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No. NEPRA/R/ADG(Trf)/TRF-339/8784-8786

June 2, 2022

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF REQUEST
FILED BY FAISALABAD ELECTRIC SUPPLY COMPANY LTD.
(FESCO) FOR ADJUSTMENT/INDEXATION OF TARIFF FOR THE FY
2020-21 UNDER THE MYT [Case # NEPRA/TRF-339]**

Dear Sir,

Please find enclosed herewith subject Decision of the Authority along with additional note of Engr. Rafique Ahmed Shaikh, Member NEPRA (32 Pages).

2. The Decision is being intimated to the Federal Government for the purpose of notification in the official Gazette pursuant to Section 31(7) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 within 30 days from the intimation of this Decision. In the event the Federal Government fails to notify the subject tariff Decision or refer the matter to the Authority for reconsideration, within the time period specified in Section 31(7), then the Authority shall notify the same in the official Gazette pursuant to Section 31(7) of NEPRA Act.

Enclosure: As above


02 06 22
(Syed Safeer Hussain)

Secretary
Ministry of Energy (Power Division)
'A' Block, Pak Secretariat
Islamabad

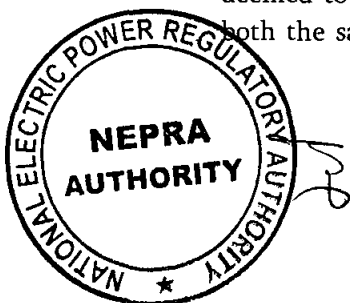
CC:

1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.

DECISION OF THE AUTHORITY IN THE MATTER OF REQUEST FILED BY FAISALABAD ELECTRIC SUPPLY COMPANY (FESCO) FOR ADJUSTMENT / INDEXATION OF TARIFF FOR THE FY 2020-21 UNDER THE MYT

1. Back Ground

- 1.1. The Authority determined tariff of Faisalabad Electric Supply Company Limited (FESCO) (herein referred to as "Petitioner") under Multi Year Tariff (MYT) regime, for a period of five years i.e. from FY 2015-16 to FY 2019-20, vide tariff determination dated December 31, 2015. FESCO, being aggrieved from the aforesaid determination, filed a Motion for Leave for Review (MLR) which was accordingly disposed-off vide decision dated May 11, 2016. Subsequently, a reconsideration request u/s 31(4) of the then applicable Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 was filed by the Federal Government, which was also decided by the Authority on July 01, 2016 and the decision was intimated to the Federal Government for notification in the official gazette.
- 1.2. FESCO filed a writ petition in Islamabad High Court (IHC) Islamabad against the aforementioned decisions of the Authority. Pursuant to the directions of the Honorable IHC, vide judgment dated June 22, 2017, the tariff of FESCO was re-determined by the Authority on September 18, 2017 and was intimated to the Federal Government for notification in the official gazette. The same was notified by the Federal Government on March 22, 2018.
- 1.3. Accordingly the Authority has already determined indexation/adjustment of FESCO till FY 2019-20, as per the prescribed adjustment mechanism in the MYT determination of the Petitioner.
- 1.4. Here it is pertinent to mention that amendments in the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 was passed by the Parliament, which was published in the official Gazette on 30th April 2018 (the "Amendment Act"), resulting in restructuring of the energy sector. One of the fundamental changes as per the amendment Act is the introduction of a competitive retail energy sector, wherein, supply function has been segregated from the distribution license.
- 1.5. As per the amended Act, function of sale of electric power traditionally being performed by the Distribution Licensees has been amended under Section 21(2)(a), whereby 'sale' of electric power has been removed from the scope of 'Distribution Licensee' and transferred to 'Supply Licensee'.
- 1.6. The newly introduced section 23(E) of the Act, provides NEPRA with the powers to grant Electric Power Supply License for the supply of electric power. Section 23E(1), however, provides that the holder of a distribution license on the date of coming into effect of the Amendment Act, shall be deemed to hold a license for supply of electric power under this section for a period of five years from such date. Thus, all existing Distribution Licensees have been deemed to have Power Supplier Licenses, to ensure distribution licensees earlier performing both the sale and wire functions, can continue to do so. Section 23E, further states that the



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eligibility criteria for grant of license to supply electric power to be prescribed by the Federal Government, and shall include, provision with respect to a supplier of the last resort, as the case may be.

- 1.7. As per Section 23F (2)(b), the Supplier possess the right to make sales of electric power to consumers within their specified territories on a non-discriminatory basis to all the consumers who meet the eligibility criteria laid down by the Authority.
- 1.8. FESCO now in line with the adjustment mechanism provided in its notified MYT determination, and as per the amended NEPRA Act, has filed its request for adjustment/ indexation of different components of its revenue requirement for the FY 2020-21, along-with break-up of costs in terms of Distribution and Supply functions.
- 1.9. A Summary of the adjustments request submitted by the Petitioner is as under;

Description	Unit	Distribution of Power	Supply of Power	Total
Projected Sales	GWh	13,487	13,487	13,487
Energy Charges	Rs. Mln		89,829	89,829
Capacity Charges	Rs. Mln		99,352	99,352
UOSC& MOF	Rs. Mln		5,626	5,626
Power Purchase	Rs. Mln		194,807	194,807
Operation & Maintenance Cost	Rs. Mln	15,569	5,640	21,209
Return on Regulatory Asset Base	Rs. Mln	4,219	-	4,219
Depreciation	Rs. Mln	4,157	-	4,157
Supplier Profit	Rs. Mln	-	2,922	2,922
Estimated Minimum Tax	Rs. Mln	-	3,976	3,976
Gross Distribution Margin	Rs. Mln	23,945	12,538	36,483
Less: Other Income	Rs. Mln	(4,948)	(1,791)	(6,739)
Net Distribution Margin	Rs. Mln	18,997	10,747	29,744
Prior Year Adjustment	Rs. Mln	25,526	18,973	44,499
Total Revenue Requirement	Rs. Mln	44,523	224,527	269,050
Average Tariff	Rs./kWh	3.30	16.65	19.95



2. Hearing

- 2.1. Since the impact of any such adjustments has to be made part of the consumer end tariff, therefore, the Authority, in order to provide an opportunity of hearing to all the concerned and meet the ends of natural justice, decided to conduct a hearing in the matter.
- 2.2. Hearing in the matter was held on April 22, 2021, for which advertisement was published in newspapers on April 09, 2021. Separate notices were also sent to the stakeholders for inviting comments from the interested/ affected parties. Salient features and details of the proposed adjustments along-with notice of hearing were also uploaded on NEPRA's Website for information of all concerned.

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2.3. For the purpose of hearing, and based on the pleadings, following issues were framed to be considered during the hearing and for presenting written as well as oral evidence and arguments;

- i. Whether the Petitioner has complied with the directions of the Authority?
- ii. Whether the requested adjustments in tariff are in line with the MYT tariff determination and are justified?
- iii. Whether FESCO has deposited sufficient amount in the Post Retirement Benefit fund in line with the amount allowed by the Authority?
- iv. Whether the requested Prior Year Adjustment is justified?
- v. Whether the requested Supplier profit and Minimum Tax is justified?
- vi. What are the basis used by FESCO for bifurcation of its costs into supply and distribution segments, and whether they are justified?
- vii. Whether the existing Tariff Terms and Conditions needs to be modified, especially with reference to the request of Telecom companies to charge "B Industrial Supply" Category tariff instead of "A-2 Commercial" category tariff?
- viii. Whether the existing fixed charges applicable to different consumer categories needs to be revised and requires any changes in mechanism for charging of such charges based on Actual MDI or Sanction Load or otherwise?
- ix. Whether there should any Fixed Charges on Residential & General Services Consumers, having net metering facility?
- x. Any other issue that may come up during or after the hearing?

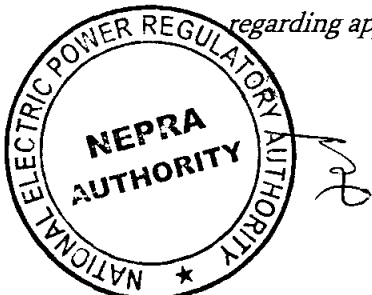
3. Filing of objections/ comments:

3.1. Comments/replies and filing of Intervention Request (IR), if any, were desired from the interested person/ party within 7 days of the publication of notice of admission in terms of Rule 6, 7 & 8 of the Rules. In response thereof, IR has been filed by M/s PTML (Ufone), M/s PTCL and M/s NAYATEL and comments were filed by CM PAK Zong. A brief of the concerns raised in the IR is as under;

Telecom Sector including Cellular Operators (CMOs) has been declared as an Industry vide Ministry of Industries notification dated 20.04.2004, therefore, for the purpose of charging of electricity, industrial tariff may be applied to CMOs instead of currently applicable Commercial tariffs.

3.2. The Authority observed that during the tariff determinations of GEPCO for the FY 2019-20, on the request of Telenor regarding charging of Industrial tariff from Telecom Operators, the Authority decided as under;

"The Authority observed that the issue highlighted by the commentator M/s Telenor Pakistan regarding applicability of Industrial tariff to Cellular Mobile Operator (CMOs) pertains to all



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the DISCOs including K-Electric as CMOs are operating all over Pakistan, therefore, the issue requires deliberations involving all stakeholders i.e. DISCOs, CMOs, Ministry of Energy, MoT etc. The Authority noted that proceedings regarding Tariff petitions filed by all XWDISCOs for the FY 2018-19 and FY 2019-20, except GEPCO, have already been completed, therefore, the Authority has decided to consider the request of M/s Telenor as a separate issue during the proceedings for the upcoming tariff Petitions of DISCOs for the FY 2020-21 & onward".

