



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/TRF-336/IESCO-2015/6786-6788
May 18, 2016

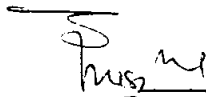
Subject: Decision of the Authority in the matter of Motion for Leave for Review filed by Islamabad Electric Supply Company Ltd. (IESCO) against Determination of the Authority Pertaining to the Financial Years 2015-2016 to 2019-20 Dated February 29, 2016 [Case # NEPRA/TRF-336/IESCO-2015]

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (17 Pages) in the matter of Motion for Leave for Review filed by Islamabad Electric Supply 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


18-05-16
(Syed Safeer Hussain)

Secretary
Ministry of Water & Power
'A' Block, Pak Secretariat
Islamabad

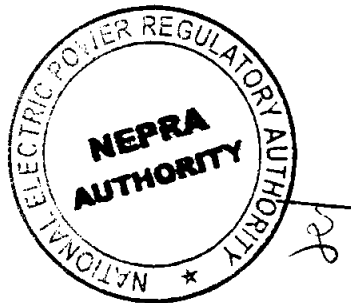
CC:

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



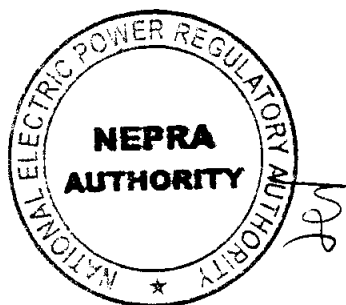
**DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FOR LEAVE FOR
REVIEW FILED BY ISLAMABAD ELECTRIC SUPPLY COMPANY LIMITED (IESCO)
AGAINST DETERMINATION OF THE AUTHORITY PERTAINING TO THE FY 2015-16
TO FY 2019-20, DATED FEBRUARY 29, 2016**

1. The consumer end-tariff for Islamabad Electric Supply Company Limited (IESCO), hereinafter called "the Petitioner" pertaining to the FY 2015-16 to 2019-20, was determined by the Authority vide determination dated February 29, 2016. Being aggrieved with said determination, the petitioner has filed a motion seeking leave for review with inter-alia following relief:-
 - i. To allow sufficient time to ensure quality work on the T&D Loss study, currently in completion phase and if considered appropriate to allow the Petitioner to undertake a separate T&D loss study for the projected years from an independent third party.
 - ii. To allow recruitment of 6,317 personnel as an immediate provisional relief while recruitment for the projected years may kindly be considered once the study from an independent third party is completed.
 - iii. To allow the proposed adjustments with regard to Other O&M base cost.
 - iv. To allow the proposed adjustment with regard to additional recurring O&M cost due to Investment Projects.
 - v. To consider the repair & maintenance cost for the base year (FY 2015-16) in line with actual historical cost, inflationary impact and resultant increase due to expansion of network.
 - vi. To allow the actual cost of debt i.e. 16.15%.
 - vii. To allow the outstanding supplementary charges.
 - viii. To allow prior year adjustment since the Auditor Certificate regarding negative adjustment of sales revenue has been submitted.
 - ix. To reconsider the AJK bulk tariff.
2. Under rule 16(6) of NEPRA Tariff (Standards & Procedure) Rules, 1998, a motion is required to be filed within 10 days, however, the subject motion was not filed within the prescribed time, however, in order to meet with the ends of natural justice, the delay was condoned and the petition was admitted for further process.





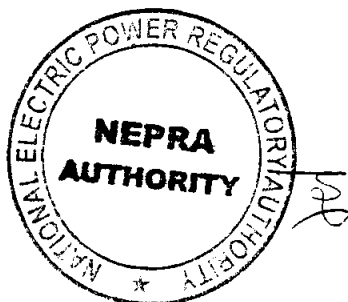
3. Notice of the motion for leave for review was served upon the parties to the impugned tariff determination; in response whereof, the intervener M/s Anwar Kamal Law Associates (AKLA) raised the contentions that sufficient time has not been provided to file the response; that the tariff should have been determined in July 2015 and with the delayed determination, undue benefits are being given to the DISCOs; that the observations of the intervener are not duly reflected in the impugned tariff determination and that the Investment Plan of the Petitioner was approved by the Authority but details which show the proposal on which the Investment will be made along with its cost-benefit ratio and time-lines to complete such proposal are neither given in the Determination nor are available anywhere else in the public domain.
4. In order to consider the motion for review, a hearing was scheduled for 6th of April, 2016 for which due notices were served upon the parties. On the date of hearing, Chief Executive Officer of the petitioner company was present along-with his Technical and Financial Team, however, no representation was made on behalf of the interveners.
5. Arguments heard and record perused. Though there was no representation from the intervener, yet the written concerns so received have been deliberated. Regarding provision of sufficient time to respond to the Notice and the data provided, the Authority observed that as per Section 16 (7) of the NEPRA (Tariff Standards & Procedure Rules 1998, Parties to the proceedings shall be afforded a reasonable opportunity, orally or in writing as deemed fit by the Authority, to respond to a motion for leave for review. As per the available record, the Intervener was emailed the notice of hearing well before the hearing date i.e. on 1st April, 2016. In view thereof, the Authority considers that sufficient time was allowed to the parties to respond to the MLR. AKLA raised the issue of delayed submission of tariff petition and late determination by the Authority in its Intervention Request against the tariff petition filed by the Petitioner, which has already been addressed at para 7.1 of the determination dated February 29, 2016. AKLA while claiming that its contentions have not been addressed, has not referred any specific issue. The Authority has discussed its comments in detail under para 4.1, 5 and 7 of the determination dated February 29, 2016. On the point of Investment Plan, in the impugned determination, vide paras 15 to 25, it was discussed in detail with respect to the target projects to be carried out in the tariff control period along with their completion time lines under each head of investment i.e. STG, DoP expansion & rehabilitation, ELR, CIP, Civil Works and HR Improvement Plan.
6. As regards, submissions of the petitioner, the same are being discussed under respective heads as under:-





