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No. NEPRA/TRF-331/GEPKO-2015/6393-6395
May 11, 2016

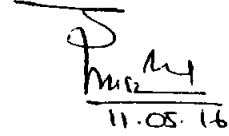
Subject: Decision of the Authority in the matter of Motion for Leave for Review filed by Gujranwala Electric Power Company Ltd. (GEPKO) against Determination of the Authority pertaining to the Financial Year 2015-2016 Dated February 29, 2016 [Case # NEPRA/TRF-331/GEPKO-2015]

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (12 Pages) in the matter of Motion for Leave for Review filed by Gujranwala Electric Power Company Ltd.

2. The Decision is being intimated to the Federal Government pursuant to Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act (XL of 1997).

Enclosure: As above



11.05.16

(Syed Safer Hussain)

Secretary
Ministry of Water & Power
'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 MOTION FOR LEAVE FOR
REVIEW FILED BY GUJRWALA ELECTRIC POWER COMPANY LIMITED (GEPCO)
AGAINST DETERMINATION OF THE AUTHORITY PERTAINING TO THE FY 2015-16
DATED FEBRUARY 29, 2016**

1. Background

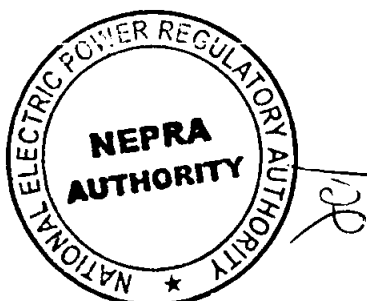
1.1 Gujranwala Electric Power Company Limited (GEPCO), hereinafter called "the Petitioner", being a Distribution Licensee of NEPRA filed motion for leave for review (MLR) vide letter no. CEO/FD/GEPCO/4750-54 on March 10, 2016 against the decision of the Authority in the matter of petition filed by the Petitioner for the determination of its consumer-end tariff pertaining to the FY 2015-16, dated February 29, 2016.

1.2 The Petitioner has requested the Authority to reconsider its decision to the extent of the following ;

- a) To revise the Transmission and Distribution Losses target from the allowed level of 9.98% to 11.60%, keeping in view the results of the sample study carried out by third party; Here it is pertinent to mention that the Petitioner in its motion for leave for review has revised its request of 11.60 % to 11.04 %.
- b) To allow the provision for the post retirement benefit fund so that the same may be placed in the established fund;
- c) To reconsider the WACC;
- d) To allow replacement as well as fresh recruitment;
- e) To reconsider the curtailment made under the Repair & Maintenance expenses;
- f) To reconsider the curtailment made under the head of Travelling Expenses;
- g) Not to draw any adverse inference and a corrigendum to this effect may kindly be issued by the Authority regarding the incorrect reporting of Receivables figure as on 30-June-2014;

2 Proceedings

2.1 The Review motion was admitted by the Authority on 30th March, 2016. In order to provide a fair opportunity to the Petitioner, a hearing was held in the matter on April 07, 2016 at NEPRA Tower Islamabad. Accordingly, notices of admission & hearing were sent to the Petitioner. During hearing, the Petitioner was represented by its Chief Executive Officer along-with its Technical and Financial Team.



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3. Transmission and Distribution Losses

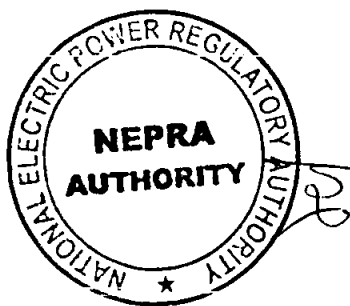
3.1 The Petitioner in its review motion stated that the Authority has allowed T&D losses at 9.98% without considering its technical and factual grounds. The Petitioner argued that its requested demand of 11.60 % was based on the outcome of the sample study carried out by the third party.