- 3.3. In view thereof, in the instant tariff adjustment request of FESCO, the subject matter has been discussed as a separate issue.
- 3.4. During the hearing, the Petitioner i.e. FESCO was represented by its CEO along-with its technical and financial teams.
- 3.5. On the basis of pleadings, evidence/record produced and arguments raised during the hearing, issue-wise findings are given as under;

4. **Directions given to the Petitioner in the MYT Determination**

- 4.1. The Authority gave certain directions to the Petitioner in the MYT determination. The Authority understands that periodic monitoring of the directions given by the Authority is absolutely necessary in order to analyze the Petitioner's performance, therefore, the Authority has decided to have a half yearly review of the given directions, instead of discussing the same only during the tariff proceedings. However, the directions which are directly relevant to the instant tariff determination of the Petitioner are discussed hereunder;

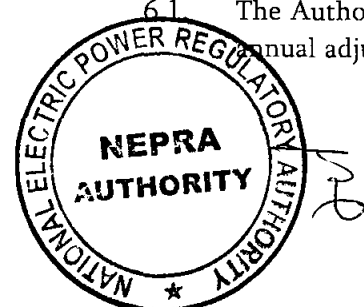
5. **To immediately stop the existing practice of deducting 20% of SAP funds for grid augmentation and carry out the augmentation of the grid after coordinating with the Ministry of Energy and report be shared with the Authority by December 31, 2020**

- 5.1. The Authority keeping in view the decision of Cabinet dated July 07, 2020, wherein it was decided that the practice of deducting 20% from SAP funds should be discontinued and subsequent assurance by the Honorable Federal Minister of Energy, that wherever grid augmentation is involved, the Ministry of Energy (Power Division) will ensure these funds to DISCOs to beef up the grid facilities, directed the Petitioner vide decision dated 08.12.2020, to stop the existing practice of deducting 20% of SAP funds for grid augmentation and carry out the augmentation of the grid after coordinating with the Ministry of Energy.

- 5.2. FESCO during the hearing submitted that practice of deducting 20% SAP funds for Grid augmentation has been stopped as per decision of the Authority.

6. **To ensure proper tagging of assets so that costs incurred are properly classified as per their nature.**

- 6.1. The Authority in the MYT tariff determination of the Petitioner and also subsequently in the annual adjustment/ indexation decisions of the Petitioner, observed that proper tagging of the



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assets is of utmost importance in order to enable the Petitioner to properly classify its cost in terms of capital or expense. The Authority, accordingly, directed the Petitioner to maintain a proper record of its assets by way of tagging each asset for its proper tracking.

6.2. The Petitioner, during hearing of the instant adjustment request, submitted that the cost of assets are properly classified, however, did not provide a proper response to the direction.

6.3. In view of the above, the Authority directs the Petitioner to submit compliance status within one month of the date of this determination.

7. To provide the details of invoices raised by CPPA-G on account of supplemental charges for the FY 2014-15 to FY 2019-20, as already directed, along-with month wise outstanding amount to CPPA-G for these periods.

8. To provide its month wise outstanding amount to CPPA-G and the corresponding supplemental charges billed for each month for the FY 2018-19.

8.1. The Petitioner has provided the detail of LPS recovered from consumers and supplementary charges raised by CPPAG for the required period.

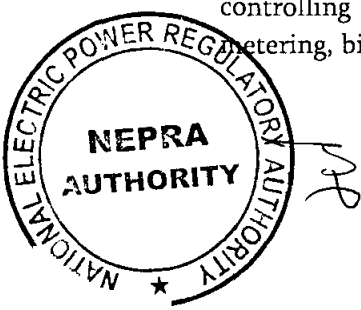
8.2. The matter has been deliberated in detail under the issue of PYA.

9. What are the basis used by FESCO for bifurcation of its costs into supply and distribution segments, and whether they are justified?

9.1. The Petitioner to justify the claim has submitted that the O&M Cost of Operation Divisions, Sub Divisions, Grid System Operation (GSO) offices is included in the Distribution function. Whereas, Customer Services offices including commercial directorate and MIS department operation and maintenance (O&M) cost have been included in the Supply function. In addition to the above Pay and Allowances of Meter Readers and Bill Distributors attached with the operation Sub Divisions/distribution business are also included in the Supply functions based on their job descriptions (JDs).

9.2. Further, to justify its claim submitted that the basis assumed for apportionment of combined directorates is the operating cost of Distribution business and Supply business. Regarding the O&M cost of supervisory offices i.e. Chief Executive Officer, Chief Financial Officer, Chief of Audit, Regional Training Centre the Petitioner submitted that it is allocated in the ratio (74% & 26%) of distribution and supply cost of offices mentioned above.

9.3. The Authority understands that as per the Amended Act, the Distribution Licensee is responsible to provide distribution service within its territory on a non-discriminatory basis and develop, maintain and publicly make available, with the prior approval of the Authority, an investment program, meaning thereby, that installation/investment, operation, maintenance and controlling of distribution networks, form part of the Distribution License and activities like metering, billing and collection form part of the Supply License.



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- 9.4. The Authority in the determination of FESCO for the FY 2019-20 decided the following;

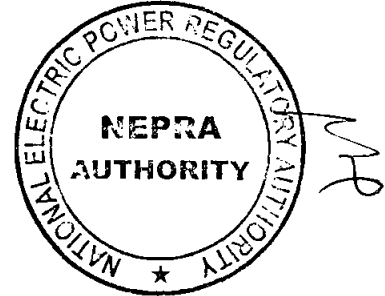
"The Authority believes that after amendments in NEPRA Act, all the Public Sector Distribution companies are required to make organizational restructuring in terms of segregation of responsibilities of the Distribution and Sale functions and in order to ensure appropriate coordination between both functions. Hence, keeping in view the fact that it is operational issue and DISCOs are owned by the Federal Government, it would be more appropriate that a centralized restructuring plan at the level of Federal Government is prepared to be implemented by all the public sector DISCOs in order to have a uniformity and consistency in the structure."

- 9.5. It is again desired that a centralized restructuring plan at the level of Federal Government is prepared, so that a uniform & consistent basis/ approach is adopted by all the DISCOs. Till such time, the submissions of the Petitioner are considered.

10. Whether the PPP projected by FESCO is reasonable?

- 10.1. The Petitioner on the issue submitted the following details during hearing;

Description	Unit	Supply of Power
Projected Sales	GWh	13,487
Energy Charges	Rs. Mln	89,829
Capacity Charges	Rs. Mln	99,352
UOSC& MOF	Rs. Mln	5,626
Power Purchase	Rs. Mln	194,807



- 10.2. The Authority, observed that for the FY 2021-22, variations in the Power Purchase Price (PPP) for the 1st quarter of the FY 2021-22 i.e. Jul. to Sep. 2020 have already been allowed to the Petitioner vide the Authority's decision dated 09.05.2022 and for the 2nd quarter of FY 2021-22, the Petitioner has already filed its PPP adjustment requests with the Authority, which are at an advance stage of the proceedings and would be processed as per the prescribed mechanism. Therefore, for the purpose of instant Petition, the PPP of the Petitioner for the FY 2020-21 shall be the PPP that remained notified during the FY 2020-21, and on which the Petitioner has been / would be allowed quarterly adjustments, thus any reassessment of PPP for the FY 2020-21 is not required.
- 10.3. It is further stated that as per NEPRA Guidelines for determination of Consumer End Tariff (Methodology and Process), 2015, in view of any abnormal changes, the Authority may review these references along with any quarterly adjustment.
11. Whether the requested adjustments in tariff are in line with the MYT tariff determination and are justified?

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- 11.1. The Authority has allowed FESCO a Multiyear tariff for a control period of 5 years starting from July 2018 till June 2023, wherein a mechanism for adjustment/ indexation of different components of the revenue requirement has been prescribed.
- 11.2. A summary of the indexation / adjustments requested by the Petitioner and the adjustment/ indexation mechanism as provided in the MYT determination of the Petitioner is as under;

Description	Unit	Distribution of Power	Supply of Power	Total
Operation & Maintenance Cost	Rs. Mln	15,569	5,640	21,209
Return on Regulatory Asset Base	Rs. Mln	4,219	-	4,219
Depreciation	Rs. Mln	4,157	-	4,157
Supplier Profit	Rs. Mln	-	2,922	2,922
Estimated Minimum Tax	Rs. Mln	-	3,976	3,976
Gross Distribution Margin	Rs. Mln	23,945	12,538	36,483
Less: Other Income	Rs. Mln	(4,948)	(1,791)	(6,739)
Net Distribution Margin	Rs. Mln	18,997	10,747	29,744

O&M EXPENSE

- 11.3. The O&M part of Distribution Margin shall be indexed with CPI subject to adjustment for efficiency gains (X factor). Accordingly the O&M will be indexed every year according to the following formula:

$$O \& M_{(Rev)} = O \& M_{(Ref)} \times [1 + (\Delta CPI - X)]$$

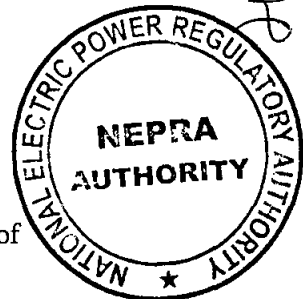
Where:

O&M_(Rev) = Revised O&M Expense for the Current Year

O&M_(Ref) = Reference O&M Expense for the Reference Year

ΔCPI = Change in Consumer Price Index published by Pakistan Bureau of

X = Efficiency factor



- 11.4. Regarding Efficiency Factor, the Authority decided that;

".....keeping in view the Petitioner's request of keeping it at zero% for the first two years, the Authority has decided to implement the same from the 3rd year of the control period.In addition, the Authority in order to save the Petitioner from any negative adjustment on account of O&M cost, has decided that the efficiency factor X, in any year of the control period, should not be greater than 30% of increase in CPI for the relevant control year...."

RORB

- 11.5. RORB assessment will be made in accordance with the following formula/mechanism:

$$RORB_{(Rev)} = RORB_{(Ref)} \times \frac{RAB_{(Rev)}}{RAB_{(Ref)}}$$

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Where:

$RORB_{(Rev)}$ = Revised Return on Rate Base for the Current Year

$RORB_{(Ref)}$ = Reference Return on Rate Base for the Reference Year

$RAB_{(Rev)}$ = Revised Rate Base for the Current Year

$RAB_{(Ref)}$ = Reference Rate Base for the Reference Year

DEPRECIATION EXPENSE

- 11.6. Depreciation expense for future years will be assessed in accordance with the following formula/mechanism:

$$DEP_{(Rev)} = DEP_{(Ref)} \times \frac{GFAIO_{(Rev)}}{GFAIO_{(Ref)}}$$

Where:

$DEP_{(Rev)}$ = Revised Depreciation Expense for the Current Year

$DEP_{(Ref)}$ = Reference Depreciation Expense for the Reference Year

$GFAIO_{(Rev)}$ = Revised Gross Fixed Assets in Operation for the Current Year

$GFAIO_{(Ref)}$ = Reference Gross Fixed Assets in Operation for Reference Year

OTHER INCOME

- 11.7. Other income will be assessed in accordance with the following formula/mechanism:

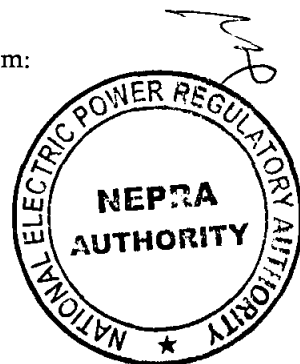
$$OI_{(Rev)} = OI_{(1)} + (OI_{(1)} - OI_{(0)})$$

Where:

$OI_{(Rev)}$ = Revised Other Income for the Current Year

$OI_{(1)}$ = Actual Other Income as per latest Financial Statements.

