



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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No. NEPRA/R/ADG(Tariff)/TRF-100/7148-7150

May 11, 2022

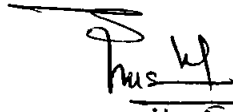
Subject: **Decision of the Authority in the matter of Review Motion filed by K-Electric against Decision of the Authority regarding Motion filed by Federal Government with respect to Recommendation of Extension of Incremental Consumption Package for K-Electric Industrial Consumers including B1 Consumers of XWDISCOs**

Dear Sir,

Enclosed please find herewith the subject Decision of the Authority (10 Pages) in the matter of Review Motion filed by K-Electric against Decision of the Authority regarding Motion filed by Federal Government with respect to Recommendation of Extension of Incremental Consumption Package for K-Electric Industrial Consumers including B1 Consumers of XWDISCOs.

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

Encl: As above


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(Syed Safer Hussain)

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

CC:

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

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

DECISION OF THE AUTHORITY IN THE MATTER OF REVIEW MOTION FILED BY
K-ELECTRIC AGAINST DECISION OF THE AUTHORITY REGARDING MOTION FILED BY
FEDERAL GOVERNMENT WITH RESPECT TO RECOMMENDATION OF EXTENSION OF
INCREMENTAL CONSUMPTION PACKAGE FOR K-ELECTRIC INDUSTRIAL CONSUMERS
INCLUDING B1 CONSUMERS OF XWDISCOs

Islamabad
May 11, 2022



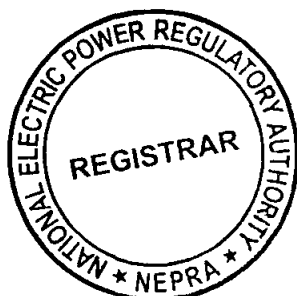
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Background

1. The Authority issued its Decision dated 11.01.222, in the matter of Motion filed by the Federal Government with respect to Extension of Incremental Consumption Package For K-Electric Industrial Consumers including B1 Consumers of XWDISCOs. K-Electric being aggrieved with the decision, filed a Motion for leave for review vide letter dated 13.01.2022. The Motion filed by K-Electric was admitted by the Authority.
2. The Ministry of Energy (MoE) Power Division (PD) vide letter dated September 14, 2021 submitted a Motion with respect to recommendation of extension of incremental consumption package for K-Electric industrial consumers including B1 Consumers of XWDISCOs. The Motion stated that;
 - i. Rate of Rs.12.96 / Kwh shall be charged to industrial consumer categories (B1, B2, B3, B4 & B5) of K-Electric from 1st July, 2021 to 31st October, 2023, for off-peak incremental consumption basis over their consumption in corresponding months of period March 2019 to February 2020. New consumers having no reference consumption available in period of March 2019 to February 2020 shall be offered the same package through slab-wise consumption structure. The package will be applicable to all hours of the day, during the period in which time of use tariff for industrial users remains discontinued
 - ii. Budget the additional cumulative subsidy of approx. Rs.11.2 billion, on account of difference of Rs.12.96 /kWh and claimed marginal cost of Rs.14.61 /kWh, for extension of incremental consumption package for industrial consumers K-Electric (1st July 2021 till 31st October 2023). The marginal (variable) cost of Rs.14.61/kWh, to be utilized for computation of subsidy, shall be verified by NEPRA. Further, NEPRA shall provide appropriate mechanism for adjustment, keeping in view existing NEPRA determinations for K-Electric.
 - iii. For Industrial Consumers of K Electric & XWAPDA DISCOs, only positive fuel price adjustments shall be passed on incremental consumption to the consumers availing the incremental consumption package.
 - iv. Rate of Rs.12.96 (KWh shall be charged to existing B1 (Non-ToU) industrial consumers of XW-DISCOs & K-Electric from 1st July, 2021 to 31st December, 2021 for incremental consumption basis over their consumption in corresponding months of period July 2019 to December 2019. B1 (Non-ToU) consumers having no reference consumption available in period of July 2019 to December 2019 shall be offered the same package through slab-wise consumption structure.

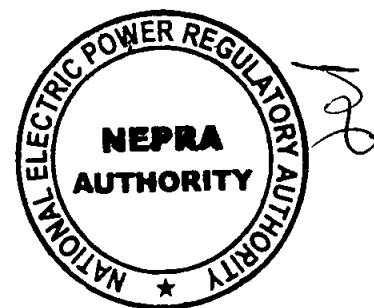
Existing B1 (Non-ToU) consumers converting to ToU metering arrangement, shall be offered the same package at the concessionary rate of Rs.12.96/kWh for off-peak incremental consumption through slab-wise consumption structure till the applicability of incremental consumption package for XW-DISCOs and K-Electric respectively. The package will be applicable to all hours of the days during the period in which time of use tariff for industrial users remains discontinued.