3.2 The Petitioner on setting the base line of 9.98% T&D losses, submitted that;

- i. In compliance to the Authority's directions, it assigned the task for the assessment of T&D Losses study to M/s Barqaab in joint venture with M/s LMKT for the study of its 11 KV and below distribution network.
- ii. A sample study of 281 11 KV feeders out of a total of 721 (Sample size 39%) representing all categories of feeders including domestic, commercial, industrial, tube wells, urban/rural mix has already been submitted before the Authority. The completion date of the study as per TOR's is 30th April 2016.
- iii. Based on sample study, the third party evaluated the T&D losses at 11.60% for the FY 2015-16 and the same has been requested by the Petitioner. M/S Power Planner International executed the study of the Petitioner's Transmission Network and evaluated Transmission Loss at 2.06%. Similarly, Study of HT and LT distribution network has been performed by M/S Barqaab in Joint Venture with M/S LMKT. The same has already been submitted to the Authority. For the sake of convenience, a summary thereof is tabulated as under;

Segment	%age Losses	Study Conducted by
Transmission network	2.06	Power Planner Intl.
HT Network	3.08	M/S Barqaab in Joint Venture with M/S LMKT
Dist. Transformers	1.17 %	
LT Network including Service Main	4.79 %	
Administrative Margin	0.50 %	
Total	11.60 %	

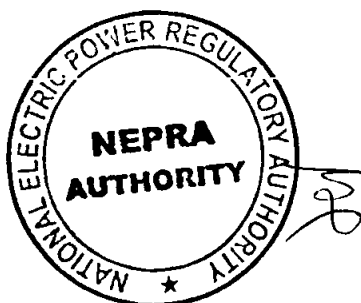
- iv. It is pertinent to mention here that because of operational efficiency, attained through balance power flow and betterment of transmission lines, for the FY 2010-11 the Petitioner attained a 10% decrease in respect of Transmission Loss when compared with the third party assessment of Transmission Losses. Moreover, over a span of last five years, the actual transmission losses have been reduced by 18% as a result of 13 New Grid Stations, Addition /





Augmentation of Power Transformers, Construction of new transmission lines, re-conducting of over loaded transmission lines, and installation of Capacitors' Banks. All of the aforementioned work was undertaken after comprehensive load flow study using latest software tool i.e. Power System Simulator for Engineering (PSSE). The Petitioner Company executed these programs with the financial help of ADB and EXIM Bank Korea.

- v. The distribution network study is in progress by the third party and for the FY 2014-15, technical losses have been evaluated at 9.04 %, based on a sample size of 39% of the total distribution networking including all categories of feeders/ load. The Petitioner while revising its request of the level of T&D losses states that it has claimed its Transmission losses at 1.50 % being based on actual data, distribution side technical losses at 9.04% based on the third party sample study. Thus, an overall T&D losses inclusive of administrative margin of 0.5%, for FY 2015-16 is requested at 11.04%. It is worth mentioning that the actual T&D losses for the FY 2014-15 remained at 10.72 %. As far DIIP (2015-16 to 2019-20) is concerned, it was analyzed that the level of T&D losses will be 10.50 % at the end of FY 2019-20, with the proposed investments of Rs.20,363 million in 5 years.
- vi. If this investment is approved by the Authority, it is hoped that the T&D losses level will be 10.50 % as predicted in DIIP. It is further added that the reason for difference in proposed investments in DIIP and the tariff petition, is because of the timing lag as the tariff petition was submitted before the submission of DIIP. However, the next year tariff petition and proposed investment plan will have the same values.
- vii. It was further stated that the Authority is discriminating the Petitioner with the peer DISCOs as during the FY 2014-15, Lahore Electric Supply Company Limited (LESCO) submitted a 10% Sample Study of T&D Losses before the NEPRA along with their Tariff Petition for the FY 2014-15. The results of the sample study were accepted by NEPRA and allowed T&D Losses target at 11.75% against the requested losses of 12%. Despite the fact that a study based on a bigger sample size of 39% was submitted to the Authority, it has rejected its submitted study and in contrast with its practice in similar cases and the rejection was based without providing any solid grounds. Further, the rationale for the assessment of 9.98% is neither based on any rational nor is in accordance with the best prudent utility practices in Pakistan.