$OI_{(0)}$ = Actual/Assessed Other Income used in the previous year.



Salaries & Wages – para 17.14 of the re-determination decision dated Sep. 18, 2017

“.....the Authority has decided to allow the impact of increases in salaries & wages, as announced by GOP, in the tariff for the respective year, till the time, FESCO remains in the public sector.....”

Post-Retirement Benefits – para 19.3.4 of the Determination dated Dec 31, 2015

“....the Authority, has decided to allow the provision for the post-retirement benefits based on last three years average provision as per its financial statements. The provision for FY 2015-16 based on last three years' average is being allowed including the impact of the employees retired before unbundling of WAPDA.....It would be mandatory for the Petitioner to deposit the whole amount into separate funds and accounts (as the case may be). If the Petitioner fails to transfer the whole amount of post-retirement benefits, the Authority would adjust the deficit payments in the next year's provision and from thereon, only actual amounts paid and amount transferred into the fund would be allowed. In case of complete failure to transfer any amount into the fund, the Authority would only allow actual payments, rather than provision.....”

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11.8. Detailed submission of the Petitioner under head of cost is as under;

O&M costs

11.9. The Petitioner has projected the following on account of O&M costs for the FY 2020-21 including Salaries & Wages, Post-Retirement Benefits and Repair & Maintenance etc.;

A/c Head	Reference 2019-20	Requested 2020-21	Remarks
Salaries, wages & other Benefits	9,508	9,900	Incremental effect over reference cost due to rapid retirement reducing pay & effect of replacement hiring, increment and additional allowance allowed by Government thereby increasing cost by a minimal margin of 392 Million
Retirement Benefits	11,376	9,456	As per Actuary Report for FY 2019-20
Repair & Maintenance	518	550	CPI increase @ 9.10 % over reference budget
Other O&M	1,647	1,748	
Total O&M Cost	23,049	21,654	
Less Transferred to AUC		(445)	
Net Amount		21,209	

RoRB

11.10. The Petitioner has requested RoRB of Rs.4,219 million and provided the following working;

• **WACC for the FY 2020-21**

The post-tax adjusted cost of debt is = 3-Months KIBOR + Spread

$$7.03\% * + 2.75\% = 9.78\%$$

$$WACC = [k_e \times (E/V)] + [k_d \times (D/V)]$$

$$\text{Adjusted WACC} = \{16.67\% \times 30\%\} + \{9.78\% \times 70\%\} = 11.85\%$$

*Note: Rate of 3 months KIBOR is 7.03 % as on 02-07-2020

• **Thus RORB For FY 2020-21 based on projected investment of Rs. 15,241 Million is as under:-**

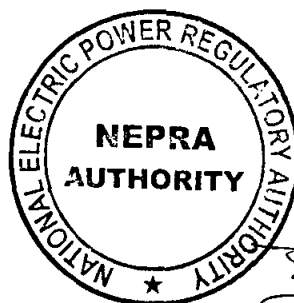
$$RORB_{(Rev)} = RORB_{(Ref/Adj)} * RAB_{(Rev)} / RAB_{(Ref)}$$

$$RORB_{(Rev)} = 5,035 * 35,608 / 31,450 = 5,701$$

$$RORB_{(Rev)} \text{ on adjusted WACC} = 5,701 * 11.85\% / 16.01\% \\ = 4,219 \text{ Million}$$

Depreciation

11.11. The Petitioner has requested Depreciation of Rs. 4,157 million for the FY 2020-21, with the following working;



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- The adjusted Depreciation Expense for the FY 2019-20 based on the actual investment of Rs. 6,722 Million is given below;
- $DEP(Adj) = DEP(Ref) * GFAIO(Act/Prov) / GFAIO(Ref)$
- $DEP(Ref) = 3,864$
- $GFAIO(Act) = 111,265$
- $GFAIO(Ref) = 115,755$
- $DEP(Adj) = 3,864 * 111,265 / 115,755 = 3,714$
 - For FY 2020-21 based on projected investment of Rs. 15,241 Millions
- $DEP_{(Rev)} = DEP_{(Ref)} * GFAIO_{(Rev)} / GFAIO_{(Ref)}$
- $DEP_{(Rev)} = 3,714 * 124,540 / 111,265 = 4,157$ Million

Other Income

11.12. The Petitioner has requested Rs. 6,739 million as Other Income for the FY 2020-21 and provided the following information regarding Other Income;

- As per the mechanism provided in the MYT guidelines and FESCO's determination, review determination and re-determination of MYT, the other income will be assessed in accordance with the following formula/mechanism:

$$OI_{(Rev)} = OI_{(1)} + \{OI_{(1)} - OI_{(0)}\}$$

Where;

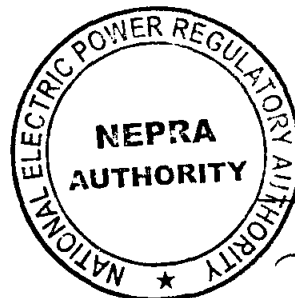
$OI_{(Rev)}$ = Revised Other Income for the Current Year

$OI_{(1)}$ = Actual Other Income as per latest Financial Statements.

$OI_{(0)}$ = Actual/Assessed Other Income used in the previous year.

- Other Income for the FY 2020-21 as per above mechanism is assessed as under;
- $OI_{(Rev)} = OI_{(1)} + \{OI_{(1)} - OI_{(0)}\}$
- $OI_{(1)} = 5,540$ (Actual Other Income for the FY 2019-20)
- $OI_{(0)} = 4,341$ (Actual Other Income for the FY 2018-19)
- $OI_{(Rev)} = 5,540 + (5,540 - 4,341)$
- $OI_{(Rev)} = 5,540 + 1,199 = 6,739$

11.13. The Authority, as per the mechanisms prescribed in the MYT of the Petitioner, for adjustment / indexation of different components of revenue requirement, and based on the information submitted by the Petitioner, has worked out the following adjustments for the Petitioner for the FY 2020-21;



Description	FESCO		
	Allowed FY 2019-20 Rs. Mln	Indexation/Adjustment Basis	Indexed /Adjusted Cost FY 2020-21 Rs. Mln
Pay & Allowances	9,805	GoP Increases & Annual Increment	10,580
Post Retirement Benefits	11,376	Provision as Audited accounts FY 2019-20	8,775
Repair & Maintenance	518	CPI of May 2020	551
Other O&M Expenses	1,647	CPI of May 2020	1,752
Depreciation	4,137	Allowed Investment for FY 2020-21	4,204
RORB	6,182	Allowed Investment for FY 2020-21 + KIBOR of July 2020 & January 2021	6,254
O.Income	(6,214)	As per Mechanism	(6,739)
Margin	27,452		25,378

11.14. Here it is pertinent to mention that the Authority, under para 31.25 of the Petitioner's determination dated December 31, 2015, allowed adjustments on account of variation in KIBOR on biannual basis. However, considering the fact that FY 2020-21 has already lapsed and actual KIBOR numbers as of 3rd July 2020 and 4th January 2021 are available, therefore, while allowing the RoRB for the FY 2020-21, the adjustment on account of variation in KIBOR for the FY 2020-21 has been incorporated upfront. Thus, no further adjustment on account of variation in KIBOR for the FY 2020-21 shall be allowed subsequently.

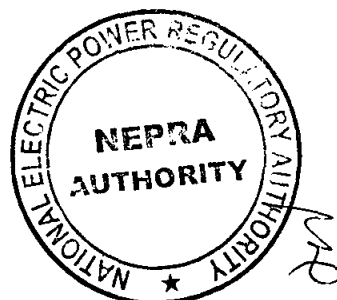
12. Whether FESCO has deposited sufficient amount in the Post Retirement Benefit fund in line with the amount allowed by the Authority?

12.1. Regarding Provision for postretirement benefits, the Authority in the MYT determination of the Petitioner decided as follows;

Post-Retirement Benefits – para 37.15 of the Determination decision dated December 31, 2015

"...the Authority, has decided to allow the provision for the post-retirement benefits based on last three years average provision as per its financial statements. The provision for FY 2015-16 based on last three years' average is being allowed including the impact of the employees retired before unbundling of WAPDA.....It would be mandatory for the Petitioner to deposit the whole amount into separate funds and accounts (as the case may be). If the Petitioner fails to transfer the whole amount of post-retirement benefits, the Authority would adjust the deficit payments in the next year's provision and from thereon, only actual amounts paid and amount transferred into the fund would be allowed. In case of complete failure to transfer any amount into the fund, the Authority would only allow actual payments, rather than provision....."

12.2. The Petitioner during the hearing provided the following table regarding, amount allowed, amount paid and difference;

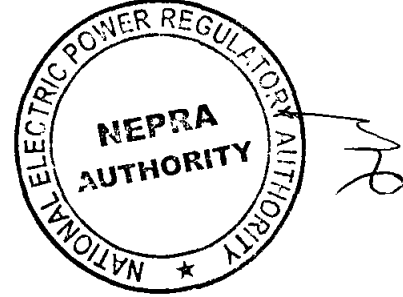


Financial Year	Amount allowed	Amount paid	Difference
2015-16	3,242	2,319	923
2016-17	4,952	3,420	1,532
2017-18	5,447	4,001	1,446
2018-19	5,447	4,957	490
Total	19,088	14,697	4,391
2019-20	5,447	5,555	(108)

- 12.3. The Petitioner regarding amount deposited in the fund provided the following information;

Mln. Rs.

Period	Contribution	Profit	Total
FY 2019-20	4,391,000,000	27,297,211	4,418,297,211
FY 2020-21	1,690,000,000	358,170,826	6,376,468,037
FY 2021-22 (Dec-2021)	3,700,000,000	326,793,122	10,403,261,159
TOTAL	9,691,000,000	712,261,159	10,403,261,159



- 12.4. From the above, it is noted that the Petitioner has deposited the required amount in the Fund after making actual payments. In view of the above, the Authority considers that the Petitioner has complied with the directions of the Authority regarding deposit of provision for postretirement fund in the Pension Fund account, therefore, the Authority in line with its earlier decision in the matter has decided to allow the provision for postretirement benefits to the Petitioner for the FY 2020-21. Provision for postretirement benefits as per the Audited report for FY 2020-21 submitted by the Petitioner, is around Rs.8,775 million, which is hereby allowed to the Petitioner for the FY 2020-21.