7. Transmission and Distribution Losses (T&D Losses)

- 7.1 It is the contention of the petitioner that it has been allowed losses of 9.39% for the FY 2015-16, however, the Authority has significantly reduced the losses target for the FY 2016-17 to FY 2019-20. The Petitioner further stated that the Authority, considering the Petitioner's proposed reduction of 0.1% in five years being not logical, keeping in view the level of the requested investment, determined a more accelerated reduction in T&D losses that is from 9.44% in 2014-15 to 7.80% in FY 2019-20 i.e. decrease of 1.64%. The Petitioner also mentioned that it was directed by the Authority to share the completed T&D loss study in order to ascertain the rationale of reduction in proposed losses.
- 7.2 Having considered the submissions of the petitioner, it may be observed that the submissions raised by the Petitioner are similar in nature as were submitted in the MYT petition, which have been already been addressed vide para 14 of the impugned determination. On the issue of carrying out study for the purpose of setting T&D losses target pertaining to the FY 2015-16 to 2019-20 from a third party, the Authority see no cogent rationale for carrying out the study. The Authority while setting the T&D losses target for the subsequent years in the control period has taken into account the prospective improvements owing to the investment allowed, therefore, does not see any logic in incurring additional costs on the proposed study. Here it is pertinent to mention that the Petitioner, despite repeated directions of the Authority, has failed to complete study of its existing network and is itself not satisfied with the results of the study that has been carried out so far. As regard the Petitioner's argument that the investments can only maintain the existing level of T&D losses as its load would also increase, is not correct. The Authority while assessing the level of investments has also incorporated the future load growth and the same has been translated into future T&D losses target.
- 7.3 The Authority further in order to evaluate the quality of studies conducted by the Petitioner's Consultants, held meetings with the representatives of the consultants wherein it was observed and also agreed by the consultants that losses in an electricity distribution company can be accurately measured only through metering equipment at different voltage levels from high voltage (132 kV) to the consumer-end and the results of the studies depend on the set of approximations which can exactly replicate the actual operational conditions over different periods. It is also observed that the results of the studies depend on the suitability of the software being used for the studies, size of the database and comparing results of the study with actual in-field monitoring and data collection. The consultants used PSSE software for analyzing 132 kV losses. PSSE software is a standard software for simulation studies however it was noted that system operational conditions under different periods were not modeled adequately. For 11 kV feeder level studies, Synergy software is being used which is a refined version of FDRANA which was used by the XWDISCOs earlier, for evaluating loading position of



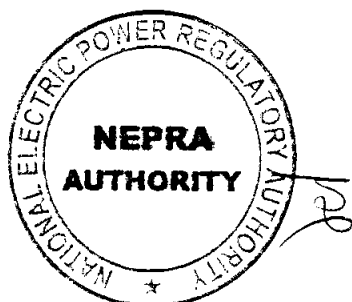


individual feeders for making improvements and/or induction of new feeders. It is observed that although the software may allow accurate modeling of a feeder it cannot be considered as ideal software for calculating the losses of all feeders collectively. The XWDISCOs did not appear to have clear criteria for selecting sample feeders for the studies as only general guiding instructions were provided to the consultants by the XWDISCOs. For the low voltage analysis also, it was noted that the XWDISCOs and the consultants did not develop a clear criteria and guidelines for selecting the samples. Most importantly the consultants failed to corroborate its results by putting up metering equipment and measuring actual losses over selected circuits at high voltage and low voltage levels. It was also noted that modeling of loads at different voltages is also very important in addition to the accuracy of data. No clear statements were available that the XWDISCOs carried out detailed scrutiny of the data and modeling of loads. The Petitioner in view thereof is directed to address the aforementioned observations of the Authority while submitting the completed study.

- 7.4 Based on the aforementioned grounds and discussion, the Authority considers that the Petitioner has failed to submit any new evidence / rationale in support of its claim which would provide the basis to the Authority to revise its earlier decision in this regard. Hence the Petitioner's request is not accepted.