- 3.3 In view of aforementioned arguments, the Petitioner requested the Authority to reconsider its decision with respect to the assessment of T&D losses and reassess the level at 11.04 for the FY 2015-16.
- 3.4 On the point of the Petitioner regarding discrimination with peer DISCOs, it is important to quote here the relevant extract from the determination of LESCO pertaining to FY 2014-15, whereby the Authority allowed LESCO a T&D loss target of 11.75% for the FY 2014-15 as under;

Para 10.10

"In addition to aforementioned the Petitioner on 26th February 2015, submitted a technical report for T&D Losses, which was analyzed by Technical Department of NEPRA. The study was based on 147 urban and 13 rural feeders out of a total of 1437 feeders, using Loss Analysis Programs developed by USAID , whereby simulation studies were carried out by the Petitioner. It was further stated that the study also calculates the loss due to Service Mains and submitted the following results;

- Transmission losses 2.17%*
- 11 kV Distribution Feeder including VD' Losses 7.19%*
- LT Line Losses 3.09%*
- Administrative Losses 1.5%*

TOTAL 13.95%

The Authority observed that although the sample size of the study undertaken by the Petitioner, is only 10.5%, which is not a considerable percentage, still the study includes sufficient number of urban and rural feeders which are representative of the overall consumer mix and loading conditions. The Authority considers that the study and software used by the Petitioner are acceptable however the authenticity of the results would only be possible when all the feeders are included in the study, which is under process and is being conducted by an Independent Consultant. The Authority considers that the proposed losses level, which also includes the impact of theft is prima facie is on the higher side; therefore, cannot be accepted as such. The Authority also considers that it will not be fair to allow the impact of theft in the T&D losses. The Authority further feels that

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Petitioner has not suggested any improvement in its losses despite the investments already made and proposed to be made. The Authority accordingly has decided to adjust T&D losses on account of improved efficiency in the system. In view of aforementioned, the Authority has decided to assess the level of T&D losses in the matter of Petitioner to the tune of 11.75% for the FY 2014-15 and at the same time directs the Petitioner expedite the independent study of its system as directed before."

3.5 From the afore referred extract, it is evident that the Authority never relied upon the results of the study whereby T&D losses were reported as 13.95%, whereas the Authority's allowed T&D losses of 11.75% for the FY 2014-15. Further, the Petitioner was directed to expedite the independent study.

3.6 The Authority feels that the Petitioner has tried to twist the Authority's decision in the case of LESCO with respect to losses. The Petitioner's contentions regarding the Authority's discriminatory treatment are without any basis and needs to be avoided in future.

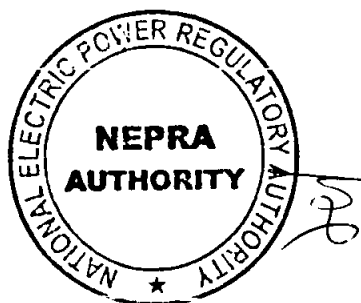
3.7 The Authority, while going through the submissions of the Petitioner, has observed that no new information, evidence / rationale has been provided by the Petitioner in its MLR which would form the basis for the Authority to reconsider its earlier decision in this regard; all the submissions of the Petitioner has already been addressed by the Authority under para 8.6 to 8.8 of its Determination dated 29th February, 2016. In view thereof, the request of the Petitioner to revise its T&D losses target is declined.

