



Registrar

National Electric Power Regulatory Authority Islamic Republic of Pakistan

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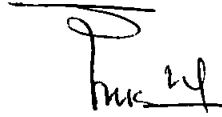
No. NEPRA/LA(KIP)/TRF-100/CC-14492-89

August 1, 2022

Subject: **Decision of the Authority pursuant to Judgment dated 10.02.2022 of Honorable Peshawar High Court in Writ Petition No. 5454/202 and Other Petitions**

Enclosed please find herewith the subject Decision of the Authority (07 Pages) pursuant to Judgment dated 10.02.2022 of Honorable Peshawar High Court in Writ Petition No. 5454/202 and Other Petitions for information. Copy of the same is also available on the NEPRA website (www.nepra.org.pk).

Encl: As above


01 08 22
(Syed Safer Hussain)

1	Secretary Cabinet Division Cabinet Secretariat Constitution Avenue, Islamabad
2	Secretary Ministry of Energy, (Power Division) A Block, Pak Secretariat, Islamabad.
3	Secretary Ministry of Finance 'Q' Block, Pak Secretariat, <u>Islamabad</u>
4	The Registrar Peshawar High Court Peshawar

5	Chief Executive Officer Central Power Purchasing Agency Guarantee Limited (CPPA-G) Shaheen Plaza, 73-West, Fazl-e-Haq Road, Islamabad
6	Tribal Electric Supply Company (TESCO) Chief Executive Officer 213 - Wapda House, Sakhi Chashma Shami Road, Peshawar.
7	Peshawar Electric Supply Company (PESCO) Chief Executive Officer Wapda House, Sakhi Chashma Shami Road, Peshawar.
8	Pir Sajjad Ali Shah Noor Alam Khan Opposite Gulbahar PS Al Mansoor Hotel, First Floor, Main GT Road, Peshawar 0310-6747143
9	M/S Silichem Industries & others Mirza Ashfaq Hussain Plot No. 38/1, Phase-III, I.E, Hattar, Haripur 0300 5845607
10	M/S Silichem Industries & others Isaac Ali Qazi 12, K-3, Phase III, Hayatabad, Peshawar 0300 8594555
11	Pak Premier Steel Mills Hayat Khan Nehr Kinara Road, Khat Dargai, Malakand 0347 2327432
12	Pak Premier Steel Mills Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905

13	<p>Saison Iron Mill Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
14	<p>Shiekh Steel Re Rolling Mill Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
15	<p>Al- Raziq Steel Mill Saifoor Khan Tehsil Bara, District KhyberSher 0333 9157841</p>
16	<p>Al- Raziq Steel Mill Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
17	<p>SS Steel Mills Saifoor Khan Near Bara Grid Station, Tehsil Bara, District Khyber 0333 9157481</p>
18	<p>SS Steel Mills Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
19	<p>Shahid Steel Furnace Shahid Iqbal Khan Tehsil Bara, District Khyber 0334 5416181</p>
20	<p>Shahid Steel Furnace Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>

21	<p>M/S New Mohmand Steel Mills Abdul Majeed Khan Ekka Gund, District Mohmand 0300 5857650 Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
22	<p>M/S New Mohmand Steel Mills Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
23	<p>M/S Mustafa Steel Mills Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
24	<p>M/S Royal Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
25	<p>M/S MR Steel Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
26	<p>M/S AK Tariq Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
27	<p>M/S Universal Steel Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>

28	M/S Malik Steel Furnace Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
29	M/S Lillah Steel Furnace Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
30	M/S MZ Foundry (Pvt) Ltd Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
31	M/S Al- Haj Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
32	M/S Muslim Steel Furnace Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
33	M/S MK Steel Mills Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
34	M/S Gul Shahzada Steel Mills Its Counsel: Isaac Ali Qazi 12, K-3, Phase III, Hayatabad, Peshawar 0300 8594555
35	M/S Madina Steel Foundry Khawaja Abdul Qudoos Tehsil Ekka Ghund, District Mohmand 0300 8599178