13. Whether the requested Supplier profit and Minimum Tax is justified?

Estimated Minimum Tax

- 13.1. The Petitioner has requested Rs. 3,976 million as Minimum Tax for the FY 2020-21. The Petitioner during the hearing provided the following working regarding Minimum Tax;

Description	Million Rs.
Estimated Sale for FY 2020-21	265,074
Minimum Tax @ 1.50%	3,976

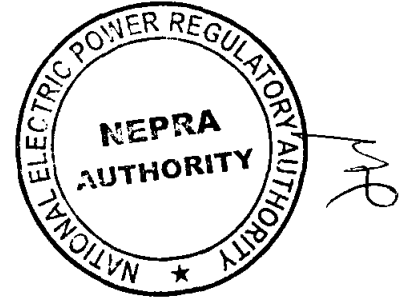
- 13.2. The matter has been deliberated under the issue of PYA. However, the Authority while going through the financial statements of the DISCOs including the Petitioner, has observed that significant amount of tax refund is appearing from FBR. In view thereof, the Authority has decided to allow actual tax paid by the Petitioner net off of the amount of Tax Refund outstanding from FBR, if any, once the Petitioner provides detail of actual tax assessments vis a vis tax paid for the last five years. Accordingly, the Petitioner is directed to provide details of actual tax assessments, tax allowed and the amount of tax paid for the last five years.

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Supplier Profit Margin

- 13.3. In addition, the Petitioner has also requested an amount of Rs.2,922 million for the FY 2020-21 under the head of Supplier Profit as detailed below;

<u>Description</u>	<u>Million Rs.</u>
Energy Transfer Changes	89,829
Capacity Transfer Charges	99,352
Use of System Charges + Market Operator Fee	5,626
Total	194,807
Supplier's Profit Rate	1.50%
Supplier Profit	2,922



- 13.4. The Petitioner, to justify its claim, has submitted that by the amended NEPRA Act, 2018, the distribution and sales of electric power functions earlier rested with FESCO under Distribution License No. 02/DL/2002 granted by NEPRA under Section-21 of NEPRA Act 1997 have been separated. In the amended Act 2018 the words "and to make sales of electric power to consumers" has been omitted in Section 21 of NEPRA Act 1997. Under the amended Act, 2018, Distribution of Electric Power has been separated from Supply of Electric Power. It has further been stated that as per Section 23 E of amended NEPRA Act, 2018, the holder of distribution license on the date of coming into effect of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall be deemed to hold a license for supply of electric power for a period of five years from such date. The Petitioner also submitted that Supplier Margin will address the Profit/ Margin of the supply business for establishing and maintaining the supply business setup, discharging other obligations as the Supply business has been separated by the Authority. Accordingly, the Petitioner has assumed Supplier's Profit @ 1.50% of the actual Power Purchase Cost for the FY 2019-20, which comes to Rs.2,892 Million (Rs.192,811 * 1.50%).
- 13.5. Regarding request of the Petitioner to allow Supplier Profit, the Authority observed that the Petitioner has been allowed return on its Rate Base as per the Authority's approved WACC and the same has been included as part of the Petitioner's revenue requirement. Although, the function of sale of electric power traditionally being performed by the Distribution Licensees has been amended under Section 21(2)(a) of the Amended Act, however, the amended Act, also under proviso to Section 23E(1), provides that holder of a Distribution license on the date of coming into effect of the Amendment Act, shall be deemed to hold a license for supply of electric power for a period of five years from such date. Thus, all existing Distribution Licensees have been deemed to have Power Supplier Licenses, to ensure distribution licensees earlier performing both the sale and wire functions, would continue to do so. Hence, practically there is no change in the overall nature of operations or functions being performed by the existing DISCOs, therefore, allowing any separate margin to the Petitioner for its Supply function, considering the fact that it has been allowed return on its overall rate base, does not merit consideration.

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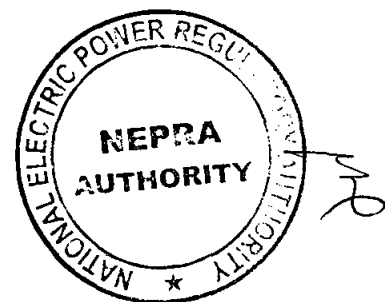
14. Whether the requested Prior Year Adjustment is justified?

14.1. The Petitioner on the issue has submitted that guidelines for determination of consumer End Tariff (Methodology & Process) 2015, provides that;

“Under-recovery or over-recovery of the cost of services incurred during the previous years shall be accounted for going forward during the current year under the head of prior period adjustment. This could also include impact of delayed notifications and impact of consumer mix variance”.

14.2. In addition the Petitioner provided the following;

Description	Distr.	Mln. Rs.	
		Supply	Total
1- O&M Cost FY 2017-18 under assessed	191	61	252
2- Post Retirement benefits provisions	20,098	7,061	27,159
3- Under recovered DM for FY 2019-20	5,937	1,072	7,009
4- Impact of excess other income for FY 2019-20	-1,007	-	-1,007
5- Negative Consumer Mix Variance for FY 2019-20	-	-394	-394
6- Minimum Tax Paid for FY 2019-20	-	2,243	2,243
7- Supplemental Charges paid by MOF 2018-19 & 2019-20	-	1,033	1,033
8- Supplemental Charges invoiced by CPPA-G 2018-19 & 2019-20	-	4,894	4,894
9- PM Assistance package	307	111	418
10- Supplier's Margin	-	2,892	2,892
Total Other Components	25,526	18,973	44,499
Rs./kWh @ Proj. Unit Sales of 13,487 MkWh	1.89	1.41	3.3



14.3. The Prior Year Adjustment includes the impact of variation in the following, based on the Authority's allowed benchmarks of T&D losses and recoveries;

- i. Difference between the actual PPP billed and the amount recovered by the DISCO.
- ii. Difference between the assessed DM and the amount actually recovered.
- iii. Difference between previously assessed PYA and the amount actually recovered.
- iv. Difference between actual other income and the amount allowed
- v. Variation due to Sales Mix.

14.4. It is important to highlight that variation between the PPP billed to DISCOs by CPPA-G and the amount recovered by the DISCOs, based on the Authority's allowed benchmarks of T&D losses and recoveries, are being accounted for separately through Quarterly/Bi-Annual Adjustment mechanism, therefore, the instant PYA includes only the remaining components.

O&M Cost for the FY 2017-18

14.5. The Petitioner on the issue has submitted that the Pay & Allowance & Other Expenses of Rs.9,434 million has been determined by the Authority for the FY 2017-18 in absence of the audited financial statements. The actual Pay & Allowance & Other Expenses for the FY 2017-18

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as per audited accounts for the said year remained Rs.9,686 after netting off the cost charged to AUC. In this way an amount of Rs.252 Million is less determined as detailed below;

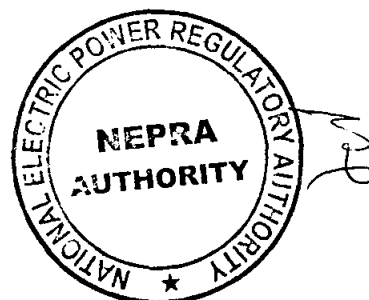
Description	2017-18 (Rs. in Million)		
	Actual	Determined	Under/ (Over)
Pay & Allowances	8,600	7,985	615
Other Expenses	1,529	1,449	80
Total	10,129	9,434	695
Less: Allocation to AUC	-443	* -	-443
Net Total	9,686	9,434	252

- 14.6. Regarding actualization of O&M cost for the FY 2017-18, the Authority observed that the Petitioner was allowed O&M costs for the FY 2017-18 based on the available information, and there would inevitably be deviations between the allowed and actual OPEX in the form of efficiency savings or losses, to be borne by the Utility as no subsequent adjustment in this regard was allowed. Moreover, in case the Petitioner had any concerns regarding assessment of the Authority, it could have availed the opportunity of Motion for leave for Review, however, no MLR was filed by the Petitioner. Hence, the request of the Petitioner does not merit consideration.

Post-Retirement benefits provisions;

- 14.7. The Petitioner on the issue has submitted that in the Multi Year Tariff (MYT) determination dated December 31, 2015, NEPRA allowed FESCO provision for the post-retirement benefits instead of actual payments. For the FY 2016-17 the Authority allowed Rs.4,952 Million as provisions for post-retirement benefits for FY 2016-17 based on audited Financial Statements. For the FY 2017-18, in the absence of audited Financial Statements and after allowing the GoP increase on the amount determined for the FY 2016-17, NEPRA determined Rs.5,447 Million as provisions for the post-retirement benefits. It also stated that for the FY 2018-19, the Authority maintained its assessment of Rs.5,447 million made for the FY 2017-18, as audited Financial Statements for FY 2018-19 were yet to be finalized. Similarly, for the FY 2019-20 the Authority allowed Rs.11,376 million as provisions for post-retirement benefits based on audited Financial Statements for the FY 2018-19. Based on the analogy stated above, a gap of Rs.27,159 Million is incurred in the actual provisions for post-retirement benefits as per audited Financial Statements and those determined by NEPRA. The Petitioner provided the following year wise gap is given below;

Mln. Rs.			
Year	Actual Provisions	Allowed	Gap
2017-18	19,665	5,447	14,218
2018-19	20,001	5,447	14,554
2019-20	9,763	11,376	(1,613)
Total	49,429	22,270	27,159



- 14.8. Regarding previous years' provision for post-retirement benefits, the Authority observed that amount of post-retirement benefits was allowed to the Petitioner based on available information at that time and has become a past & closed transaction, for which no adjustment is allowed. Considering the fact that the Petitioner is being allowed Provision for post-retirement benefits

in the MYT Regime, and also the fact that the current adjustment request incorporates substantial increase in power purchase cost, therefore, further adding any such cost in the instant adjustment request would not be in the consumer interest. However, the Authority going forward keeping in view the pension obligation of the Petitioner, amount deposited in the fund and quantum of future tariff increases may allow some additional amounts in this regard for depositing in the fund, in order to protect the financial liabilities of the Pensioners.

Under recovered DM for the FY 2019-20;

- 14.9. The Petitioner on the issue submitted that the Authority in its determination dated December 08, 2020 in the matter of FESCO Annual Adjustment /Indexation of Distribution Margin For FY 2019-20 has allowed Distribution Margin of Rs.27,452 for the FY 2019-20. FESCO against the same recovered an amount of Rs.20,443 million, thus un-recovered Distribution Margin for the FY 2019-20 remained Rs.7,009 Million as detailed below:

Description	PKR Mln.
DM Allowed by NEPRA FY 2019-20	27,452
DM Recovered at Notified Rates	20,443
Under-Recovered DM for FY 2019-20	7,009

- 14.10. The Authority has analyzed the request of the Petitioner and accordingly the amount of under recovery of DM for the FY 2019-20 has been included as a part of PYA.