4. Provision for Post-Retirement Benefits

4.1 The Petitioner has stated that the Authority, has disallowed the "Provision for Retirement Benefits" which is based on wrong premise and misconstruction of the facts, leaving the Petitioner without any allowance for Defined Benefit Plan Assets (Fund) to cope with the future payments and thus caused an under recovery of these costs.

4.2 On disallowing the amount of provision, the Petitioner has submitted that;

- i. As per the directions of the Authority, it had created Pension Fund with an initial deposit of Rs. 100 Million with the objective that the Employees Defined Benefit Plan be topped up by transferring the amount of funds generated by providing them through the tariff for the FY 2015-16 and onwards.
- ii. The Authority, while issuing the Tariff Determination for FY 2015-16, merely on the ground that the Petitioner has not created separate accounts in respect





of components of Post-retirement benefits i.e. Medical, Free Supply, Leave Encashment and Pension did not allow Provision for Retirement Benefits.

- iii. The Petitioner is being discriminated as the Authority while determining the Tariff of LESCO for FY 2015-16 (vide Para 31.24 on Page No 89), allowed the Provision for Postretirement Benefits amounting to Rs. 9,002 Million along with direction to open separate accounts or funds for each head of Postretirement benefits as the case may be.
- iv. In compliance to the modified current directions conveyed through this Tariff Determination, its BOD has authorized the management to open the remaining fund accounts with the National Bank of Pakistan on Top priority basis.

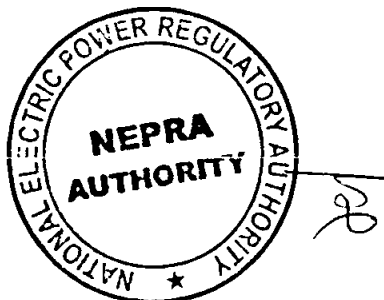
4.3 Based on the aforementioned arguments the Petitioner has requested to allow the post retirement benefit fund provision enabling the Petitioner to place funds in the established fund account.

4.4 The Authority after careful review of the Petitioner's argument considers that while allowing the salaries, wages and other benefits has already allowed it cash payments with respect to the post-retirement benefits. As regard the issue of allowing provision is concerned, the Authority has allowed LESCO the provision for post-retirement benefits to the extent of single year only. The same was allowed in the context of MYT regime, since its tariff was going to be locked for a period of five years. Further, the Authority had been allowing the Petitioner the provision for post-retirement benefits till FY 2011-12. In view thereof, the Petitioner is directed to deposit the same in the established fund/accounts.

4.5 The Authority, while going through the submissions of the Petitioner, has observed that no new information, evidence / rationale has been provided by the Petitioner in its MLR, which could form the basis for the Authority to reconsider its earlier decision in this regard; the submissions of the Petitioner have already been addressed by the Authority in detail under para 11.6 of its Determination dated 29th February, 2016. In view thereof, the request of the Petitioner to allow provision for Pension Benefits is declined.

5. Incorrect Weighted Average Cost of Capital (WACC)

5.1 The Petitioner on the issue has stated that the Authority assessed Weighted Average Cost of Capital (WACC) at 11.83% and applied the same to arrive at RORB of Rs. 2,704 Million.