36	<p>MySteel Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
37	<p>Khyber Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
38	<p>Al Haj Foundry Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
39	<p>Ali Abbas Khan Doryal Kalay, Lund Khwar, Tehsil Katlang, District Mardan 0345 9013000</p>
40	<p>Ali Abbas Khan Its Counsel: Isaac Ali Qazi 12, K-3, Phase III, Hayatabad, Peshawar 0300 8594555</p>
41	<p>M/S Sher Steel Furnace & Re-Rolling Mills Its Counsel: Isaac Ali Qazi 12, K-3, Phase III, Hayatabad, Peshawar 0300 8594555</p>
42	<p>M/S Taj Re-Rolloing & Steel Mills (Pvt) Ltd Jamhoor Shah Near Sheel Petrol Pump, Arab Dhanda, Main Road Sakhakot, Malakand 0300 5845607</p>
43	<p>Afridi Steel Mills & others Muhammad Fareed Jamal Khel Lalma, Opposite Jamrud Grid Station, Tehsil Jamrud, District Khyber 0333 9666670</p>

44	<p>Afridi Steel Mills & others Its Counsel: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
45	<p>Irfan Ullah Steel Mills & Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
46	<p>Naseeb Steel Mill Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
47	<p>Dawood Steel Fabrication Factory Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
48	<p>Madina Steel Foundry Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
49	<p>Mohmand Moulding Works Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
50	<p>ZK Steel Mill Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>

51	Shah Steel Industry Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
52	Prime Steel Industry Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
53	Talha Steel Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
54	Adam Paper Factory Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
55	Sun Star Foundry Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
56	Shahzab Paper Mill Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
57	Riaz Afridi Steel Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905

58	M/S Taj Wood Board Mills (Pvt) Ltd Muhammad Jamhoor Shah Main Road, Opposite Ali Flour Mills, Near Taj Ghee Mills, Sakhakot, Malakand 0313 5755996
59	M/S Taj Wood Board Mills (Pvt) Ltd Its Counsel: Isaac Ali Qazi 12, K-3, Phase III, Hayatabad, Peshawar 0300 8594555
60	M/S Ihtisham Steel Mills (Pvt) Limited Imdad Hussain Suray, Ghounday Jabban, Tehsil Dargai, District Malakand 0346 9136172
61	M/S Ihtisham Steel Mills (Pvt) Limited Counsel for Petitioner: Muhammad Akbar Khan 38/C, 2nd floor, Cantonment Plaza, Peshawar Cantt. Cell # 0300-8591498
62	Muzammil Shah Crush Machine and others Muzamil Shah Marne Khor, Kajori P.O Bara, Tehsil Bara District Khyber 0302 553220
63	Muzammil Shah Crush Machine and others Its counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
64	Sher Faraz Khan Crush Machine Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
65	Muzammil Shah Crush Machine and others Its counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110

66	Galoor Shah Crush Machine Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
67	Muhammad Khursheed Crush Machine Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
68	Javed Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
69	Ali Khan Umara Khan Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
70	Muhammad Ayaz Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
71	Muhammad Waqas Powder Factory Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
72	Aftab Raza Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
73	Javed Khan Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110

74	Afzal Amin Crush Machine, Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
75	Raees Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
76	Shakir Ullah Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
77	Umar Hayat Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
78	Abdullah Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
79	Habib Jan Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
80	Iftikhar Ahmed Crush MACHien Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110

81	Tilla Muhammad Crush Machine Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
82	Lal Akbar Crush Machine, Its Counsel Arbab Kaleem Ullah Khan 25-A, 1st Floor, Nasir Mansion, Railway Road, Peshawar 0345 9011110
83	Prime Steel Industry Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
84	Irfan Ahmad and Others Shinwari Town near MMC Hospital Ring Road, Street No. 7, Peshawar. Cell # 0312-9592244
85	Irfan Ahmad and Others Counsel for Petitioner: Yousaf Khan, Advocate High Court Cell # 0345-9028307 Office # 13, Janan Plaza GulBahar # 1, Peshawar.
86	Taj Packages Company (Pvt) Ltd. Counsel of Petitioner: Mr. Isaac Ali Qazi, Advocate Supreme Court 12, K-3, phase -III, Hayatabad, peshawar. Cell # 0300-8594555
87	Aitamad Steel Furnace & Re-Rolling Mills Pvt Ltd Mr. Tauqeer Ahmad Qureshi Ameer Abad Chakdara, District Lower Cell # 0345-9028632
88	Aitamad Steel Furnace & Re-Rolling Mills Pvt Ltd Counsel for Petitioner: Muhammad Akbar Khan 38/C, 2nd floor, Cantonment Plaza, Peshawar Cantt. Cell # 0300-8591498
89	Panther CNG Filing Station Chowk Farooq-e-Azam, Ring Road, Peshawar. Cell # 0321-9080166