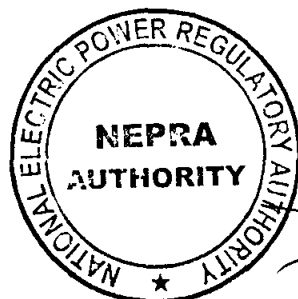
Impact of excess other income for FY 2019-20;

- 14.11. The Petitioner on the issue has submitted that NEPRA in its determination dated December 08, 2020 assessed an amount of Rs.6,214 million as other income for the FY 2019-20. The actual/audited other income ended June 30, 2020, was Rs.7,221 Million. Thus an amount of Rs. (1,007) million stayed in excess than the assessed other Income.

Description	PKR Mln.
Assessed Other Income	6,214
Actual Other Income	7,221
(Excess) Other Income for FY 2019-20	(1,007)

- 14.12. The Authority has analyzed the request of the Petitioner and observed that the Petitioner has also included the amount of LPS as part of its other income. The Authority in consistency with its earlier decision has decided not to adjust the amount of LPS as part of other income. Accordingly, the Petitioner is allowed an amount of Rs.674 million on account of Other Income as part of PYA.

Negative Consumer Mix Variance for FY 2019-20



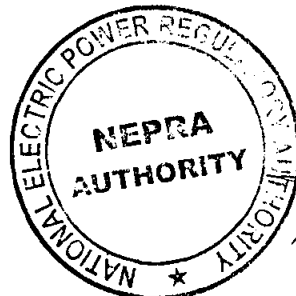
- 14.13. The Petitioner on the request has submitted that the actual Sales Mix for by 2019-20 at the base tariff notified vide SRO 03(1)/2019, dated January 01, 2019 remained Rs. (394) million in excess of the determined.
- 14.14. The Authority has analyzed the request of the Petitioner and accordingly the amount consumer mix for the FY 2019-20 has been included as a part of PYA based on the information provided by the Petitioner.

Minimum Tax Paid for FY 2019-20

- 14.15. The Petitioner on the issue has submitted that it has been allowed a post-tax cost of debt. Any tax paid by the company shall be passed on to the consumers on actual basis as prior year adjustment after submission of documentary proof to NEPRA.
- 14.16. Previously, companies declaring gross loss were not required to pay minimum tax in terms of the provisions contained in the proviso to section 113 of the Income Tax Ordinance 2001. Now under sub-sections (4AA) and 6(A) of Section 147, the said proviso has been deleted from the Ordinance through Finance Act, 2017 onwards and resultantly, such companies shall now be obliged to pay minimum tax irrespective of whether they declare gross profit or loss. Hence such companies also required to pay advance tax. Pursuant to above, the Petitioner has submitted that it paid minimum tax of Rs.2,243 million for the FY 2019-20.
- 14.17. Regarding claim of Rs.2,243 million as adjustment for advance Tax for the FY 2019-20, the Authority observed that the Petitioner in support of its claimed amount has provided copies of the computerized payment receipt, therefore, the Authority in consistency with its earlier decision i.e. tax payment to be allowed as a pass through cost, has decided to allow the claimed amount of Rs.2,243 million as part of PYA. In addition, the impact of turnover tax for the FY 2020-21 i.e. Rs.1,950 million has also been included as part of PYA, as the Petitioner has provided the required documentary evidence in this regard.
- 14.18. The Authority while going through the financial statements of the DISCOs, has observed that significant amount of tax refund is appearing from FBR. In view thereof, the Authority directs the Petitioner to provide detail of actual tax assessments, tax allowed and the amount of tax paid for the last five years.

Supplemental Charges

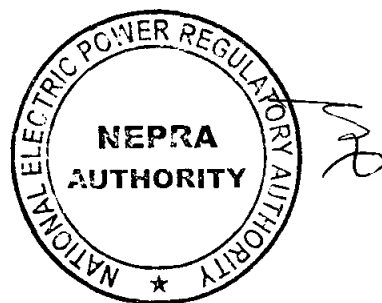
- 14.19. The Petitioner on the issue has submitted that it has requested the Authority to allow Rs. 448 million as supplemental charges/ mark up paid by the Ministry of Finance against Syndicated Term Finance Facility amounting to Rs.7.487, Rs.25 Billion and Rs. 30 Billion. The Finance Division vide letter dated 13.09.2018 intimated that mark-up payment of Rs.9,347.699 Million released to PHPL till 30.06.2018 against the said STFFs and requested for allocation of the said amount among the DISCOs and its subsequent booking with documentary evidence from the DISCOS.



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- 14.20. The Economic Coordination Committee (ECC) of the Cabinet considered a summary submitted by Ministry of Water and Power, "Summary dated 31st May, 2017 Titled issuance of Sovereign Guarantee by Ministry of Finance in respect of Syndicated Term Finance Facility amounting to Rs.41 Billion for the Power Sector". According to the decision of ECC, Power Holding Private Limited would be responsible for arranging loan amounting to Rs. 41 Billion. The Petitioner further submitted that the amount would be utilized for the purposes of funding the repayment liabilities of the Distribution Companies (DISCOs) through arrangement between PHPL & DISCOs. The apportionment of this facility shall be made to the DISCOs according to their respective liability towards power purchasers. The Ministry of Finance would provide Government guarantee for repayment of loan as well as interest of the facility of Rs.41 Billion arranged through consortium of local banks. The serving of Markup, principal repayments and all other amounts becoming due and payable in respect of subject facility shall be the responsibility of the respective DISCO. The Petitioner also submitted that accordingly, CPPA - G has issued the debit notes amounting to Rs.585 Million as mark-up in respect of 41 Billion Syndicated Term Finance Facility, which has been booked by FESCO in the Financial Statements ended June 30, 2020. In view thereof, the Petitioner has again requested to allow total amount of Rs.1,033 Million (Rs.448 & Rs.585) as Supplemental Charges in the PYA of 2019-20.
- 14.21. The Authority in its decision dated 8.12.2020, in the matter of request filed by the Petitioner for adjustment/ indexation of Tariff for the FY 2019-20, directed the Petitioner to provide detail of invoices raised by CPPA-G on account of supplemental charges for the FY 2014-15 till FY 2019-20. The Petitioner in this regard has submitted the following details;

Year	LPS	Supplemental Charges	Rs. Mln	
			LPS in Excess to Supp. Charges	
2014-15	1,098	433	(665)	
2015-16	1,112	101	(1,011)	
2016-17	1,069	103	(966)	
2017-18	1,280	609	(671)	
2018-19	1,406	1,890	484	
2019-20	1,681	3,004	1,323	
Total	7,646	6,140		



- 14.22. The Petitioner further submitted that an amount of Rs.1,890 Million on account of late Payments charges/Supplemental charges billed by CPPA-G, during the FY 2018-19, was not accepted by the Authority in its decision dated December 08, 2020 with the plea that as per Audited Accounts FY 2018-19 FESCO's payable to CPPA -G is only 60.554 million whereas, FESCO's payable to CPPA-G as on 30.06.2019 is Rs.60.554 billion, which have increased by Rs.37.19 billion as on June 30, 2020. It further stated that during the FY 2019-20, an amount of Rs.3,004 on account of late Payments charges has been billed by CPPA-G.
- 14.23. The Authority observed that in the MYT Re-Determination decision of FESCO dated 18.09.2017, it has been decided as under;

"Thus, the Authority in the tariff determination of FESCO for the FY 2014-15, decided that the late payment charge recovered from the consumers on utility bills shall be offset against the late

payment invoices raised by CPPA (G) against respective XWDISCO only i.e. CPPA (G) cannot book late charge over and above what is calculated as per the relevant clause of the agreement to a respective DISCO only

Here it is pertinent to mention that the decision of the Authority for excluding Late Payment Charges from other income of the FESCO, was decided during the tariff determination of FY 2014-15, therefore, any claim on account of supplementary charges before FY 2014-15 were not allowed. The rationale of the Authority's decision in this regard was on account of noncompliance by FESCO with respect to signing ESA during that period (as per the statement of DISCOs). Here it is pertinent to mention that the tariff period to which the CPPA-G/ DISCOs claimed cost relates has lapsed and the relief to the extent of LPC has already been passed to the consumers in the tariff determination of respective DISCOs. "

- 14.24. From the above table submitted by FESCO, it is evident that FESCO has recovered LPS of an amount of Rs.3,313 million in excess of supplemental charges billed by CPPA-G for the FY 2014-15 to FY 2017-18, on yearly basis, therefore, the Authority has decided to adjust the excess amount of Rs.33,13 million from the instant adjustment request of the Petitioner, as part of PYA. Here it is pertinent to mention that while accounting for LPS against Supplemental Charges, NEPRA individually accounts for the amount of LPS against each DISCO's supplemental charges as per the decision of the Authority.

PM Assistance package

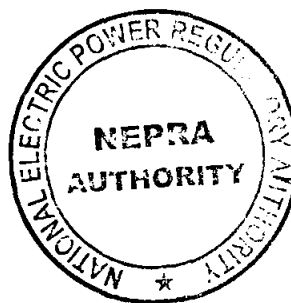
- 14.25. The Petitioner during the hearing provided the following information on the matter;

FY	No. of Casualties	Impact of Lump Sum Grant	Impact of Marriage Grant	Mln. Rs.	
				Total Financial Impact	
2014-15	41	21	15	36	
2015-16	100	50	36	86	
2016-17	101	53	36	89	
2017-18	78	45	28	73	
2018-19	88	47	32	79	
2019-20	63	32	23	55	
Total	471	248	170	418	

- 14.26. Regarding request of the Petitioner for PM assistance package, the Authority in principle agrees to allow the Prime Minister Assistance Package as announced by the Federal Government for the families of employees who died during service. However, for the requested amount, the Authority considers that allowing any such costs, upfront would be unfair with the consumers, therefore, the Authority may consider such costs once the actual expenditure is incurred by the Petitioner. To justify the claim the Petitioner is required to provide employees name, CNIC number, designation, date of death, along with the financial impact, etc. in its next tariff petition/adjustment request for the Authority to consider.