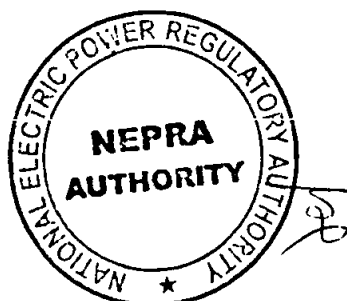


5.2 The Petitioner on the issue has submitted that;

- i. The Authority, while reworking WACC, in order to do a fair evaluation of Cost of Debt wrongly based its computations on the market rate i.e. 3 Months KIBOR +2.75% spread whereas the fact is that it has to pay interest fixed at 17% and 15% respectively on relent borrowings of ADB and Korean EXIM Bank.
- ii. The Authority is inconsistent with the determination for the FY 2014-15 as the Authority, itself in the Tariff Determination for FY 2014-15, has allowed a WACC of 15.97% and the rationale was provided as *"Rate of Return should be reasonable enough to assure the confidence in the financial soundness of the utility company and should be adequate to maintain and support its credit and enable it to raise money necessary for the proper discharge of the public service"*. Thus the principle of consistency has not been observed by the Authority.
- iii. It is necessary to reassess the Geared Beta of 1.1, which is based on a population of 111 firms having different demographic, geographic and economic conditions. The Authority itself had taken into account a Geared Beta of 1.33 in the determination for the immediately preceding FY 2014-15.
- iv. The capital structure assumed by the Authority is 70:30 whereas, the distribution companies in Pakistan including the Petitioner, the portion of debt in overall capital structure is on the lower side. The Authority has assumed a capital structure of 70:30 against the facts of the case.
- v. The Petitioner's contractual obligations with ADB and Korean loans have not been considered by the Authority. These loans have been obtained by the Government of Pakistan from ADB and Korean Exim Bank and then relented to Petitioner for the development of power distribution networks of Discos. These loans are having fixed flat interest rates i.e. 17 %, and 15% annually. The Petitioner is unable to meet its obligations regarding Debt Service Liability of these loans.

5.3 The Authority is therefore requested to reconsider the issue of determination of WACC rate for calculating the RORB.

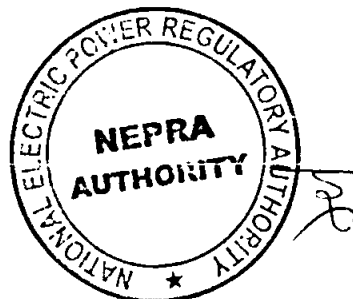
5.4 The Authority after careful review of the Petitioner's argument with respect to the inconsistency and actual cost of debt is of the view that the Petitioner fails to comprehend the concept for the assessment of WACC. The Authority's assessed WACC has always been an "assessment" from which the actual position of the





Petitioner's might differ. WACC assessed at different points of time would reflect the market conditions which are different at respective points of times.

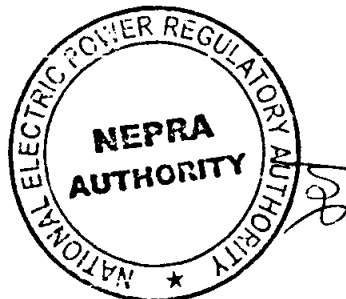
- 5.5 The Authority while carefully going through the Petitioner's argument has observed that the Petitioner's is of the view that WACC once determined has to remain forever. This is not a static number and depends upon so many variables like different risks, country rating and inflation etc. While making assessment for the year under review the Authority has given detail arguments and rationale. The Petitioner did not challenge the study on the basis of which WACC has been assessed rather it relied on the statement that it was previously allowed a certain number. The Authority cannot accept the Petitioner's request, which is not duly supported with any study or rationale.
- 5.6 On the point to reassess the Geared Beta of 1.1, based on a population of 111 firms having different demographic, geographic and economic conditions, the Authority observed that a comprehensive study in this regard was carried out whereby not only local but International Markets were also explored. The Authority has clarified in the determination that while calculating the RoE, beta pertaining to only transmission and distribution companies was considered, i.e. beta of 0.997 was re-gearred.
- 5.7 Regarding the use of capital structure of 70:30, the Authority considers that that it is in line with the notified Methodology. Further, change in Debt Equity ratio cannot be treated in isolation since with reduced capital structure, the beta has to be re-gearred as per the new capital structure (a lower gearing results in a lower equity beta for a given asset beta). The Petitioner while requesting a higher proportion of equity in its capital structure has totally ignored this aspect while requesting the beta. Thus, the Petitioner's both requests, if seen collectively does not reconcile with each other.
- 5.8 Moreover, the plea of the Petitioner being unable to meet its obligations regarding debt service liability of the relent loans is not validated through the numbers indicated in the financial statements. The Authority's evaluation indicates that the assessed depreciation and interest charges not only reasonably cover the actual debt service but also provide some extra cushion for the Petitioner.
- 5.9 The Authority, while going through the submissions of the Petitioner observed that the issues raised by the Petitioner have already been deliberated in detail under para 13.1.9 to 13.1.11 of the determination dated February 29, 2016, wherein, detailed reasoning / justification has been provided. Since the Petitioner has failed to substantiate its aforementioned request with any new rationale / evidence, therefore, the request of the Petitioner to revise the cost of Debt is declined.