90	<p>Panther CNG Filing Station Counsel of petitioner: Farhan Tariq & Mohsin Kamran Associates Cell # 0345-9108092 Office # 73, Top Floor Deans Trade Centre, Peshawar Cantt.</p>
91	<p>Malakand Steel Mills Inam Ullah (General Manager) Canal Road, Sakhakot Dargai, District Malakand. Cell # 0346-5685229</p>
92	<p>Malakand Steel Mills Counsel for Petitioner: Muhammad Akbar Khan 38/C, 2nd floor, Cantonment Plaza, Peshawar Cantt. Cell # 0300-8591498</p>
93	<p>Illahi Steel Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar Cell # 0313-9999905</p>
94	<p>Haidary CNG and Another Haidary CNG Station City, Circular Road, Gunj Gate, Peshawar. Cell # 0335-9688409</p>
95	<p>Haidary CNG and Another Counsel for petitioner: Nazish Muzaffar O/s Gunj Gate Haidero CNG Station, Peshawar. Cell # 0332-9140967</p>
96	<p>Pak Micro Grinding Mills & Others Counsel for Petitioner: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905</p>
97	<p>Javed Steel Furnace Mr. Sohail Shah Alam Gudar Road, Sardar Ghari, Shell Petrol pump, Tehsil Bara, Khyber Agency. Cell # 0304-2020444</p>
98	<p>Javed Steel Furnace Counsel of Petitioner: Mr. Hakeem Khan, AHC 12, K-3, Phase-III, Hayatabad, Peshawar. Cell # 0313-9500035</p>

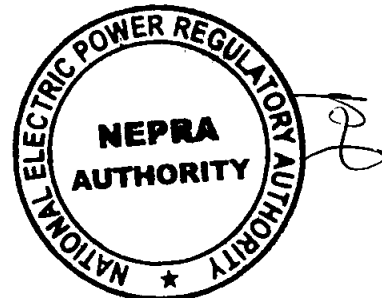
99	Zam Zam family steel Michini, Dam Road Karirai, Near Mohmand Industrial Estate, Halimzai, District Mohman. Cell # 0333-1313914 District Peshawar
100	AG Steel Furnace Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar Cell # 0313-9999905
101	Marwan Marble Factory & Others (WP # 111-P/2022) Counsel for Petitioner: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
102	Marwan Marble Factory & Others (WP # 112-P/2022) Counsel for Petitioner: Parvez Akhtar Shah Advocate Office # G-7, 6th Floor, JK Shopping Mall/Plaza, Arbab Road Stop, University Road, Peshawar. Cell # 0313-9999905
103	Hazrat Ullah Afridi Fayaz Ahmad Khalil Cell # 0313-9984545 Grinding Factory, Shah Kas, Tehsil Jamrud, District Khyber
104	Hazrat Ullah Afridi Counsel of petitioner: Saeed Ullah Afridi Shinwari Market, Karkhano Market, Jamrud Road, Peshawar. Cell # 0333-9373733



**Decision of the Authority pursuant to the judgment dated 10.02.2022 of Honorable Peshawar High
Court in Writ Petition No. 5454 /2021 and other petitions**