8. Recruitment Plan

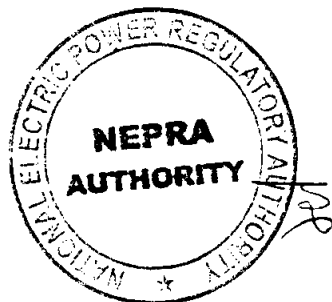
- 8.1 The Petitioner submitted that its current head count is 13,395 against sanctioned strength of 16,695, thus at present 3,300 posts in different cadres are vacant, which affect its overall performance. The Petitioner also mentioned that, as per existing yard stick and sanctioned strength as per SOPs of DISCOs/WAPDA, it had requested hiring of 3,300 personnel for the FY 2015-16 along with proposed hiring plan for 7,004 personnel for FY 2016-17 to FY 2019-20 in different cadres of BPS-2 to BPS-20.
- 8.2 The Petitioner further stated that the Authority considering the transition from Single Year to Multi Year Tariff regime and the anticipated change in management through the ongoing privatization program, decided to set the existing state of affairs of the Petitioner as Benchmark. The Petitioner requested to reconsider the request of additional acquisition of manpower, keeping in view the facts that there is already manpower shortfall, substantial planned expansion under the investment program and the fact that the impact of technological advancements will take considerably long time. The Petitioner also mentioned that creation of new circles, divisions and sub-divisions are technically and administratively a prerequisite to successfully expand and maintain its network.
- 8.3 The Petitioner also submitted that the Authority did not allow additional recruitment of 10,304 employees unless it conducts a proper study in this regard. The Petitioner





while agreeing to carry out the proper study, has submitted the following points for the consideration of the Authority and to allow an interim relief till the time the said study is not concluded. Accordingly, the Petitioner has requested to be allowed the recruitment of 6,317 personnel as an immediate provisional relief while recruitment for the projected years may be considered once the study from an independent third party is completed in this regard.

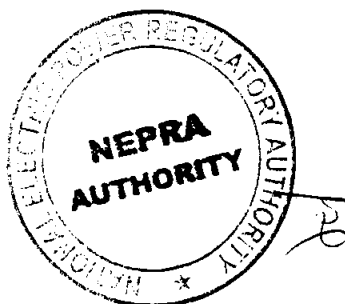
- 8.4 The Authority while going through the submissions of the Petitioner has observed that the Petitioner has failed to comprehend the justification given by the Authority in para 37.9.8 to 37.9.12 of its MYT determination dated February 29, 2016 wherein, inter alia, it has been mentioned that the cost of additional hiring was not allowed previously being not based on proper justification and quantified benefits thereof, which would also include a comparison of existing state of affairs, which the Petitioner has not provided. The Authority has always emphasized on the best utility practices as it is of the firm view that since the existing yard stick was approved way back decades before and totally ignores the technological advancements in terms of IT and Engineering during that period. The direction was never complied with by the Petitioner. Based on the aforementioned grounds and discussion, the Authority considers that the Petitioner has failed to submit any new evidence / rationale in support of its claim which would provide the basis for the Authority to revise its earlier decision in this regard. Hence the Petitioner's request for additional hiring cost is rejected.
- 8.5 The Petitioner has also requested for additional manpower on account of creation of new circles, divisions and sub-divisions. The Authority made the creation of circles/ divisions/ sub-divisions an issue while determining the consumer end tariff for the FY 2014-15 and all the distribution companies were provided opportunity to submit their comprehensive proposal in the matter along-with evidence to justify the need of creation of any new operational and administrative units for approval of the required cost. The Authority in the tariff determination for the FY 2014-15, had directed the Petitioner to submit comments on the same at the earliest, however, the Petitioner did not submit its comments on the issue. In its MYT petition, the Petitioner in its DIIP, provided some information as where it intends to depute its proposed new recruitment, grade wise. However, no further details were provided as to what benchmarks have been set for the prospective benefits including existing state of affairs.
- 8.6 The Authority allowed the cost of civil works in this regard in the tariff determination of the Petitioner for the FY 2015-16 to 2019-20. However, Petitioner's request regarding O&M cost of new circles/divisions /sub-divisions was





evaluated by the Authority in the context of transitioning from Single year to Multiyear tariff regime and the anticipated change in management through the ongoing privatization program. The Authority also considered that allowing creation of new circles / divisions /sub divisions was decision specific under single year tariff regime, whereby each year its financial and qualitative impact were to be evaluated/analyzed. Under multiyear tariff regime the instant decision becomes irrelevant as the existing state of affairs of the Petitioner is considered as benchmark for future efficiencies. Further, keeping in view the existing management change whose prime objective would be to bring efficiency may come up with an idea which may render the whole idea of creating new circle obsolete. The Authority further felt that in the era of technological advancements, every effort needed to be adopted to get the benefit of technology to bring efficiency through reducing reliance on more man power. Thus, keeping in view the arguments with respect to management change, multiyear tariff regime and the fact that the Petitioner failed to comply with the Authority's direction, the Authority decided, not to allow the additional recruitment of 10,304 employees without any proper study in the Petitioner's MYT determination dated February 29, 2016.