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- vi. Budget the cumulative subsidy of approx. Rs.4.1 million as a result of application of incremental consumption package for B1 (Non-ToU) industrial consumers of K-Electric (1st July 2021 till 31st December 2021).
- vii. For Zero Rated Industrial (ZRI) consumer categories, the incremental consumption package shall not be applicable from FY 22.
3. The package was approved by the Authority vide decision dated January 11, 2022 as under;
- i. The Authority after taking into account the request made the Federal Government in the Motion and during the hearing, the MYT determinations of K-Electric, submissions made by K-Electric during the hearing and afterwards and response thereto by the Ministry of Energy, decides as under;
- ii. The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories). The Authority has decided that KE shall only be allowed Marginal Cost on sales above the benchmarked units and no other adjustment as un-recovered cost e.g. O&M, RoRB, Depreciation, Base Rate and Bad Debt etc., will be provided. In case K-Electric recovers any amount over & above the Marginal Cost on the incremental units either through tariff or through subsidy etc., the same would be adjusted from K-Electric subsequently. The sales above the benchmarked units shall be calculated by K-Electric, considering sales to all industrial consumers falling under Category B Industry. Following benchmark sales have been calculated as detailed above;

	2021-22	2022-23	2023
March		417.94	439.08
April		461.47	484.82
May		477.76	501.93
June		396.88	416.96
July	412.35	433.21	
August	381.30	400.59	
September	377.08	396.16	
October	440.05	462.31	
November	447.02	469.63	
December	417.83	438.97	
January	404.02	424.46	
February	417.76	438.89	



- iii. Here it is pertinent to mention that actual consumer wise incremental units would be worked out by K-Electric, keeping in view the reference months of March 2019 to February 2020, as prescribed in the Motion of the Federal Government.
- iv. In order to ensure that K-Electric is only allowed to retain Marginal cost on incremental industrial sales beyond the Authority's worked out benchmarks, the Authority while

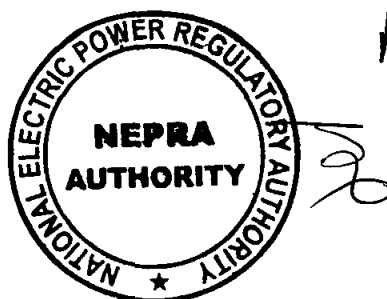
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working out the monthly FCAs would exclude all such incremental units (after adjusting for losses) and their marginal cost. Similarly, the units and cost without such incremental sales (after adjusting for losses) would be accounted for while calculating K-Electric's quarterly adjustments. K-Electric for the purpose of subsidy claims, shall ensure that no subsidy/ tariff is claimed on incremental units over & above the Authority's allowed benchmarks, except for the difference between Rs.12.96/kWh and the marginal cost, as determined by the Authority. Marginal cost would be intimated to the Federal Government by NEPRA, every month.

- v. Here it is also pertinent to mention that monthly FCAs already determined by the Authority, for the period for which the incremental industrial package remains applicable would be re-determined by the Authority once the instant decision is notified.
- vi. Rate of Rs.12.96/kWh shall be charged to industrial consumer categories (B1, B2 B3, B4 & B5) of K-Electric from 1st July, 2021 to 31st October, 2023, for off-peak incremental consumption basis over their consumption in corresponding months of period March 2019 to February 2020. New consumers having no reference consumption available in period of March 2019 to February 2020 shall be offered the same package through slab-wise consumption structure. The package will be applicable to all hours of the day, during the period in which time of use tariff for industrial users remains discontinued.
- vii. Rate of Rs.12.96 (kWh shall be charged to existing B1 (Non-ToU) industrial consumers of XW-DISCOs & K-Electric from 1st July, 2021 to 31st December, 2021 for incremental consumption basis over their consumption in corresponding months of period July 2019 to December 2019. B1 (Non-ToU) consumers having no reference consumption available in period of July 2019 to December 2019 shall be offered the same package through slab-wise consumption structure.
- viii. Existing B1 (Non-ToU) consumers converting to ToU metering arrangement, shall be offered the same package at the concessionary rate of Rs.12.96/kWh for off-peak incremental consumption through slab-wise consumption structure till the applicability of incremental consumption package for XW-DISCOs and K-Electric respectively. The package will be applicable to all hours of the days during the period in which time of use tariff for industrial users remains discontinued.
- ix. For Zero Rated Industrial (ZRI) consumer categories, the incremental consumption package shall not be applicable from FY 22.