1. NEPRA is a statutory body established under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997) (the "NEPRA Act") for the regulation of the provision of electric power services in Pakistan. NEPRA is exclusively mandated for the determination of tariff, rates, charges and other terms and conditions for supply of electric power services by the generation, transmission and distribution companies. In performing its functions, all decisions/determinations are made by NEPRA in accordance with the relevant law in a transparent manner by providing equal opportunities of hearing to all stakeholders. Every Distribution Licensee of NEPRA files a petition before NEPRA seeking determination of consumer-end tariff in accordance with the provisions of NEPRA Tariff (Standards and Procedure) Rules, 1998 (hereinafter referred to as the "Tariff Rules"). Upon admission of such petitions, the salient features of the petitions are published in the national newspapers inviting comments, reply, intervention requests from any interested persons. Subsequently a public hearing is also conducted for which separate notices are published in the national newspapers. Any interested party has an opportunity to raise the objections consequent to the notice of admission as well as to participate in the hearing. After considering the submissions of the petitioners, commentators if any, interveners, if any, evidence produced, arguments raised by respective parties, the tariff determinations are issued by NEPRA, based on certain assumptions in terms of exchange rate, KIBOR/ LIBOR, US CPI/ Local CPI etc., which are then intimated to the Federal Government for notification in the official Gazette in terms of Section 31(7) of the NEPRA Act.
2. That consumer-end tariff is determined to ensure recovery of revenue requirement of a distribution company based on tariff petition filed by the distribution companies in accordance with NEPRA Act and Tariff Rules. Revenue requirement comprises of Power Purchase Price (PPP) (capacity + energy charge), transmission charge, Market Operator Fee and Distribution/ Supply of Power Margin. The capacity charge component, generation energy charge component and the transmission charge, Market Operator Fee are transferred through transfer price mechanism which is prescribed by the Authority and notified in the official Gazette. The consumer-end tariff is so designed to ensure recovery of revenue requirement by the Distribution Company based on certain efficiency benchmarks allowed by the Authority in terms of T&D losses and Recovery etc.
3. That electricity tariff is determined in accordance with the NEPRA Act and Rules made thereunder, which state that the tariff should allow licensees the recovery of any and all costs prudently incurred to meet the demonstrated needs of their customers.
4. It is also pertinent to mention that the Authority determined tariff is a forward looking tariff, and is determined based on various assumptions in terms of fuel prices, exchange rates and generation mix etc. Therefore, any variation in the assumptions built in the tariff vis a vis actual fuel prices, exchange rates & generation mix etc. are accounted for through monthly / quarterly tariff adjustments of XWDISCOs.

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5. Here it is pertinent to mention that in terms of proviso (iv) to section 31(7) of the Act 1997, the Authority is required to make adjustments in approved tariff on account of fuel price within a period of seven days on monthly basis as mentioned hereunder;

"Provided that the Authority may, on a monthly basis and not later than a period of seven days, make adjustments in the approved tariff on account of any variations in the fuel charges and policy guidelines as the Federal Government may issue and notify the tariff so adjusted in the official Gazette."

6. Similarly, for Peshawar Electric Supply Company (PESCO) for the Financial Year 2019-20, the tariff was determined by NEPRA after following the due process of law, which was subsequently notified by the Federal Government vide SRO dated 12.02.2021, which also contained the monthly/ quarterly adjustment mechanisms.

Annex-I

FUEL PRICE ADJUSTMENT MECHANISM

Actual variation in fuel cost component against the reference fuel cost component for the corresponding months will be determined according to the following formula

Fuel Price variation = Actual Fuel Cost Component - Reference Fuel Cost Component

Where:

Fuel Price variation is the difference between actual and reference fuel cost component

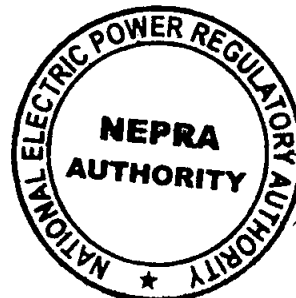
Actual fuel cost component is the fuel cost component in the pool price on which the DISCOs will be charged by CPPA (G) in a particular month; and

Reference fuel cost component is the fuel cost component for the corresponding month projected for the purpose of tariff determination as per Annex-IV of the determination;

The fuel price adjustment determined by the Authority shall be shown separately in the bill of the consumer and the billing impact shall be worked out on the basis of consumption by the consumer in the respective month.

7. Now through the instant Writ Petition No. 5454/2021 along with other connected cases, the Petitioners have challenged the Fuel price adjustment determined by NEPRA, which is included in their electricity bills. The Petitioner in writ petition stated that NEPRA had failed to properly evaluate the fuel cost, it has no jurisdiction to make the said adjustment with retrospective effect and the adjustment on monthly basis is illegal as the fuel cost can be claimed by the Power generation companies at the time of determination of their tariff, therefore, the same be set aside.