Supplier's Margin

- 14.27. The Petitioner during the hearing provided the following information on the matter;



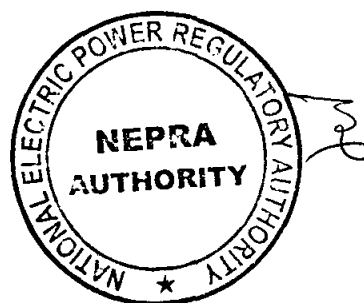
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Description	Million Rs.
Energy Transfer Charges	88,455
Capacity Transfer Charges	98,846
Use of System Charges + Market Operator Fee	5,510
Total	192,811
Supplier's Profit Rate	1.50%
Supplier Profit	2,892

14.28. The matter regarding Supplier Margin has already been discussed in detail in the instant petition as a separate issue.

14.29. Based on the discussion made in the above paragraphs, the Authority has assessed the following PYA of the Petitioner for the FY 2019-20;

Description	Rs. Mln FESCO
1st & 2nd Qtr. FY 2018-19	
Allowed Amount	26,894
Qtr. Rs./kWh	1.5389
Recovered	27,469
Under/(Over) Recovery	(575)
3rd & 4th Qtr. FY 2018-19	
Allowed Amount	2,639
Qtr. Rs./kWh	0.1888
Recovered	2,484
Under/(Over) Recovery	155
Interim D.M FY 2018-19	
Allowed Amount	1,748
Qtr. Rs./kWh	0.1250
Recovered	1,645
Under/(Over) Recovery	103
1st Qtr. FY 2019-20	
Allowed Amount	(1,307)
Qtr. Rs./kWh	(0.094)
Recovered	(1,240)
Under/(Over) Recovery	(67)
Distribution Margin FY 2019-20	
Allowed	27,452
Recovered	19,500
Under/(Over) Recovery	7,952
Other Income FY 2019-20	
Allowed	(6,214)
Actual	(5,540)
Under/(Over) Recovery	674
Sales Mix Variances	
FY 2019-20	(383)
FY 2020-21	(383)
Tax Payments FY 2019-20 & FY 2020-21	4,193
Late Payment Charges in Excess to Supplemental charges FY 2014-15 to FY 2019-20	(3,313)
Distribution Margin FY 2020-21	
Allowed	27,452
Recovered	24,435
Under/(Over) Recovery	3,017
Total Prior Period Adjustment	11,756



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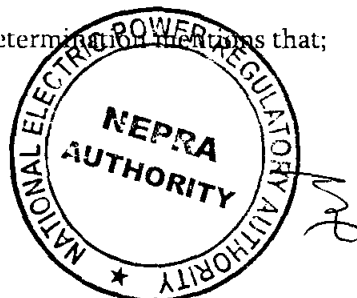
- 14.30. The Authority in line with its earlier decision in the matter of negative FCA, has calculated the impact of negative FCA pertaining to the FY 2019-20 in the matter of lifeline consumers, domestic consumers (consuming up-to 300 units) and Agriculture Consumers which has been retained by the Petitioner. The Authority has also worked out the impact of positive FCAs not recovered by the Petitioner from life line consumers. The Authority also considered the relevant clauses of the S.R.O. 189 (1)/2015 dated March 05, 2015 issued by GoP and the amount of subsidy claims filed by the Petitioner for the FY 2019-20.
- 14.31. After considering all the aforementioned factors, the Authority observed that the Petitioner has retained a net amount of Rs.1,614 million on account of negative FCA for the FY 2019-20, pertaining to the lifeline consumers, domestic consumers (consuming up-to 300 units) and Agriculture Consumers, which is still lying with the Petitioner. The Authority also considered the amount of subsidy claims filed by the Petitioner for the FY 2019-20, which shows a net subsidy claim filed by the Petitioner.
- 14.32. The Authority in view of the above and in line with its earlier decisions, has decided not to adjust the impact of negative FCA across different consumer categories. Thus, the net negative FCA amount pertaining to the lifeline consumers, domestic consumers (consuming up-to 300 units) and Agriculture Consumers for the FY 2019-20 i.e. Rs.1,614 million, which is still lying with the Petitioner, must be adjusted by the Federal Government, against the overall Tariff Differential Subsidy claim in the matter of the Petitioner eventually reducing GOP's overall Tariff Differential Subsidy burden. The above working has been carried out based on the data/information provided by PITC, as DISCOs have not submitted the required information. In case DISCOs own calculations are different from the aforementioned numbers, keeping in view the last slab benefits etc., the same may be shared with the Authority in its subsequent adjustment request. This decision of the Authority is only applicable under a subsidy regime, whereby aforementioned classes of consumers are receiving subsidy directly in their base tariff.
- 14.33. Here it is pertinent to mention that the impact of under/ over recovery of quarterly adjustments for the FY 2018-19 and 1st quarter of the FY 2019-20 has been worked out based on total units i.e. without adjusting the impact of life line units as DISCOs have neither submitted their workings in this regard nor provided break-up of category wise units sold for the period. In view thereof, the Petitioner is directed to provide its working in the matter along-with break-up of units sold for each category for the period from FY 2019-20 till FY 2021-22, for consideration of the Authority. Any adjustment in this regard would be adjusted subsequently as PYA.

True ups allowed in the MYT

- 14.34. The MYT determination also allows truing up of certain costs allowed to the Petitioner during the tariff control period i.e. Depreciation, Investments and KIBOR + Savings in spread as Prior Year Adjustments, as per the prescribed mechanism as detailed below;

Para 38.8 - Depreciation

- 14.35. Regarding Depreciation, the MYT determination mentions that;



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"Considering the fact that Depreciation expense for the FY 2015-16 & onwards has been allowed based on estimated level of investments and in case the actual investments carried out turns out to be different from the estimated level, i.e. in case the Petitioner ends up in making higher investments than the allowed, the benefit of the incremental benefit must be passed on to the Petitioner and vice versa. In view thereof, the Authority has decided to true up the benefit of incremental investments and vice versa each year through the Prior Year Adjustment mechanism....."

- 14.36. The Authority noted that actual depreciation of the Petitioner for the FY 2019-20, as per the audited accounts, provided by the Petitioner, remained at around Rs.2,819 million, against the allowed amount of Rs.4,137 million in the revenue requirement for the FY 2019-20. Accordingly, the amount of Rs.1,318 million, is being adjusted as part of PYA for the FY 2019-20.

Para 31.31 - Investments

- 14.37. Regarding Investments, the MYT determination mentions that;

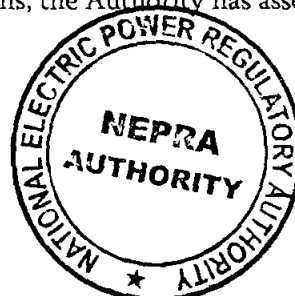
"Considering the fact that RAB for the FY 2015-16 & onwards has been allowed based on estimated level of investments and in case the actual investments carried out turn out to be different from the estimated level i.e. the Petitioner ends up in making higher investments than the allowed, the benefit of the incremental benefit must be passed on to the Petitioner and vice versa. In view thereof, the Authority has decided to true up the benefit of incremental investments and vice versa each year through the Prior Year Adjustment mechanism....."

KIBOR and Spread Variations – para 31.25 of the Determination decision dated 29.02.2016

".....the Authority has decided to cover the risk of floating KIBOR, thus, any fluctuation in the reference KIBOR would be adjusted biannually...."

".....If the Petitioner manages to negotiate a loan below 2.75% spread, the savings would be shared equally between the consumers and the Petitioner through PYA mechanism annually. In case of more than one loan, the saving with respect to the spread would be worked out by a weighted average cost of debt. The sharing would be only to the extent of savings only i.e. if the spread is greater than 2.75%, the additional cost would be borne by the Petitioner....."

- 14.38. The Authority noted that the Petitioner was allowed a RoRB of Rs.6,182 million, based on allowed investment for the FY 2019-20, whereas, as per the audited accounts, the required RoRB based on actual investment for the FY 2019-20 works out as Rs.5,751 million. Accordingly, the amount of Rs.431 million, is being adjusted as part of PYA for the FY 2019-20.
- 14.39. No adjustment on account of KIBOR for the FY 2019-20 is being allowed as the Authority while determining the RoRB for the FY 2019-20, used the actual KIBOR numbers as of 1st July 2019 and 2nd January 2020, thus, no further adjustment on account of variation in KIBOR for the FY 2019-20 is to be allowed.
- 14.40. Based on the discussion made in the above paragraphs, the Authority has assessed the following true-ups of the Petitioner for the FY 2019-20;

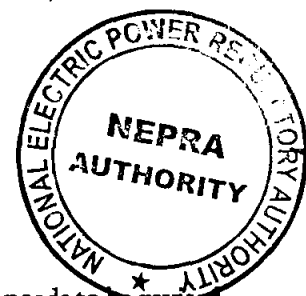


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Description	Rs. Mln FESCO
Provision for Post Retirement Benefit	
Allowed	11,376
Benefit Paid	5,555
Transferred to Account	5,300
Under/(Over) Recovery	_____
Depreciation	
Allowed	4,137
Actual	2,819
Under/(Over) Recovery	(1,318)
RoRB (Investment)	
Allowed	6,182
Actual	5,751
Under/(Over) Recovery	(431)
Total MYT True Ups	(1,227)

- 14.41. Based on the discussions made in the preceding paragraphs, the total PYA of the Petitioner including true up of costs allowed under the MYT has been worked out as under;

Description	FESCO
Total Prior Period Adjustment	11,756
Total MYT True Ups	(1,227)
Grand Total	10,529



15. Whether the existing fixed charges applicable to different consumer categories needs to be revised and requires any changes in mechanism for charging of such charges based on Actual MDI or Sanction Load or otherwise?

- 15.1. The Petitioner during the hearing submitted that it has already requested NEPRA to revise the criteria of fixed charges on the basis of 50% of sanctioned load in case of no energy is consumed during the month. The Authority noted that other DISCOs also during proceedings of their tariff petitions supported applicability of fixed charges based on sanctioned loads.
- 15.2. The Authority also noted that as per the decision dated 01.11.2021 in the matter of Wheeling Costs to be included in the Tariff Determination of DISCOs, it was decided as under;

"Hybrid BPC

- 15.3. 12.1. *In future tariff determinations of DISCOs, for Hybrid BPCs, fixed charges shall be levied based on their sanctioned load or actual MDI, whichever is higher and will be applicable on such BPCs who retain DISCOs as deemed supplier. In the meanwhile, based on the above formula, NEPRA will determine it on case to case basis."*
- 15.4. The Authority observed that as per the current tariff structure, certain consumer categories like Commercial, Industrial, Bulk and Agriculture are levied fixed charges, which are based on their

actual MDI for the month. The Authority considers that the capacity charges of generation companies which are fixed in nature, as it has to be paid based on plant availability, are charged to DISCOs based on the actual MDIs of DISCOs. However, the present consumer end tariff design is of volumetric nature whereby major portion of the cost is charged / recovered from the consumers on units consumed basis i.e. per kWh and only a small amount is recovered on MDIs basis from the consumers.