- 8.7 The Petitioner further argued that the creation of new circles, divisions and sub-divisions are technically and administratively a prerequisite to successfully expand and maintain its network. The Authority understands that managing higher number of consumer with minimum resources could only be possible through heavy investment in advance technologies and by applying out of box thinking, which primarily is expected from the private sector. Further, if the process of privatization gets delayed; the consumer's suffering due to current situation of circles/ divisions/ sub-divisions would increase. In view thereof the Authority has principally decided to allow the Petitioner to create new circles /divisions / subdivisions. However, allowing upfront O&M cost regarding creation of new circles, divisions and subdivisions, without having the progress reports is not in the interest of consumers. The Authority understands that it will be in a position to adjudicate on the issue once the Petitioner provides details of the actual cost incurred in respect of creation of new circles, divisions and sub-divisions and substantiates the same with the quantified benefits achieved. Accordingly, the Authority has decided to carry out a mid-term review of the Petitioner's O&M cost to the extent of creation of new circles, divisions and sub-divisions only. The mid-term review would be carried out in case if the ongoing privatization program is deferred and Petitioner remains in the Public sector.
- 8.8 The Authority will evaluate the cost incurred by the Petitioner on the grounds of prudence, regarding creation of new circles, divisions and sub-divisions from FY 2015-16 till the time the Authority carries out its midterm review. If the Petitioner





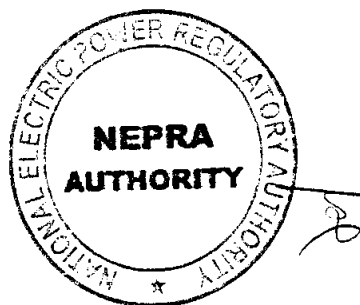
manages to prove the prudence of the cost, the Authority may consider allowing the same as prior year adjustment and may include the same in the base cost of the Petitioner for the remaining control period.

8.9 The Authority will assess the cost incurred by the Petitioner regarding creation of new circles, divisions and sub-divisions in the midterm review on the principal of prudence. The Authority will assess the prudence of the cost based on the following parameters in addition to what has been discussed above for future increase as per consumer end tariff methodology.

- Reduce the duration of interruptions by reducing travelling time for repair and maintenance crews;
- Reduce the frequency of interruptions by improving the quality of line monitoring and maintenance;
- Reduce the extent of commercial losses by increasing the presence of field staff;
- Reduction in customer complaints;
- Better Customer Service in terms of reduction in complaint handling time;
- Improvement in technical system;
- Improvement in Power supply continuity;
- Reduction in Administrative and technical losses;
- Improvement in employees productivity;
- Improvement in Recoveries;
- Reduction in travelling and vehicle costs;
- Efficiency in utility function and utility practices;
- Improvement in Petitioner's image

8.10 The Authority is of the view that the Petitioner before taking any such decision in future, shall evaluate all the options arising due to technological improvements and regulatory advancements over the period.

8.11 While creating the new circles/ divisions/ sub-divisions, the Petitioner must explore the technological advancements and outsourcing options rather than by simply relying upon the inherited yard stick of WAPDA/ PEPCO which was approved way back.





9. Other O&M Cost

9.1 The Petitioner has stated that NPERA has allowed audited numbers of FY 2014-15 as the base/reference figures after inflationary adjustment as per para 37.17.2 of Order for Other O&M cost. The Petitioner has stated the following in this regard:

a) Actual Other O&M expense are Rs. 1,036 million as per audited financial statements for the FY 2014-15, which is higher compared to the allowed figure of Rs. 1,010 million by the Authority.

b) Inflationary impact has not been assumed on Rs. 1,036 million.

9.2 In view thereof, the Petitioner has requested to allow the above adjustments in Other O&M base cost.

9.3 The Authority while allowing the Other O&M expenses has considered the Petitioner's actual expenses as per its financial statements, however the future assessment has been carried out by considering the last year's allowed cost as prudent and applying thereon the inflationary impact. In view of the afore going, , the Authority considers that the Petitioner has failed to submit any new evidence / rationale in support of its claim which would provide the basis to the Authority to revise its earlier decision in this regard. Hence the Petitioner's request is rejected.

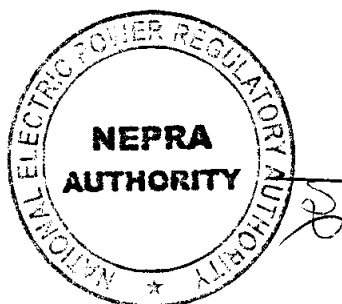
9.4 Additional Recurring O&M due to Investment Projects

9.4.1 The Petitioner has submitted that the Authority has allowed the recurring expenses regarding the Investment Projects, as per para 37.18.4 of the determination, however the same has not been adjusted in the base O&M cost, therefore adjustment for the same may be allowed by increasing the base O&M cost.

9.4.2 The issue has already been addressed under para 37.18.4 of the determination dated 29th February, 2016. The Authority considers that once these investments are live in operations of the Petitioner, any incremental cost thereof would be set off through the efficiency achieved thereon.

9.5 Replacement Hiring

9.5.1 The Petitioner, regarding the disallowed cost of Rs. 890 million for replacement hiring, has requested to extend the date by end of this financial year, for the submission of its Auditors Certificate and accordingly has requested to adjust its base cost of salaries and wages by Rs. 890 million, once the required certificate is provided.