8. The Honorable Peshawar High Court disposed-off these Writ Petitions vide judgment dated 10.02.2022 and decided as under;





Judgment dated 10.02.2022

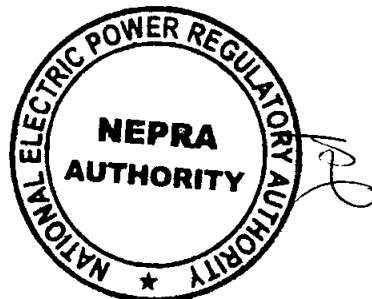
".... This court being a constitutional court has neither any such expertise nor can make a probe in the said matter. Although the Petitioners have challenged the said determination/fuel adjustment/ quarter tariff adjustment on the various legal grounds, however, for effective determination of these issues, the appropriate forum is NEPRA under section 7(2)(g) and section 3(1) of the Act, the NEPRA has the Authority to review its order. Since the present Petitioners had not approached the NEPRA in this regard, therefore, we would transmit this petition as well as the connected Petitions to NEPRA for its decision after hearing the parties. Accordingly, the interim relief already granted stands vacated and the office is directed to transmit the all these petitions to NEPRA and retain its photocopies for the purpose of record. NEPRA is expected to decide all these petitions within fifteen (15) days positively after receipt of judgment of this Court.

The Writ Petitions stand disposed of accordingly."

9. As per the directions of honorable Peshawar High Court, opportunity of hearing is to be provided to all the petitioners, TESCO and PESCO, therefore, necessary particulars of the petitioners were obtained for the purposes of issuance of notices and thereafter, 12.04.2022 was fixed for hearing. Notices to the following parties were issued to attend the hearing;

- ✓ Pir Sajjad Ali Shah
- ✓ M/S Silichem Industries & others
- ✓ Pak Premier Steel Mills
- ✓ Saison Iron Mill
- ✓ Shiekh Steel Re Rolling Mill
- ✓ Al- Raziq Steel Mill
- ✓ SS Steel Mills
- ✓ Shahid Steel Furnace
- ✓ M/S New Mohmand Steel Mills
- ✓ M/S Mustafa Steel Mills
- ✓ M/S Royal Foundry
- ✓ M/S MR Steel
- ✓ M/S AK Tariq Foundry
- ✓ M/S Universal Steel
- ✓ M/S Dua Steel Furnace
- ✓ M/S Malik Steel Furnace
- ✓ M/S Lillah Steel Furnace
- ✓ M/S MZ Foundry (Pvt) Ltd
- ✓ M/S Al- Haj Foundry
- ✓ M/S Muslim Steel Furnace
- ✓ M/S MK Steel Mills
- ✓ M/S Gul Shahzada Steel Mills
- ✓ M/S Madina Steel Foundry
- ✓ MySteel Foundry
- ✓ Khyber Foundry
- ✓ Al Haj Foundry