Proceedings

4. K-Electric being aggrieved with the Decision dated 11.01.2022, filed a Motion for leave for review vide letter dated 13.01.2022. The Motion filed by K-Electric was admitted by the Authority.
5. The Authority, considering the fact that impact of any adjustments has to be made part of the consumer end tariff decided to conduct a hearing in the matter in order to provide an opportunity of hearing to the parties to the proceedings. Hearing in the matter was initially



scheduled on March 21, 2022 through Zoom. However, due to public holidays the hearing was rescheduled on March 29, 2022.

6. Based on the submissions made by K-Electric in the Review Motion and during the hearing, the point wise discussion on the issues raised by K-Electric is as under;

6.1. **Risk of Positive or Negative Sales under MYT**

6.1.1. K-Electric on the issue has submitted that para 1.4 of the decision dated January 11, 2022 stated that

“keeping in view the fact that K-Electric tariff structure is different from XWDISCOs whereby... the risk of sales whether positive or negative lies with K-Electric....”

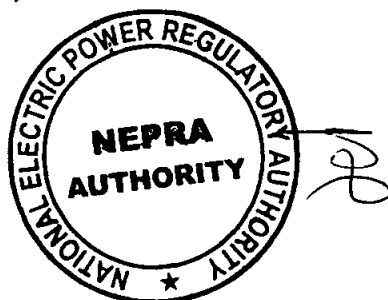
6.1.2. Accordingly, K-Electric requested that in accordance with the structure of Multi Year Tariff (MYT) and consistent with the past decision and terms of MYT, there should not be any adjustment for benchmark units and all the difference between the applicable tariff rate and package rate be made available by way of subsidy.

6.1.3. K-Electric further stated that due to different macro and external factors including COVID-19, withdrawal of ISP of Rs.3/kWh implemented since January 2016, and other factors, it was unable to achieve the sales growth. It also submitted that growth in units billed is due to several factors including increase in economic activity after COVID-19, Government policies to support the same including lower KIBOR Rates, industrial packages, shutdown of economy in other parts of the world due to COVID, construction package, currency depreciation making import expensive / export attractive and shift of captive power plants to grid, etc. and there is no basis/evidence to link the entire growth over the % growth assumed in MYT as occurring due to Industrial support package. K-Electric accordingly requested NEPRA to adjust the sales growth assumed in tariff considering the reasons beyond control of K-Electric.

6.1.4. The Authority observed that similar submissions were made by K-Electric earlier on the Motion filed by Federal Government. The Authority on the issue, keeping in view the submissions of K-Electric, response of MoE and the MYT determination of K-Electric, had already decided in the determination dated January 11, 2022 in paras 5.10.4. and 6.1.2.-6.1.4. as under;

5.10.4. “The Authority noted that as per the MYT determination, a certain percentage of sales growth has been incorporated in the MYT, impact of which has been already been built in the MYT of K-Electric, therefore, the Authority considers that it would be unfair with K-Electric if the entire growth of Industrial growth over & above the reference months, i.e. March 2019 to February 2020, is taken away from K-Electric.

6.1.2. The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories). The Authority has decided that KE shall only be allowed Marginal Cost on sales above the benchmarked units and no other adjustment as unrecovered cost e.g. O&M, RoRB, Depreciation, Base Rate and Bad Debt etc., will be provided. In case K-Electric recovers any amount over & above the Marginal Cost on the incremental



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units either through tariff or through subsidy etc., the same would be adjusted from K-Electric subsequently. The sales above the benchmarked units shall be calculated by K-Electric, considering sales to all industrial consumers falling under Category B Industry. Following benchmark sales have been calculated as detailed above;

	2021-22	2022-23	2023
March		417.94	439.08
April		461.47	484.82
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February	417.76	438.89	

6.1.3. Here it is pertinent to mention that actual consumer wise incremental units would be worked out by K-Electric, keeping in view the reference months of March 2019 to February 2020, as prescribed in the Motion of the Federal Government.

