such purposes including without limitation basic first aid training.*

Clause PSC-1, PSC-2, & PSC-6.3 of Power Safety Code:

PSC-1 Purpose:

The purpose of this safety code is to ensure that the licensee's networks are planned, developed, operated and maintained in an efficient & safe way without compromising on safety of any kind related to the systems, personnel & others.

PSC-2 General Instructions of Power Safety:

The licensee shall abide by the safety requirements as set out in Power Safety Code, Distribution Code, Power Safety Manual, Performance Standards (Distribution) Rules 2005, Grid Code & other applicable documents.

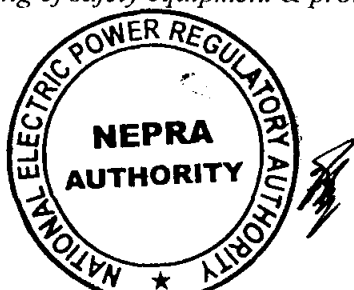
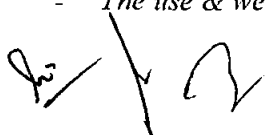
The licensee shall promote a healthy & safe culture and provide all employees, contractors, and the people concerned and the public with a safe & healthy place to work. The Licensee shall ensure that safe working is integrated into every aspect and area of business. Moreover, safety culture shall be based on personal leadership, collaboration and involvement.

The licensee shall adhere to the highest standards in all work practices so as to ensure protection of employees and any other affected by what licensee do. Each licensee shall ensure in day-to-day work that facilities/support programmers are provided to safeguard the health, welfare & well-being of their staff.

PSC-6.3 General Provisions of Safety:

The general provisions of safety shall be provided by each licensee covering the following:-

- *The provisions for workers/operators to object to doing work on safety grounds*
- *The use & wearing of safety equipment & protective clothing*



- *Physical fitness & personal conduct of the worker before and during on job*
- *Arrangement and procedure of job briefing before the work is started*
- *Requirements to safe guard the public and property when work in progress*
- *Requirements for housekeeping in a safe working conditions*
- *Arrangements and requirements of fire protection*
- *Requirements, arrangements and use of proper tools and plants for the proper and safe storage lifting and carrying of different types of material*
- *Procedure and reporting requirements of patrolling of lines*
- *Procedure for tree trimming*
- *List of common protective devices and equipment used for the safety purposes.*

11. The Licensee has interalia, submitted that another matter is being adjudicated by a judicial forum which bears similar legal issues as in the instant matter. Until the final decision of the competent authority is rendered that requires determination by a judicial forum, it is requested that the Authority not impose a fine on the Licensee until the final determination.

The Authority has considered the submissions of the Licensee and is of the considered opinion that there is no order in the field which restricts NEPRA not to proceed and the matter cited in this paragraph is totally unrelated and disfact to the instant proceedings. Therefore, the same does not merit consideration.

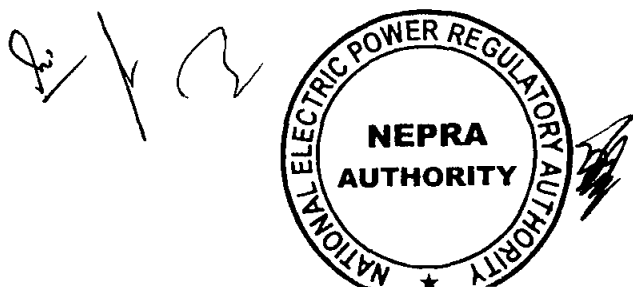
12. The Licensee has submitted that the Authority has placed reliance on the Power Safety Code, 2021 in their Show Cause Notice; however, it must be emphatically stated that the Power Safety Code does not apply to the Licensee as it has never signed up to the provisions of the Power Safety Code and hence it lacks the force of law. The Authority's reliance on the Code is inappropriate as it is not applicable to the current matter. The Licensee has further added that the Power Safety Code cannot be uniformly applied to all Licensees – its application to entities such as LESCO and PESCO has no grounds for its application to entities such as the Licensee, which is not a signatory of the Power Safety Code.