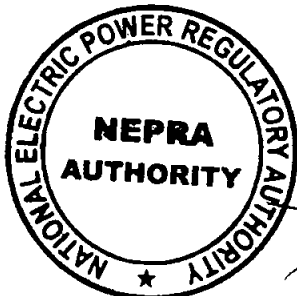
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- ✓ Ali Abbas Khan
- ✓ M/S Sher Steel Furnace & Re-Rolling Mills
- ✓ M/S Taj Re-Rolloing & Steel Mills (Pvt) Ltd
- ✓ Afridi Steel Mills & others
- ✓ Irfan Ullah Steel Mills & Furnace
- ✓ Naseeb Steel Mill Furnace
- ✓ Dawood Steel Fabrication Factory
- ✓ Madina Steel Foundry
- ✓ Mohmand Moulding Works
- ✓ ZK Steel Mill
- ✓ Shah Steel Industry
- ✓ Prime Steel Indstry
- ✓ Talha Steel Furnace
- ✓ Adam Paper Factory
- ✓ Sun Star Foundry
- ✓ Shahzab Paper Mill
- ✓ Riaz Afridi Steel Furnace
- ✓ M/S Taj Wood Board Mills (Pvt) Ltd
- ✓ M/S Ihtisham Steel Mills (Pvt) Limited
- ✓ Muzammil Shah Crush Machine and others
- ✓ Sher Faraz Khan Crush Machine
- ✓ Galoor Shah Crush Machine
- ✓ Muhammad Khursheed Crush Machine
- ✓ Javed Crush Machine
- ✓ Ali Khan Umara Khan Crush Machine
- ✓ Muhammad Ayaz Crush Machine
- ✓ Muhammad Waqas Powder Factory
- ✓ Aftab Raza Crush Machine
- ✓ Javed Khan Crush Machine
- ✓ Afzal Amin Crush Machine,
- ✓ Raees Crush Machine
- ✓ Shakir Ullah Crush Machine
- ✓ Umar Hayat Crush Machine
- ✓ Abdullah Crush Machine
- ✓ Habib Jan Crush Machine
- ✓ Iftikhar Ahmed Crush MACHien
- ✓ Tilla Muhammad Crush Machine
- ✓ Lal Akbar Crush Machine,

10. The hearing was held on 12.04.2022, which was participated by council of the Petitioners' i.e Pervaiz Akhtar Shah.
11. During the hearing, the learned council for the Petitioner did not raise any concerns on the mechanism or calculation of the Fuel price adjustment, rather raised concerns on the placement of its meter, which as per the petitioner is not installed at the premises of the consumer.



12. Having considered the submissions of the parties and perusal of the record, the Authority observed that the Power Purchase Price (PPP) is a pass through cost for DISCOs, thus, any variation therein needs to be passed on to the consumers in a timely manner in order to ensure financial viability of the sector, which otherwise would result in piling up of legitimate costs.
13. On the point raised by the Petitioner that NEPRA has no jurisdiction to make the said adjustment with retrospective effect, the Authority noted that although these adjustments are formula based, and neither conduct of hearing nor filing of intervention requests etc. is a pre-requisite for the purposes of making fuel charges adjustments, however, the same is being done in pursuance of the Order of the Honorable Lahore High Court, wherein, the question pertaining to "fuel adjustments" was settled as under;

"There can be no escape from the fact that any adjustment would affect the rights of the consumers. Even if the provisions for publication of notice, intervention or participation of commentators, were not directly applicable, yet the principle of natural justice necessarily be read in every statute, and no order could be passed without affording opportunity of hearing to the persons likely to be affected."

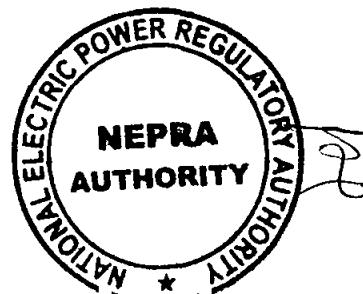
14. Since the impact of any adjustment is to be passed on to the consumers, therefore, in order to meet the ends of natural justice, public hearing is held and written / oral comments or objections are invited from the interested / affected parties before making any adjustments, which requires additional time.
15. Further, the honorable Supreme court of Pakistan in its Judgment dated May 02, 2018 in the matter of various civil appeals, has directed as under;

a) *In future, the time fixed in terms of provisions of second proviso to Section 31(4) of Act XL Of 1997 for claiming tariff revision on the basis of fuel price fluctuation shall be four (04) 1770171/78 with reference to the bill/notified tariff of any particular month;*

b) *For filing refund claims by consumers, which are based upon downward fluctuation of fuel price, we find that a period of two (02) months is reasonable for the purpose of processing and granting such refunds relatable to the bill of a particular month;*

16. Thus, the concern of the Petitioner that NEPRA has no jurisdiction to make the said adjustment with retrospective effect stands addressed.
17. On the point of the Petitioner that NEPRA had failed to properly evaluate the fuel cost, it is apprised that at the time of determination of tariff of each DISCOs, the Authority makes specific issue regarding reference Power Purchase Price (PPP) to be included in the tariff of each DISCOs, for which comments/ intervention requests are invited. Fuel Price projections for determining of reference fuel cost component in consumer end tariff of Distribution companies, are made on best estimates keeping in view the past trends and available national / international reports for future projections of oil prices. Since the variation in fuel prices depends upon many factors and it is not possible to apprehend and foresee all of them. Similarly generation projections are also forecasted based on historical generation trends of the available