9.5.2 The Authority in view of non-compliance of its direction regarding the provision of replacement hiring certificate by the Petitioner did not allow the replacement hiring cost of Rs.890 million in the base expense for the FY 2015-16. However, in view of the submissions of the Petitioner and the fact that the Petitioner's reference / base cost is going to be fixed for a period of five years, the Authority has decided to allow extension in time to the Petitioner by December 31, 2016 for the submission of the required certificate. It is however clarified that the Authority as per its previous decision is not changing the already assessed base expense. Its only when the Petitioner would provide the certificate, the Authority may change the base expense of salaries & wages prospectively.

9.6 Repair & Maintenance

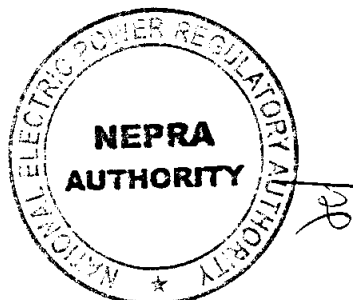
9.6.1 Regarding the allowed Repair and Maintenance of Rs. 836 million for the FY 2015-16 the Petitioner has stated that as per the audited financial statements of FY 2014-15 Repair & Maintenance cost was Rs. 872 million. Accordingly, the Petitioner has requested that repair & maintenance for the base year (FY 2015-16) may be re-considered in line with actual historical cost. The Petitioner has also requested an inflationary impact to be adjusted in the base cost for repair & maintenance and resultant increase due to expansion of network.

9.6.2 The Authority while allowing the Repair & Maintenance cost for the FY 2015-16 not only kept in view the Petitioner's actual expenses as per its financial statements but has also considered its last year's allowed cost. The submissions of the Petitioner have already been addressed by the Authority under para 37.16 of its decision dated February 29, 2016 whereas the Petitioner has failed to respond to the concerns raised by the Authority in its aforementioned determination. Since the Petitioner has neither raised any new arguments nor provided any new evidence/ rationale in support of its request, therefore, the Authority does not see any reason to revise the already allowed cost for the Repair & Maintenance. Accordingly the request of the Petitioner is declined.

9.7 Cost of Debt

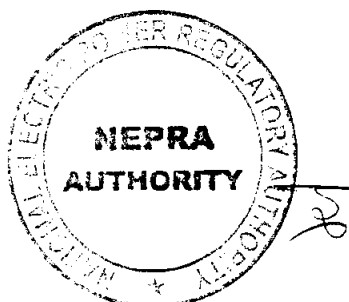
9.7.1 The Petitioner regarding the cost of debt being used for the calculation of WACC has stated that NEPRA in its previous determinations has always allowed actual cost of debt, which is based on the relending agreements with GoP and as of date, these relent agreements and the underlying loan agreements are effective and in full force.

9.7.2 The Petitioner has further mentioned the following points regarding the cost of debt:





- i. The Petitioner along with other distribution companies, have signed project agreements with different multilateral funding agencies like ADB and World Bank.
 - ii. GoP while relending these multilateral loans has also assumed exchange risk coverage, which has resulted in huge savings over the years because of the unprecedented devaluation in last decade. The impact of this saving is passed to the consumers.
 - iii. The disbursement of relent loans started in FY 2008-09 and out of which USD 64 million was disbursed till June 30, 2014. As a result of these loans its T&D losses have reduced from 10.28% to 9.46%. IESCO is passing on the resultant benefits to end consumers because of reduction in T&D losses.
 - iv. It has always complied with the directions of the regulator and acknowledges that in the privatization scenario the assumptions and forward looking approach may be the right approach, however the fact remains that as of date it is not privatized and relent loans on the IESCOs' books have not been swapped by GoP. Therefore reduction in revenue under privatization scenario may not be applicable as of date and the said approach may result in a liquidity crunch or even put the Petitioner in a default situation, before the Privatization.
- 9.7.3 In view thereof, the Petitioner has requested the Authority to reconsider the existing cost of debt which is 16.15% as is applicable under the existing scenario of the Petitioner.
- 9.7.4 The Authority after careful review of the Petitioner's argument with respect to allowing actual cost of debt is of the view that it has failed 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 may differ. WACC assessed at different points of time would reflect the market conditions which were different at respective point of times. This is not a static number and depends upon so many variables like different risks, country rating and inflation etc. While making amendments for the control period, the Authority has given detailed arguments and rationale under para 13.1.9 to 13.1.11 of the determination dated February 29, 2016. The Petitioner did not challenge the study on the basis of which WACC has been amended 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.
- 9.7.5 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. Therefore, the apprehension of the Petitioner that the current allowed RoRB may result in a liquidity crunch or even put the Petitioner in a default situation is not correct. 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.

10. Prior Year Adjustment (PYA)

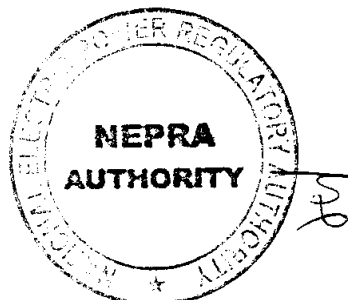
10.1 The Petitioner has mentioned that the Supplementary Charges invoiced by CPPA (NTDC) have not been allowed based on the reason that it has not provided any details as to which particular period these charges pertain. The Petitioner further mentioned that it has provided the details along with the MLR of the supplemental charges to the tune of Rs. 6.850 million and has accordingly requested to be allowed the outstanding supplementary charges to settle the issue with the CPPA.

