



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

Registrar

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No. NEPRA/ADG(L)/LAD-07/18550

November 23, 2018

Chief Executive Officer
Peshawar Electric Supply Company Limited (PESCO)
WAPDA House, Shami Road
Sakhi Chashma
Peshawar

Subject:- **AUTHORITY PROPOSED MODIFICATION IN THE EXISTING
DISTRIBUTION LICENCE OF PESCO**

WHEREAS, in exercise of the powers conferred upon the National Electric Power Regulatory Authority (the "Authority") under Section-20 and 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the NEPRA Act), the Authority granted Distribution Licence (No. 07/DL/2002, Dated April 30, 2002) to PESCO;

2. AND WHEREAS, in terms of Section-21 of the NEPRA Act, the abovementioned distribution company under Article-7 read with Schedule-I of its license was allowed exclusivity to provide distribution services, make sale of electric power, make schemes and engage in incidental activities in its service territory;

3. AND WHEREAS, with the amendment in Section-21 of the NEPRA Act through NEPRA Amendment Act, 2018, the exclusivity of distribution companies to provide distribution services in their service territory has been omitted with the object to encourage participation by more market players to enhance efficiency to ensure better price, quality of service and choice for consumers. Relevant parts of the amended Section-21 are reproduced as under:

21. Duties and responsibilities of distribution licensees. —

(1) The Authority may, after such enquiry as it may deem appropriate and subject to the conditions specified, grant a licence for the distribution of electric power.

(2) The licensee shall—

(a) possess the right to provide, for such period as may be specified in the licence, distribution service in the service territory specified in the licence and to frame schemes in respect of that service territory.....

4. AND WHEREAS, Section-26 of the NEPRA Act empowers the Authority to amend, or vary the conditions of any license issued under the NEPRA Act and states that:-

26. Modification. ---- If the Authority is of the opinion that it is in the public interest, it may, with the consent of the Licensee, amend or vary the conditions of any Licence issued

under this Act and in the absence of Licensee's consent, the Authority shall conduct a public hearing on whether the proposed amendment or variance is in the public interest and shall make a determination consistent with the outcome to this hearing.

5. AND WHEREAS, keeping in view the new market structure/reforms under the amended NEPRA Act, it is in the public interest as specified in the Section-26 of the NEPRA Act read with Regulation-10 of the National Electric Power Regulatory Authority Licensing (Application and Modification Procedure) Regulations, 1999 (the "Regulations"), to modify the terms of existing distribution licenses;

6. NOW THEREFORE, the Authority pursuant to sub-regulation-1(a) of Regulation-10 of the Regulations hereby communicates the text of the Authority Proposed Modification of the following relevant Article of the license:-

Article-7

Duties and Responsibilities of the Licensee

The Licensee shall during the term of the License, provide distribution service in the service territory and frame schemes in respect of that service territory as per provision of Article 3.2(i). The Licensee shall also make sales of electric power, make schemes and engage in incidental activities in the territory as a deemed supplier in terms of Section-23E of the Amended NEPRA Act.

7. Pursuant to sub-regulation-1(b) of Regulation-10 of the Regulations, the statements of the reasons in support of Authority Proposed Modification are that Section-21 of the NEPRA Act has been amended to foster competition in the power sector by removing the exclusive right to provide distribution services in a given service territory. It is imperative to note that the said statutory provision is effective from the date of amendment i.e. May 2, 2018 without any conditionality and deferment and therefore, existing distribution licenses are required to be modified immediately to bring consistency with the statutory provisions of the amended NEPRA Act and implement the market reforms introduced there under in letter and spirit.

8. You are therefore required to send your response on the Authority Proposed Modification either affirming or denying the modification within fourteen (14) days of the receipt of this communication. In the event of your failure to convey your response within the stipulated period, it shall be construed that you have no objection to the Authority Proposed Modification and the Authority will proceed accordingly.


23.11.2018

(Muhammad Ramzan)
Director

Received through Fax

PESHAWAR ELECTRIC SUPPLY COMPANY

PH# 091-9211990
Fax: 091-9212335

OFFICE OF THE
CHIEF EXECUTIVE PESCO
WAPDA HOUSE, PESHAWAR

No. CEO/GMC/M (Tariff & PPC)/DL/ 5091-92

Dated: 31/12/2018

✓ The Director, Registrar Office NEPRA,
NEPRA Tower, Attaturk Avenue (East),
G - 5/1 Islamabad.

For information & up to
- ADG (L) ✓
- LA (Lic) ✓
Copies:
- SAC (Pesh) - SAT - I
07.01.19
cc: Chairman
MGT / M (M&E)
M (C&M)
- DG (M&E) - MF
M (L)

Subject: Authority Proposed Modifications in the Existing Distribution Licence of PESCO.

This is with reference to your letter No.NEPRA/ADG(L)/LAD-07/18550 dated 23.11.2018 vide which PESCO has been directed to convey its response regarding the subject matter either in affirmation or denial.

In this regard PESCO's submissions in the matter are as under, please.

1. That Peshawar Electric Supply Company Limited (PESCO) is an ex-WAPDA DISCO owned by Government of Pakistan. PESCO holds and enjoys a Distribution License bearing No. 07/DL /2002 (the License), dated April 30, 2002, issued under the provisions of the Regulation of Generation, Transmission & Distribution of Electric Power Act, 1997 (the Act). PESCO is providing a public utility service of distribution and supply of electricity within the territories as defined in its License.

2. That PESCO has been consistently serving the demonstrated needs of its consumers within its service territory. Moreover, in spite of the system constraints, PESCO is also fully determined and confident in providing stable and uninterrupted supply to all the consumers in adherence to its obligations arising under the NEPRA Act

3. That in view of the brief background, PESCO intends to convey the following objections/ comments for necessary review and perusal of the NEPRA Authority:

I. That as per the amendments made in Section-21 of the NEPRA Act 1997, whether Section-26 of the NEPRA Act is still applicable. In case Section-26 of the NEPRA Act is not legally valid then whether PESCO would have any legal right to oppose the proposed amendments in its distribution licence?

II. That as per Para-I above, if Section-26 is still valid, then PESCO strongly opposes the proposed modifications and desires to convey its disagreement with the same based on the following grounds:-

A. That the Authority has the jurisdictional right under Section-26 of the NEPRA Act in modification of a license only where the issue of public interest arises and not otherwise.

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Therefore, PESCO is of the strong opinion that it has been able since incorporation of the Company in fulfillment of its obligations in general and specifically related to the "Public Interest".

B. That it will not be possible for any company/firm to maintain stable supply as compared to the existing stable system of NTDC/PESCO.

C. That whether PESCO has failed to adhere to the objects, terms and conditions of the distribution license in general and specifically related to those which materially and adversely affects the standards, price, performance & obligations and quality of service, the reliability and integrity of the distribution system; reliable and efficient operation of the system (both transmission & distribution) with the willful intentions of PESCO.

D. That the exclusivity factor acts as an attraction for the investors and an encouragement for PESCO to make and accomplish its investment and capital expenditure plans. Granting additional licenses would be discouraging for any potential investors and any new licensee operating in the same geographical location might jeopardize the Company's future strategy and vision.

In light of the above submissions, PESCO does not agree with the proposed modifications in its distribution license and requests the NEPRA Authority that the proposed modifications may kindly be dropped, please.


CHIEF EXECUTIVE OFFICER,
PESCO, PESHAWAR.

Copy to:

Managing Director PEPCO, 725-WAPDA House, Shahrah-e-Quaid-e-Azam, Lahore for information, please.