6. Disallowance of New Hiring Cost Coupled with Non-Approval of Yard Stick

- 6.1 The Petitioner mentioned that it has not been allowed the incremental financial impact of Rs.935 Million in respect of new hiring.
- 6.2 The Petitioner on the issue has submitted that;
- i. The rejection has been merely based on the ground that the Petitioner has not got the approval of its strength yardstick from the Authority whereas, the additional hiring primarily constituted replacement hiring. From the last many years, the Authority has been refusing hiring as well as recoupment of vacant seats caused by retirement, transfers and postings, death and disability of the Petitioner's personnel.
 - ii. The Authority has always disapproved the WAPDA yardstick without assigning any cogent reasons thereof and irony of luck is that the Authority never provided any mechanism for its development and always ignored that distribution companies inherited the WAPDA yardstick since its unbundling. This phenomenon has led to the discouragement of new recruitment in the Petitioner company causing an acute shortage of manpower as well as under recovery of justified O&M cost of the petitioner.
- 6.3 The Authority is therefore, requested to consider the shortfall of employees and allow the petitioner to make replacement as well as fresh recruitment.
- 6.4 Here it is pertinent to mention that the Authority never disallowed replacement hiring subject to the provision of Auditor's certificate. Since the Petitioner provided the required certificate, therefore, the Authority while assessing the Pay & Allowances of the Petitioner for the FY 2015-16, allowed the amount of replacement hiring to the Petitioner.
- 6.5 Regarding new recruitment, the Authority understands the fact that competent and skilled work force is prerequisite for effective operations of the utility, however, at the same time the proposed recruitment must be based on best utility practices keeping in view the technological advancements and its quantified benefits. Accordingly, the Petitioner was directed to get its strength yard stick approved from the Authority, based on proper justification and quantified benefits along-with a comparison of existing state of affairs the Petitioner.
- 6.6 The Petitioner again in its instant MLR, instead of compliance of the Authority's direction, has raised the same argument as were submitted in the original petition, which have already been addressed under " para 11.5-Pay & Allowances and Other Benefits" of the Authority's determination dated February 29, 2016. Since, the Petitioner has failed to provide any new rationale/reason to substantiate its





above-mentioned request, which should formulate the basis for the Authority to reconsider its earlier decision in this regard; therefore, the request of the Petitioner to allow additional hiring is declined.

7. Curtailment of Repair and Maintenance

- 7.1 The Petitioner in its MLR has stated that the Authority in spite of emphasizing the need under this head has grossly curtailed Repair and Maintenance Expenses to the tune of Rs. 184 Million without any basis and Justification.
- 7.2 The Petitioner has further stated that the Authority did not consider the nature of claim and out-rightly made the curtailment by saying that "since the Petitioner did not provide any concrete justification of the requested amount" and unilaterally decided the curtailment.
- 7.3 The Petitioner also submitted that its requested amount was based while projecting an increase of 5% over the last year's expense of Rs. 890 Million and justified the increase to cover inflation, replacement of 132,438 obsolete and defective meters and repairs / reclamation of 1,647 old general duty transformers, worn out panels and conductors.
- 7.4 The Authority while going through the submission of the Petitioner has observed that the Petitioner has neither raised any new arguments nor provided any new evidence/ rationale in support of its request. The submissions of the Petitioner have already been addressed by the Authority under para 11.7 of its decision dated February 29, 2016, therefore, the request of the Petitioner to revise the Repair & maintenance cost is declined.