10.2 The Petitioner also highlighted that in its determination for FY 2012-13, the Authority allowed IESCO for negative revenue adjusted of Rs 1,212 million with regard to consumer mix variance, once the Auditor's certificate is provided in this regard. As per the Order Para no. 11.13.1, the said Auditor Certificate has been acknowledged by NEPRA, accordingly the same may be allowed under prior year adjustment for FY 2015-16.

10.3 The Petitioner has rightly stated that the Authority while disallowing the requested supplemental charges of Rs. 6.850 million in the tariff petition for the FY 2015-16, mentioned that the Petitioner has not provided any details as to which period these pertain to, however, at the same time the Authority also clarified that the allowed LPC, to be adjusted against the markup payments to the CPPA to the extent of FY 2014-15 only. The Authority while going through the details provided by the Petitioner has noted that all the supplemental charges pertain to the period prior to FY 2014-15, thereby, being consistent with its earlier decision on the issue, the Authority declines the request of the Petitioner.

10.4 On the issue of disallowing negative revenue adjustment of Rs.1,212 million with regard to consumer mix variance, the relevant extract of the decision in the tariff determination for the FY 201-13, is as follows;

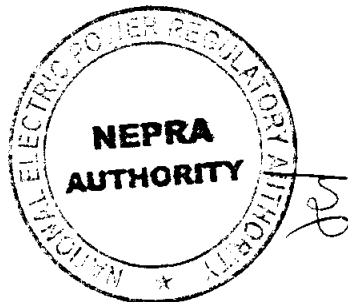
".....Here it is pertinent to mention that the Petitioner's working of consumer mix variance included a negative revenue adjustment amounting to Rs. 1,213 million. The Petitioner attributed this adjustment primarily due to changing its billing batches. The Authority is of the view that simply changing batches cannot result in negative revenue adjustment. Further, even if it is year-end accrual accounting adjustment, logically speaking, it should be negative as Petitioner's average sale rate on 30th June, 2012 was





greater than the average sale rate on 30th June, 2011. Moreover, the Authority's calculated consumer mix variance is a quantitative variance which may not be affected by a "pure" accounting adjustment. In view thereof and in the context of concerns raised by PTCL, the Authority directs the Petitioner to get the aforementioned issue clarified by the Auditor of its company. The clarification must identify any system constraints or any possibility of excessive billing, particularly with respect to last year's accrual adjustment. The current assessment of Rs. 2,450 million pertaining to consumer mix variance is without the amount of Rs. 1,213 million."

- 10.5 It is evident from the decision that the Authority just wanted to be clarified about the nature of adjustment hence directed it to get an Auditors Certificate in this regard. As regard the pleadings of adjusting the same, the Authority considers that the allowed consumer mix variance is a quantity variance, hence is not affected by such adjustments. In view thereof, the request of the Petitioner is declined.
- 10.6 Here it is pertinent to mention, as per the previous practice, the impact of any decrease in (negative) monthly FCA, was not passed on to the Life line and Agriculture Consumers of XWDISCOs. The same relief was adjusted by the Authority in the annual tariff determinations of XWDISCOs. through the Prior Year Adjustment mechanism, whereby the impact of such amount is adjusted in the tariff design across all the consumer categories.
- 10.7 MOW&P vide its letter No.5-PF/02/2013-Subsidy dated May 21, 2015 issued the policy guidelines under Section 31 (4) of the NEPRA Act, 1997 with regard to the Fuel Charge Adjustments and subsidy rationalization of Ex-WAPDA Distribution Companies.
- 10.8 MOW&P in its aforementioned policy guidelines, inter alia, mentioned that ECC of the Cabinet has been pleased to approve the issuance of the following Policy Guidelines under Section 31 (4) of the NEPRA Act, 1997 on 21.05.2015 i.e.
- "Any negative adjustment on account of monthly FCA will not be passed on to the Domestic consumers who have subsidized electricity tariff."*
- 10.9 The Authority considered the policy guidelines of the GoP with respect to the Fuel Price Adjustment being consistent with the GoP Policy for phasing out the subsidy which are also consistent with the standards and guidelines as per Rule 17 of Tariff Standards and Procedure Rules -1998.
- 10.10 Accordingly, the Authority decided that any negative monthly FCA shall not be applicable to lifeline consumers, domestic consumers and Agriculture Consumers of all the XWDISCOs being already being subsidized by the Government. The impact of such



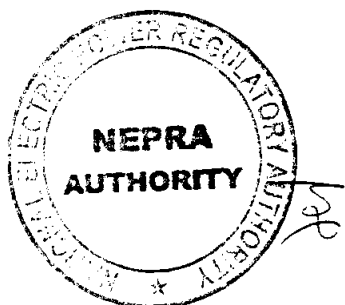


negative FCA not passed on to the aforementioned consumer categories, in the matter of the Petitioner, for the FY 2014-15, works out to be Rs.2.737 Million.