- 15.5. In view of the above discussion, decision of the Authority dated 01.11.2021 in the matter of wheeling and to ensure that Hybrid BPCs, who keep DISCOs connection as backup, also share portion of the fixed costs, the Authority has decided to change the mechanism for levying of monthly fixed charges to various categories of consumers. The Fixed charges shall now be charged, based on 50% of the sanctioned load or actual MDI for the month, whichever is higher. However, in such cases, no minimum monthly charges would be billed even if no energy is consumed. The Authority has also decided to increase the rate of fixed charges currently applicable to certain categories i.e. from Rs.400/kW/M, 420/kW/M and 440/kW/M to Rs.440/kW/M, 460/kW/M, and 500/kW/M respectively. At the same time, the Authority not to overburden such consumers who are levied fixed charges, has adjusted their variable rate, to minimize the impact of increase in fixed charges.

- 15.6. Here it is also pertinent to mention that once the CTBCM becomes operational, the Hybrid BPCs shall be treated in accordance with the prevailing Regulations at that time.

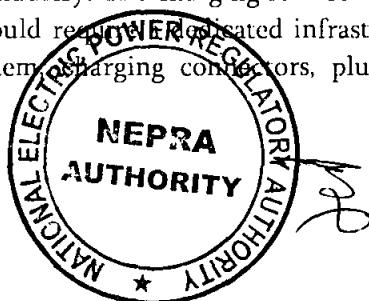
16. Whether there should be any amendment in Terms and Conditions of Tariff (For Supply of Electric Power to Consumers by Supply Licensees) keeping in view the changes in Consumer Service Manual?

- 16.1. The Authority observed that certain amendments have been approved in the NEPRA CSM, regarding extension of load for B-3 & C-2 from 5MW upto 7.5MW, after following due process of law. The same amendments are also required to be incorporated in the Tariff determination of DISCOs. Accordingly, the following changes are being made in the Terms & Conditions of Tariff;

"Considering the fact that the Authority, through CSM, has already allowed extension in load beyond 5MW upto 7.5MW whose connection is at least three (3) years old, therefore, for such consumers the applicable tariff shall remain as B-3 or C-2 as the case may be. However, while allowing extension in load, the DISCOs shall ensure that no additional line losses are incurred and additional loss, if any, shall be borne by the respective consumers."

17. Electric Vehicle Charging Stations

- 17.1. In order to provide an enabling regulatory regime for the Electric Vehicle Charging Stations ("EVCS") that would supplement the introduction and promotion of Electric Vehicles ("EV") in Pakistan, and provide a strong base for the growth of the EV charging infrastructure to support the development of this industry. The charging services for EV is going to involve setting up a dedicated facility that would require dedicated infrastructure including AC/DC conversion, conductive charging system, charging connectors, plugs, inlets and socket outlets, cables,



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protection system and dedicated electricity supply system with dedicated connection and transformer.

- 17.2. Here it is pertinent mention that the National Electric Vehicle Policy 2019 requires the following;

"NEPRA shall develop a policy to enact EV tariffs and to ensure compliance with EV standards and specifications. The foremost of which are safety standards for EVs."

- 17.3. The Authority in view thereof, in exercise of powers under section 7 read with section 31 of NEPRA Act read with 3(1) of NEPRA Tariffs (Standards & Procedure) Rules, 1998 carried out proceedings to amend the terms and condition of XWDISCOs and KE's tariff for this purpose. During the proceedings the issues regarding tariff to be charged from electric vehicles by EVCS along-with proposed amendments in the tariff Terms & conditions for the purpose was discussed in detail.

- 17.4. Based on the outcome of the proceedings, the Authority has decided as under;

17.5. **Amendment in Tariff Terms & Conditions**

- ✓ In A-2 Commercial "1", following is added at the end;

"(ix) Electric Vehicle Charging Stations"

- ✓ In A-2 Commercial "2", following is added;

"Electric Vehicle Charging Stations shall be billed under A-2(d) tariff i.e. Rs./kWh for peak and off-peak hours. For the time being, the tariff design is with zero fixed charges, however, in future the Authority after considering the ground situation may design its tariff structure on two part basis i.e. fixed charges and variable charges."

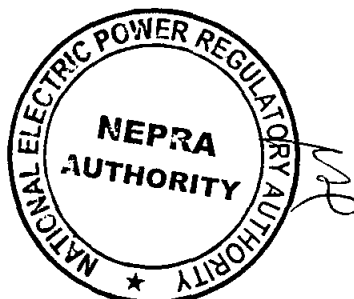
- ✓ In addition in A-2 Commercial, following is added;

- 17.6. *"The Electric Vehicle Charging Station shall provide "charging service" to Electric Vehicle with a maximum cap as determined by the Authority from time to time. For the time being the Cap has been determined as Rs.50/kWh. The EVCS shall be billed by DISCOS under A-2(d) tariff. However, monthly FCAs either positive or negative shall not be applicable on EVCS."*

17.7. **Addition in Schedule of Tariff**

- ✓ In Schedule of Tariffs (SoTs), under A-2 General Supply Tariff - Commercial, a new tariff i.e. A-2(d) – Electric Vehicle Charging Station is added.

18. **Whether the existing Tariff Terms and Conditions needs to be modified, especially with reference to the request of Telecom companies to charge "B Industrial Supply" Category tariff instead of "A-2 Commercial" category tariff?**

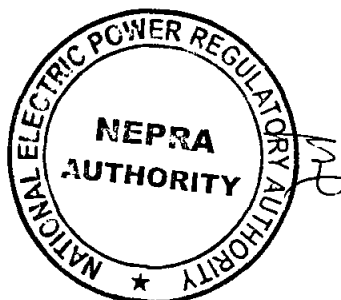


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- 18.1. The Authority during the tariff determinations of GEPCO for the FY 2019-20, on the request of Telenor regarding charging of Industrial tariff from Telecom Operators decided as under;

"The Authority observed that the issue highlighted by the commentator M/s Telenor Pakistan regarding applicability of Industrial tariff to Cellular Mobile Operator (CMOs) pertains to all the DISCOs including K-Electric as CMOs are operating all over Pakistan, therefore, the issue requires deliberations involving all stakeholders i.e. DISCOs, CMOs, Ministry of Energy, MoIT etc. The Authority noted that proceedings regarding Tariff petitions filed by all XWDISCOs for the FY 2018-19 and FY 2019-20, except GEPCO, have already been completed, therefore, the Authority has decided to consider the request of M/s Telenor as a separate issue during the proceedings for the upcoming tariff Petitions of DISCOs for the FY 2020-21 & onward".

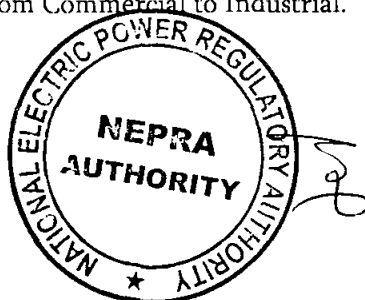
- 18.2. In view thereof, in the instant tariff adjustment requests of the Petitioner, the subject matter is being discussed as a separate issue.
- 18.3. The Petitioner during the hearing submitted that Telecom sector is only providing the services to consumers not value addition, therefore A-2 commercial is accurate
- 18.4. Telecom companies in their comments/ Intervention Requests have submitted that Telecom Sector including Cellular Operators (CMOs) has been declared as an Industry vide Ministry of Industries notification dated 20.04.2004, therefore, for the purpose of charging of electricity, industrial tariff may be applied to CMOs instead of currently applicable Commercial tariffs.
- 18.5. M/s NAYAtel and M/S PTCL both submitted that in line with the Telecom Policy of 2004, the Federal Government was pleased to declare Telecom sector including Cellular Operators as an "Industry" with immediate effect vide Gazette Notification dated 20.04.2004, issued by the Ministry of Industries and Production, Government of Pakistan.
- 18.6. The Ministry of Information Technology vide UO dated 16.06.2014 also endorsed the request of the Telecom Sector including CMOs to be classified as Industrial Undertaking under clause (b) of Section 2(29C) of the Income Tax Ordinance 2001.
- 18.7. In view of the above, it has been submitted that telecom companies along with other CMO's as an "Industrial Undertaking", so that "Industrial Tariff" is applied across the board to the Telecom Sector companies in Pakistan instead of "Commercial Tariff". Accordingly, it has been requested that issue of applicability of "Industrial Tariff" on Telecom Sector may be addressed and determined by the Authority, while determining the Uniform Tariff for DISCOs throughout Pakistan, including the current MYT indexation request of IESCO.
- 18.8. The Ministry of IT & T vide its letter dated 18.06.2014 addressed to FBR, submitted the following;
- ✓ *".... MoIT endorses the request of Telecom Industry, including Mobile Cellular Operators (CMOs) to be classified as "Industrial Undertaking" under clause (b) of section 2 (29C) of the Income Tax Ordinance 2001.*



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✓ *We will appreciate if the issue is examined and finalized in light of the aforementioned Cabinet decision and the subsequent notification issued in this regard by the Ministry of Industries & Production."*

- 18.9. The Ministry of Information Technology and Telecommunication, vide letter dated 29.04.2020, while referring to the meeting of the Committee on issues of CMOs constituted by the Prime Minister, held on 13.04.2020 stated that like any high tech industry, Telecom Operators use electricity for their infrastructure i.e. Data Centers, exchanges, points of presence (POPs), BTSs, Mobile Switching centers, Base Station Controllers (BSCs) etc. MoIT&T accordingly requested NEPRA to implement the Government orders.
- 18.10. DISCOs during the hearing submitted that as per tariff terms and conditions industrial connections required motive load and Telecom companies does not fall under this category of tariff.
- 18.11. The Ministry of Energy (MoE) vide comments dated 02.08.2021, submitted that the government has extended various reforms, packages & incentives, inter alia; Circular Debt Management Plan (CDMP), facilitative Ease of Doing Business architecture, strategizing increase in sales to high value consumer classes, Industrial Support package (ISP), flat peak & off-peak tariff scheme for industrial units and Zero-Rated Industrial (ZRI) package. Industrial tariff is applicable to the industries production facilities and the warehouses, which are used to transmit the products to the retailer/ distribution network, are considered as commercial value addition. Telecom companies being engaged in provision of telecom services through retail/ distribution network infrastructure, may be treated as commercial value-added activity for which consumer has to pay and, therefore, the same may be continued to be served electricity under commercial tariff category. In view of above, it has been submitted that any consideration of the Authority for the relocation of telecom companies from commercial category to industrial category may not be aligned with the economic objectives underlying the various industrial packages/concessions in field. Moreover, this relocation will result in the revenue gap and put extra burden on other consumers or fiscal space.
- 18.12. The Ministry of Finance (MoF) vide comments dated 30.07.2021, submitted that Telecom Companies/Cellular Mobile Companies Operators are basically involved in commercial activities and electricity cost is a pass through item. Further, Telecom Companies/Cellular Mobile Companies Operators fix their consumer end tariff without consulting the Regulator. Therefore, Finance Division is further of view that electricity supply to these companies for their infrastructure units under the category "A-2 Commercial" may be continued and they may not be considered for supply of electricity under the tariff category "B-2 Industrial Supply".
- 18.13. Here it is pertinent to mention that subsequent to the aforementioned Intervention Requests and Comments from the Telecom companies, separate tariff petitions have also been filed by M/s PTCL, M/s Telenor and M/s Pak Telecom Mobile Company (Ufone) Limited for change in tariff category of Telecom Operators from Commercial to Industrial.