The Authority has analyzed the submissions of the Licensee and observes that the Power Safety Code prescribed by NEPRA has the instant to being the discipline in the industry. Reasonable time was granted by the Authority to the licensee for adherence and compliance. The argument that the Licensee has not signed the same and hence it is not binding is prepositions and reckless.

13. The Licensee has further submitted that no provision of law is mentioned or cited in the 'Subject' of the Show Cause Notice under which it is issued. Whether it is issued pursuant to Sections 27A and B of the NEPRA Act, or under NEPRA (Fines) Regulations 2021 or the NEPRA (Fines) Rules 2002?

The Authority after considering the submissions of the Licensee is of the view that the purpose of Show Cause Notice is self-explanatory, unambiguous, and intended to penalize the contravention. Therefore, the submissions of the Licensee are rejected.

14. The Licensee has also submitted that the Authority's reliance on the Performance Standards (Distribution) Rules, 2005 is misplaced. The relevant portion of the Performance Standards has not been properly defined; the particulars of the violations



have not been identified. The Licensee has, by all accounts, adhered to the precepts of the relevant provision of the Performance Standards Rules, specifically Rule 4(g), in as much as it applies to the Licensee.

In this regard, the Authority after considering the submissions of the Licensee observes that the response to the submissions of the Licensee may be read *Mutatis Mutandis* with performance Standard Rules which have not been adhered by the Licensee.

15. The Licensee has submitted that the Authority has placed reliance on Article 21(f) of the NEPRA Act, read along with Rule 4(g) of the Performance Standards Rules and Article 11 of the Distribution License. It is submitted that the Licensee has adhered to the safety measures and protocols of all relevant provisions of law. Furthermore, there was no negligence nor omission on account of the Licensee. Based on our thorough investigation, it has been determined that the accidents occurred due to individual mistakes, and no negligence was observed on the part of the Licensee.

The Authority after considering the submissions of the Licensee rejected the response of the Licensee. The Authority further observes that the accidents are result of poor and unsafe practices which have resulted in loss of life. The licensee reaches attitude is criminal and deserves no latitude.

16. The Licensee has raised a question on how the fatalities that have occurred are attributed to the Licensee. Further, how has the quantum of fines been calculated? These are relevant to the matter at hand, and the Authority cannot impose a fine without first delineating how the fatalities and their related fines are attributed to the Licensee.

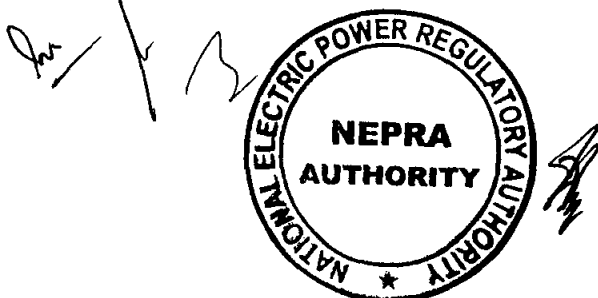
The Authority after going through the submissions of the Licensee rejects the response of the Licensee. The Authority further observes that the proposed fine is not even a fraction to the loss which the Licensee has caused as a result of fatalities to the grieved families.

17. The Licensee has submitted that the Authority has committed grave errors in law by acting contrary to the principles of natural justice, whereby it has acted as the complainant, prosecutor, and judge. Thus, it has acted in violation of the principle of 'nemo judex in causa sua' by becoming the judge in its own case.

The Authority after considering the submissions of the Licensee is of the view that the Authority is exercising the powers mandated under the law and is not assuming the role of a protector but in fact a role of a vigilant regulator which has to safeguard and preserve to interest of innocent consumers.