- 10.11 The Authority in view of the above referred policy guidelines of GoP regarding rationalization of subsidy in the matter of XWDISCOs, has decided not to adjust the impact of negative FCA across different consumer categories, as it was doing in the past. Thus, the negative FPA impact on lifeline consumers, domestic consumers (consuming upto 300 units) and Agriculture Consumers i.e. Rs.2.737 Million, which is still laying with the Petitioner, must be adjusted by GoP, against the overall Tariff Differential Subsidy claim in the matter of the Petitioner eventually reducing GOP's overall Tariff Differential Subsidy burden. 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.

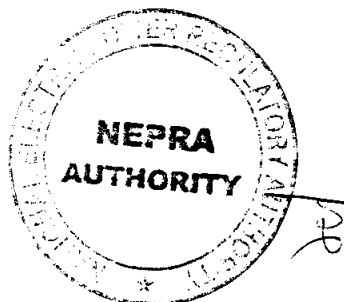
11. AJK Issue

- 11.1 The Petitioner has mentioned that Rs.37.80 billion are outstanding against AJK (ending August, 2015). The receivable emanates from the difference in the basis of tariff rate applied by the Petitioner and the rate based on which payments are made by AJK. As of date AJK is making payments at the rate of Rs.2.59/unit whereas IESCO is billing AJK as per tariff determined by the Authority and notified by the Government of Pakistan.
- 11.2 The Petitioner further stated that the above referred receivable is increasing at the rate of approximately Rs.800 million/month. Accordingly, for arriving at an amicable solution for settlement of this dispute, the Petitioner in its MYT petition requested for reconsideration of tariff rates for AJK, keeping in view the consumer mix of AJK, and the average rate for AJK may be reduced from Rs.12.77 per Kwh (Average) to Rs.9.80 per Kwh. (Average).
- 11.3 The Petitioner further mentioned that the Authority turned down the request of revision in AJK tariff and directed it to take up the matter of recoveries in the sub-committee, constituted in this regard, not later than 30th June, 2016 and the Authority be apprised about the progress as soon as possible.
- 11.4 The Petitioner has now requested the Authority to reconsider the revised tariff request notified by Government of Pakistan vide minutes of the meeting circulated vide number PF-05(19/2013) dated February 11, 2016. The Petitioner has stated that the same has already been sent to the Authority by Ministry of Water & Power for consideration. The Petitioner also stated that following salient features of the minutes of the meeting for the consideration of the Authority:





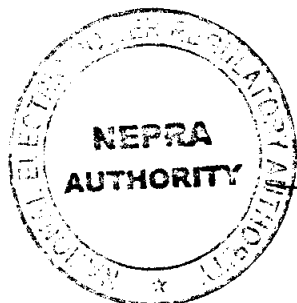
- i. According to the clause 5.2 (b) of the Mangla Dam Raising Agreement executed between Ministry of Water & Power, WAPDA and Government of AJ&K, power tariff beyond September, 2003 for AJK is to be fixed by GoP on the recommendation of a Sub-Committee notified by Ministry of Kashmir Affairs & Northern Areas, States and Frontier Regions (Now Ministry of Kashmir Affairs & Gilgit Baltistan).
- ii. Former Ministry of KANA & SAFRON vide Notification No. 3/10/92 dated 21.05.2003 constituted following Sub-Committee to firm up its recommendations regarding rate of new electricity tariff for AJ&K beyond 30.09.2003;
 - a. The Secretary Water and Power - Chairman
 - b. The Chairman WAPDA - Member
 - c. The Chief Secretary AJ&K - Member
 - d. The Joint Secretary (PF) Finance Division - Member
 - e. The Joint Secretary KANA and Saffron- Member
- iii. The following proposals were presented to the participants by the Secretary Water and Power;
 - a. There is a need to rationalize the tariff structure in AJ&K as more than 80% consumers are domestic and NEPRA is giving commercial tariff to them. These domestic consumers fall in 1-100 units category.
 - b. NEPRA be requested to give domestic tariff applicable for 1-100 units category to the consumers of AJK in pursuance of the agreement signed by the Sub-Committee on "Power supply tariff for AJK" in its meeting held on 11.09.2003. The Current tariff for domestic consumers applicable for 1-100 units i.e. Rs. 5.79/Kwh should be proposed for determination by NEPRA.
 - c. AJK will reduce the line losses from 37 % to 27% as per the agreement signed by the Sub Committee on "Power supply tariff for AJK" in its meeting held on 11.09.2003.
 - d. Finance Division will allocate the tariff difference of total receivables and total billing in Budget.
 - e. The agreed minutes of the meeting will be signed by both parties, which will be binding for both the parties.
 - f. After due deliberations the following decisions were taken:





"The tariff for AJK was earlier fixed by standing subcommittee in 2003 in accordance with procedure laid down in Mangla Dam Raising Agreement and subsequent agreement signed by the Secretary Water and Power, SAFRON and Chief Secretary AJ&K on 11.09.2003. Following the same analogy, the tariff for AJK should be fixed at Rs 5.79/Kwh which is the rate of 1-100 unit slab of domestic category, as majority of electricity consumption in AJK falls in lower tariff bracket of domestic category in the schedule of electricity tariff. This tariff to remain applicable from 01-07-2015 till next tariff determination. Such policy decision may be taken to NEPRA, jointly by both the parties for determination."