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18.14. Since the said Petitions are under consideration of the Authority, therefore, the Authority has decided to issue a separate additional decision on the issue once the proceedings on the aforementioned petitions are completed.

19. **Whether there should any Fixed Charges on Residential & General Services Consumers, having net metering facility?**

19.1. The Petitioner during the hearing submitted that at present no Fixed Charges are charged from all category of consumers (Residential, General Services, Commercial, Tube well & Industrial) having net metering facility. Accordingly, the Petitioner proposed that a certain amount of fixed charges per month on installed DG Facility for Net metering connections for use of system may be charged from all categories of consumers.

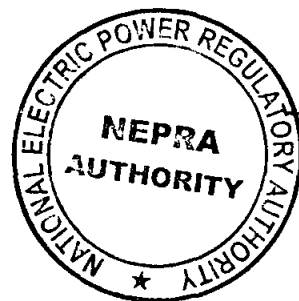
19.2. The Authority observed that the net metering regime is presently at a nascent stage as current installations are a negligible portion of total generation capacity of the power system, therefore, decided not to levy any fixed charges on Residential and General services net metering consumers.

19.3. However, considering the steep rise in the Power Purchase cost of electricity coupled with stability in the prices of installing DG facilities, the Authority has decided to initiate proceedings for amendment in NEPRA (Alternative and Renewable Energy) Distributed Generation and Net Metering Regulations, 2015, for change in tariff payable by DISCOs to net metering consumers for excess energy delivered in the system.

20. **Revenue Requirement**

20.1. In view of the discussion made in preceding paragraphs and accounting for the adjustments discussed above, the adjusted revenue requirement of the Petitioner, for the FY 2020-21 is as under;

Description	Unit	Allowed FY 2020-21		
		DoP	SoP	Total
Units Received	[MkWh]	15,278	15,278	15,278
Units Sold	[MkWh]	13,787	13,787	13,787
Units Lost	[MkWh]	1,491	1,491	1,491
Units Lost	[%]	9.76%	9.76%	9.76%
Pay & Allowances		8,131	2,449	10,580
Post Retirement Benefits		6,494	2,281	8,775
Repair & Maintenance		513	39	551
Traveling allowance				
Vehicle maintenance				1,752
Other expenses		991	761	
O&M Cost		16,128	5,531	21,658
Depreciation		4,204	-	4,204
RORB		4,198	2,057	6,254
Min Tax				
O.Income		(5,306)	(1,433)	(6,739)
Distribution/Supplier Margin	[Mln. Rs.]	19,223	6,154	25,378
Prior Year Adjustment		2,625	7,904	10,529
Revenue Requirement	[Mln. Rs.]	21,848	213,873	235,721



20.2. The above determined revenue shall be recovered from the consumers through the projected sales of 13,787 GWhs.

20.3. Here it is pertinent to mention that the Petitioner has also filed its adjustment/indexation request for the FY 2021-22, which is under process with the Authority. Therefore, the impact of above adjustment/indexation for the FY 2020-21, has been included in the adjustment/indexation decision of the petitioner for the FY 2021-22, as PYA.

21. **ORDER**

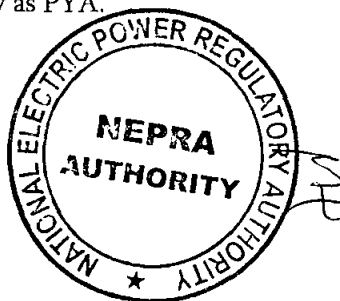
21.1. From what has been discussed above, the Authority hereby approves the following adjustments in the MYT of the Petitioner Company for the Financial Year 2020-21:-

- I. Responsible to provide distribution service within its service territory on a non-discriminatory basis to all the consumers who meet the eligibility criteria laid down by the Authority,
- II. To make its system available for operation by any other licensee, consistent with applicable instructions established by the system operator.
- III. To 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 [or Provincial Government;
- IV. To develop, maintain and publicly make available, with the prior approval of the Authority, an investment program for satisfying its service obligations and acquiring and selling its assets
- V. To disconnect the provision of electric power to a consumer for default in payment of power charges or to a consumer who is involved in theft of electric power on the request of Licensee.
- VI. The Petitioner shall comply with, all the existing or future applicable Rules, Regulations, orders of the Authority and other applicable documents as issued from time to time.

22. **Summary of Direction**

22.1. The summary of all the directions passed in this decision by the Authority are reproduced hereunder. The Authority hereby directs the Petitioner to;

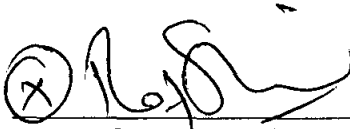
- To maintain a proper record of its assets by way of tagging each asset for its proper tracking.
- To provide details of actual tax assessments, tax allowed and the amount of tax paid for the last five years.
- To provide its working in the matter along-with break-up of units sold for each category for the period from FY 2019-20 till FY 2021-22, for consideration of the Authority. Any adjustment in this regard would be adjusted subsequently as PYA.



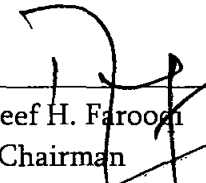
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23. Decision of the Authority is hereby intimated to the Federal Government for notification in the official gazette in terms of section 31(7) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.

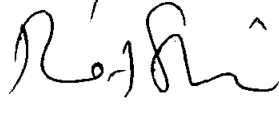
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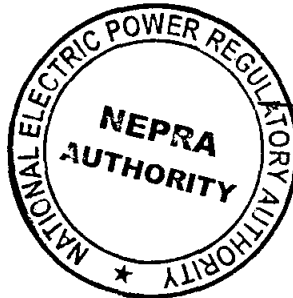

Rafique Ahmed Shaikh
Member

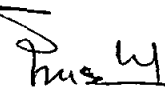

Engr. Maqsood Anwar Khan
Member


Tauseef H. Farooqi
Chairman

② My additional note is attached herewith.


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Additional Note:

At the outset, the multi-year tariff determination which I am signing is for the control period from financial year 2020-21 to 2024-25; the two years of its control period have already been lapsed. Timely tariff determinations depend on submission of the petition by DISCOs within the given time. However, in sheer disregard of timelines given in the NEPRA Guidelines for Consumer End Tariff-2015 as well as the Authority's direction, DISCOs have failed to submit their petitions in timely manner which reflects their indifference to the regulatory discipline which ultimately cause suffering for the power sector as well as the end-consumers.

For the period from July, 2020, beyond the tariff control period of last determined tariff, the Authority has been issuing the quarterly adjustments under the given mechanism. Such adjustments, though covers the cost increase to larger extent but not suffice to cover the entire financial impact. Therefore, I am of the opinion that quarterly adjustments beyond the tariff control period are highly undesirable and should not be allowed.

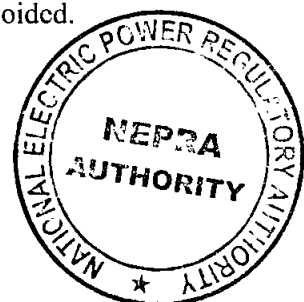
This is a fact on record that NEPRA has been allowing huge amount to DISCOs under the head of investments for up-gradation of their infrastructure, however, DISCOs could not be able to improve their T&D losses and quality of supply corresponding to the allowed investment. Therefore, comprehensive audit of DISCOs is necessary to check the utilization of funds allowed under the head of investments.

The overall recovery position of DISCOs is also below the desired level. Resultantly, the country is facing circular debt and despite certain bail out packages, the circular debt is on the rise which currently stands at more than Rs. 2.5 trillion. To get rid of the circular debt issue, immediate actions are needed which may include the structural changes in ownership and control of the DISCOs.

This has also been highlighted in the last many years that the performance of DISCOs has been marred with serious governance issues. Load shedding on account of Aggregate Technical and Commercial (AT&C) losses is one of the classic example of poor governance. Instead of improving their distribution network, checking the theft of electricity and improving the recovery, DISCOs have found an easy way of indiscriminate load shed at feeder level. This AT&C base load shedding is a stumbling block in improving the sales growth of Discos. This is a fact that sufficient generation capacity is available in the country, mostly on take or pay basis. The AT&C base load shedding is suffering the consumers in shape of not having the electricity as well as increased electricity cost due to payment of capacity payment of unutilized capacity. I am of the considered view that the burden of capacity payments due to underutilization of power plants caused by DISCO level load shedding should not be passed on to the consumers.

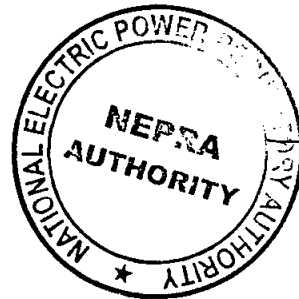
DISCOs are allowed sizeable amount for payments on account of pension and other post-retirement benefits which is being increased year on year basis. Although, under the agreed terms and conditions, these payments are binding but not a direct cost of product, i.e. generated electricity. Had the pension fund been established earlier in a timely manner to meet this obligation, the burden of these payments on consumers could have been avoided.

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The present centralized control of DISCOs has shown its inherent tendency for inefficiency and unless developed as independent corporate entities, autonomous in their business decisions, DISCOs will continue to burden the power sector. Therefore, immediate actions are needed to revamp DISCOs and free them of centralized control. In my view, this is time to either privatize DISCOs or transit to public private partnership to run these entities as independent business in a competitive environment. The involvement of provincial governments may help in improving the governance of DISCOs especially in controlling electricity theft and improving the recovery.

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