18. The Licensee has submitted that for the sake of context and factual veracity, it is submitted that most of the incidents that occurred during the financial year of 2022-2023 happened during heavy rainfall and flooding. The local administration pressured the Licensee to continue with the supply of electricity. The Licensee also submitted that the incident concerning individuals of the public is attributed to illegal kunda connections.

The Authority after considering the submissions of the Licensee observes that no amount of exhaust, heavy rainfall, flooding, or illegal kunda connections can be used



as the argument to justify gross negligence and breach of the licensee's obligations. Therefore, the submissions of the Licensee are rejected.

19. The Licensee has submitted that in furtherance of the preceding, it is submitted that there is no violation of any of the applicable documents on the part of the Licensee and for the fatal accident, due compensation stood already paid. The Licensee takes compliance with all regulatory frameworks and applicable documents extremely seriously.

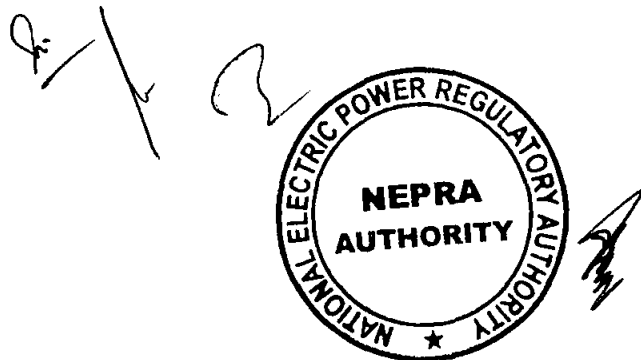
The Authority after considering the submissions of the Licensee observes that the Licensee is guilty of gross violations which has caused fatalities not only they are liable to pay compensation but are also liable to heavy fines for putting the lives of consumers in danger and causing deaths.

20. In conclusion, the Licensee is supposed to provide electric services in its territory in a safe and reliable manner, however, it has failed to do so, which is a clear violation of the terms and conditions of its Distribution Licence and NEPRA Laws.

21. **Decision**

21.1. Keeping in view the submissions of the Licensee, the evidence available on record, and provisions of relevant NEPRA laws and terms and conditions of distribution license issued to the Licensee, the Authority hereby rejects the response of the Licensee against the served Show Cause Notice dated August 30, 2023, and imposed a fine of PKR 15,000,000/- (Fifteen Million) on the Licensee under the NEPRA Act, and NEPRA (Fine) Regulations, 2021 on account of non-compliance by the Licensee with NEPRA Act, Terms & Conditions of its License, Performance Standards (Distribution) Rules 2005, Distribution Code, Power Safety Code, Consumer Service Manual and other applicable documents.

21.2. The Authority has also observed that the Licensee gives compensation of PKR 4.0 Million to the families of its employees in case of their fatal accidents along with a job to next of kin. However, the Licensee has not provided compensation to the members of the bereaved family of one public person who lost his life due to the above-mentioned contraventions of the law by the Licensee. Therefore, the Authority hereby directs the Licensee to give compensation to the family of one deceased public person equal to the amount being given to its employee's family and provide job to his next of kin. Further, the Licensee shall submit documentary evidence of its compliance in this regard to the satisfaction of the Authority within a period of two months.



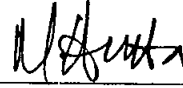
- 21.3. The Licensee is directed to pay the fine amount of PKR 15,000,000/- (Fifteen Million) in designated bank of the Authority within a period of 15 days from the date of issuance of this order and forward a copy of the paid instrument to the Registrar Office for information, failing which the Authority 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)



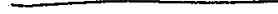
Engr. Maqsood Anwar Khan
Member (Licensing)



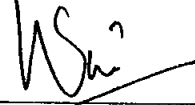
Mathar Niaz Rana (nsc)
Member (Tariff)



Amina Ahmed
Member (Law)



Waseem Mukhtar
Chairman



Dated 05/07/2024