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power plants, accounting for the upcoming power plants and also the projected demand for any particular period. While projecting fuel prices, exchange rates etc. various reports from different sources as given below are also analyzed;

- ✓ US EIA, Short-Term Energy Outlook
- ✓ World Bank Commodities Price Forecast
- ✓ IMF, World Economic Outlook Database
- ✓ Bloomberg (Various Analyst Firms forecast)
- ✓ Standard Chartered Bank Report
- ✓ Argus Media

18. A complete analysis and basis for assessment of PPP is clearly spelled out in the determination.
19. On the point of the Petitioner that adjustment on monthly basis is illegal as the fuel cost can be claimed by the Power generation companies at the time of determination of their tariff, it may be noted that tariff of a generation company is determined by the Authority for a period of 25-30 years. The tariff so determined for the generation companies, include adjustment mechanism of different tariff components including Fuel Cost Component (FCC). The FCC of generation companies, at the time of tariff determination, is based on fuel prices prevailing at that time and is subject to adjustment, based on revision in fuel prices. As an example, the FCC adjustment mechanism provided in the tariff determination of National Power Parks Management Company (NPPMCL), Haveli Bahadar Shah, dated 19.02.2020, is reproduced hereunder;

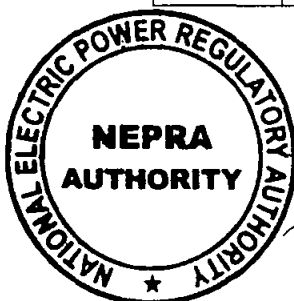
VI. Fuel Price Adjustment

The fuel cost component of tariff shall be adjusted on account of fuel price variation as and when notified by the relevant authority as per the following mechanism:



Decision of the Authority in the matter of Tariff Adjustment at Commercial Operation Date (COD) of National Power Parks Management Company (Pvt) Ltd., for its project 1230.54 MW on RLNG/HSD at Haveli Bahadar Shah Case No. NEPRA/TRF-358/NPPMCL-2016.

$FCC_{RLNG(Rev)}$	=	$FCC_{RLNG(Ref)} * P_{RLNG(Rev)} / P_{RLNG(Ref)}$
Where:		
$FCC_{RLNG(Rev)}$	=	The revised fuel cost component on RLNG
$FCC_{RLNG(Ref)}$	=	The reference fuel cost component on RLNG
$P_{RLNG(Rev)}$	=	The revised HHV RLNG price notified by the relevant Authority
$P_{RLNG(Ref)}$	=	The reference HHV RLNG price of US\$ 10.8028/MMBtu
$FCC_{HSD(Rev)}$	=	$FCC_{HSD(Ref)} * P_{HSD(Rev)} / P_{HSD(Ref)}$
Where:		
$FCC_{HSD(Rev)}$	=	The revised fuel cost component on HSD
$FCC_{HSD(Ref)}$	=	The reference fuel cost component on HSD
$P_{HSD(Rev)}$	=	The revised HHV HSD price notified by the relevant Authority
$P_{HSD(Ref)}$	=	The reference HHV HSD price of Rs. 77.49/liter.





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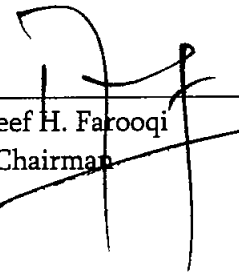


20. Here it is also pertinent to mention that the Petitioner never during the proceedings of the tariff determination of PESCO or any other DISCO, has raised any concerns either on the mechanism of FCA or on the reference PPP determined by the Authority.
21. In view of the foregoing discussion, the Authority does not see any anomaly in the determination of its monthly FCAs.

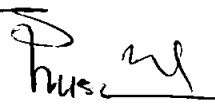
AUTHORITY


Rafique Ahmed Shaikh
Member


Engr. Maqsood Anwar Khan
Member


Tauseef H. Farooqi
Chairman




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