8. Curtailment of Travelling Expenses

- 8.1 The Petitioner in its MLR has stated that the Authority has curtailed its Travelling Expenses to the tune of Rs. 46 Million on wrong premise and without any Justification.
- 8.2 The Petitioner also mentioned that the Authority merely on the basis of comparison with XWDISCOs has curtailed the claim of the Petitioner and has ignored the crucial fact that the claim has been substantiated by the Petitioner on the actual results derived from books of accounts of the Petitioner. The Petitioner further submitted that every XWDISCO has its own demographic, geographic, technical and human resource base and each Distribution company has already been considered in past by the Authority on its own ground realities. The Authority is therefore, requested to reconsider the curtailment.
- 8.3 The Authority while going through the submission of the Petitioner has observed that the Petitioner has neither raised any new arguments nor provided any new





evidence/ rationale in support of its request. The submissions of the Petitioner have already been addressed by the Authority under para 11.8 of its decision dated February 29, 2016, therefore, the request of the Petitioner to revise the Travelling Expenses is declined.

9. Wrong Observation On Account of Receivables

9.1 The Petitioner stated that the Authority has wrongly noted that the Petitioner has not correctly reported its Receivables figure as on 30-June-2014, which as per the financial statements of the Petitioner are Rs.12,672 million. The Petitioner in this regard has submitted that for the sake of simplicity, it did not include the amounts of receivable from the Federal, Provisional & AJK governments and the amount of spillovers in its presented figures and therefore made no misstatement. In view thereof, the Petitioner has requested that no adverse inference may kindly be drawn and a corrigendum to this effect may kindly be issued.

9.2 The Authority fails to understand the justification of the Petitioner that "for the sake of simplicity" it did not include the amounts of receivable from the Federal, Provisional & AJK governments and the amount of spillovers in its presented figures. Further, the rationale for not including the receivables is also not provided by the Petitioner. The Authority had clearly directed the Petitioner in its tariff determination for the FY 2014-15 to provide break-up of receivables with aging and nature of receivables and a concrete plan of their recovery not later than 30th April, 2015. Non-compliance of Authority's directions is violation of the licensing terms which may lead to initiation of proceedings against the Petitioner.

10. Order

10.1 Having heard the Petitioner in support of its review petition, the Authority observed that in terms of rule 16(6) of NEPRA Tariff Rules, 1998 read with regulation 3(2) of the NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of a determination sought to be reviewed clearly indicates that all material facts and representation made were examined in detail and there is no occasion to amend the impugned determination. No error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of its determination.

10.2 From what has been discussed above, the Authority is of the considered view that the grounds agitated in the motion for leave for review are not sufficient enough justifying the modification of the impugned determination, hence the motion for leave for review is declined.

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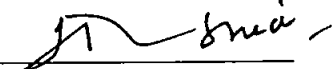


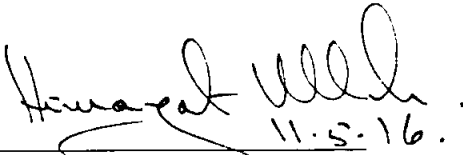


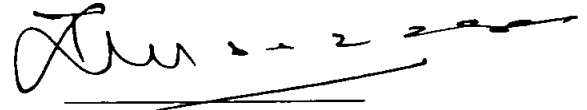
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Determination of the Authority for FY 2015-16

AUTHORITY

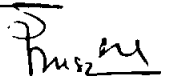

Syed Masood Hussain Haqvi
Member


Maj (R) Haroon Rashid
Member


Himayat Ullah Khan
Vice Chairman


Brig (R) Tariq Saddozai
Chairman




11.05.16