- 11.5 The Petitioner regarding the above referred minutes has stated that it was directed in the above minutes to take up the matter with the NEPRA's Authority for consideration, it is therefore requested that revised tariff for AJK at the rate of Rs. 5.79/Kwh may kindly be approved.
- 11.6 The Authority observed that in the referred minutes, it has been stated, that the decision of the sub-committee is in accordance with the procedure laid down in Mangla Dam Raising Agreement and subsequent agreement signed by the Secretary Water and Power, SAFRON and Chief Secretary AJK on 11.09.2003.
- 11.7 Having carefully gone through the minutes and agreement between Islamic Republic of Pakistan (GoP), Azad Government of State of Jammu and Kashmir and Water and Power Development Authority (WAPDA), it has been transpired that the relevant paragraph (5.2) of the aforesaid agreement states as under:
- "At present the Government of Pakistan has fixed the rate of Rs.4.20/kWh for the AJ&K. The WAPDA shall bear Rs.0.71/kWh on the basis of 17% losses. The Government shall pay Rs.2.44/kWh and the Ministry shall pick up Rs.1.05 as subsidy. In case of budgetary constraints of Government, the Ministry shall pick up additional liability of Rs.0.12/kWh. This rate shall be deemed to have become effective from September, 2002 and shall be frozen till September 2003."*
- 11.8 It may be noted that in 2003 the rate of Rs.4.20/kWh was fixed by NEPRA whereas the difference in the NEPRA determined and agreed in Mangla raising Agreement was clearly attributed to different stakeholders. In the recent decision, however, this arrangement is missing, which is the requirement of Rule 17(3)(x) of Tariff Standards and Procedure Rules 1998.
- 11.9 It is further pointed out that in 2003 the tariff was determined for integrated WAPDA; therefore only one rate was fixed for AJ&K. Since February 2007 different tariffs for each Distribution Company (DISCO) have been determined; therefore there is a different rate of AJK for different DISCOs.





- 11.10 NEPRA being Quasi Judicial Body operates within the premise of NEPRA ACT and Rules made there-under and can only allow those costs which are prudent and are incurred to meet the demonstrated needs of the consumers of relevant DISCOs only. NEPRA after following the prescribed legal procedure has determined tariff for the FY 2015-16 for all the DISCOs. The rate for AJK of the DISCOs supplying electricity has been determined as per the following;

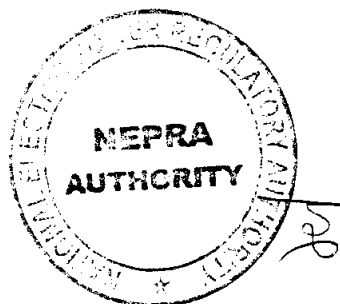
Category	IESCO	PESCO	GEPCO
Special Contracts – AJK	10.50	10.70	10.80
Time of Use (TOU) – Peak	14.30	15.70	15.80
Time of Use (TOU) - Off-Peak	6.80	9.95	9.90

- 11.11 In order to incorporate the subsidy in the schedule of tariff of abovementioned DISCOs for giving effect to the rate proposed in afore referred minutes, GOP has to file reconsideration request in terms of Section 31(4) of NEPRA Act indicating rate to be charged along with subsidy under Rule 17(3)(x) of NEPRA Tariff Standards and Procedure Rules-1998. It is to be noted that NEPRA Act is not applicable in the area of AJK. As per the provisions of NEPRA Act, consumer end tariff for AJK's consumers' cannot be fixed/ determined by the Authority.

12. Order

- 12.1 Having heard the Petitioner in support of its review petition, the Authority observed that the 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.

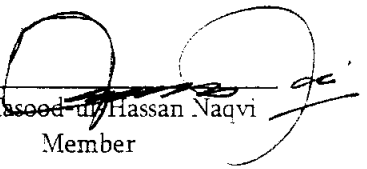
- 12.2 From what has been discussed above, the Authority is of the considered view that the grounds agitated in the motion for leave for review are not sufficient enough justifying the modification of the impugned determination, hence the motion for leave for review is declined.

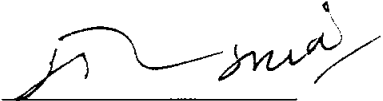


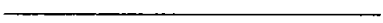


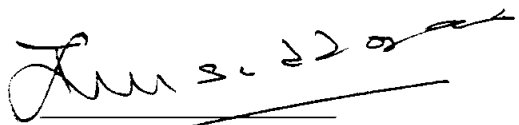
Decision of the Authority in the matter of
motion for leave for review filed by Islamabad Electric Supply Company Limited (IESCO) against the
Determination of the Authority for FY 2015-16 to FY 2019-20

AUTHORITY

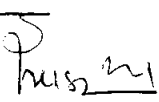

Syed Masood-ul-Hassan Naqvi
Member


Maj (R) Haroon Rashid
Member


Himayat Ullah Khan
Vice Chairman


Brig (R) Tariq Saddozai
Chairman




18-05-16