6.1.4. In order to ensure that K-Electric is only allowed to retain Marginal cost on incremental industrial sales beyond the Authority's worked out benchmarks, the Authority while working out the monthly FCAs would exclude all such incremental units (after adjusting for losses) and their marginal cost. Similarly, the units and cost without such incremental sales (after adjusting for losses) would be accounted for while calculating K-Electric's quarterly adjustments. K-Electric for the purpose of subsidy claims, shall ensure that no subsidy/ tariff is claimed on incremental units over & above the Authority's allowed benchmarks, except for the difference between Rs.12.96/kWh and the marginal cost, as determined by the Authority. Marginal cost would be intimated to the Federal Government by NEPRA, every month."

6.1.5. In view thereof, the Authority considers that the since the matter has already been discussed in detail in the earlier decision, therefore, does not require any further deliberation.

6.2. Benchmark Units

6.2.1. On the issue of benchmarked units, K-Electric while appreciating the Authority's stance to only exclude growth over benchmark units, submitted that in the MYT, as the sales targets have been locked for seven years in absolute GWh units, therefore only those yearly benchmark units shall be considered, otherwise there would be inconsistency in units benchmarked in MYT versus the unit benchmarked considered for ISP as a result of which KE would be unduly burdened.

6.2.2. KE also stated that since the control period is for seven years and one of the features of the MYT is that in case a utility is unable to perform in earlier years, it can catch up on targets



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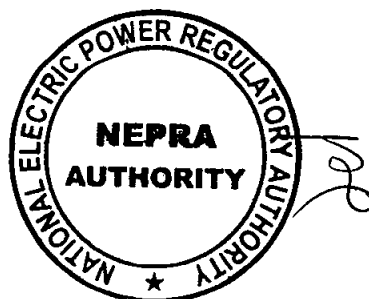
in later years and compensate for its earlier losses. Further, there is no loss to K-Electric in case in a segment growth is lower and the other segment growth is higher. Therefore, instead of yearly benchmarks for industrial segment, cumulative benchmark growth for all segments be used for the purpose of instant Determination. K-Electric, accordingly, requested that instead of benchmark for each year, the following cumulative sales benchmark should be considered;

Description	FY 2022 - target	FY 2023 - target
	GWh	
Till June last year	77,197	95,272
July	78,833	96,991
August	80,437	98,675
September	82,080	100,402
October	83,709	102,113
November	85,173	103,651
December	86,445	104,987
January	87,556	106,155
February	88,711	107,368
March	90,033	108,756
April	91,554	110,354
May	93,365	112,257
June	95,272	114,260

6.2.3. The Authority observed that the MYT of K-Electric does not provide any mechanism through which KE's under performance in terms of sales target is to be compensated through tariff in the coming years. Further, as per the Motion filed by the Federal Government, the actual units for the reference months were to be considered as reference units to work out the incremental units. The Authority accordingly in the Decision dated January 11, 2022, being cognizant of the fact that a certain percentage of sales growth has been incorporated in the MYT, impact of which has been already been built in the MYT of K-Electric, incorporated growth rate allowed in the MYT to work out the benchmark sales. The Authority accordingly in its decision dated 11.01.2022 decided as under;

"The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories). The Authority has decided that KE shall only be allowed Marginal Cost on sales above the benchmarked units and no other adjustment as unrecovered cost e.g. O&M, RoRB, Depreciation, Base Rate and Bad Debt etc., will be provided. In case K-Electric recovers any amount over & above the Marginal Cost on the incremental units either through tariff or through subsidy etc., the same would be adjusted from K-Electric subsequently. The sales above the benchmarked Units shall be calculated by K-Electric, considering sales to all industrial consumers falling under Category B Industry."

6.2.4. Thus, the matter raised by the K-Electric has already been considered by the Authority in the decision dated January 11, 2022, therefore, does not need to be discussed again.



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6.3. Adjustment mechanism

6.3.1. K-Electric submitted that in the Determination dated 11.01.2022 at para 6.1.4, it has been stated that *"K-Electric for the purpose of subsidy claims, shall ensure that no subsidy/Tariff is claimed on incremental units over & above the Authority's allowed benchmarks, except for the difference between Rs.12.96/kWh and the marginal cost, as determined by the Authority"*.

6.3.2. K-Electric submitted that since treatment of incremental units not falling over & above the benchmark has not been specified by the Authority, therefore, has requested for clarification that for those incremental units, the difference between applicable tariff rate and package rate would be allowed in the form of subsidy.

6.3.3. The Authority observed that in the Determination dated 11.01.2022 it has been specifically stated that;

"The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories). The Authority has decided that KE shall only be allowed Marginal Cost on sales above the benchmarked units and no other adjustment as unrecovered cost e.g. O&M, RoRB, Depreciation, Base Rate and Bad Debt etc., will be provided."

6.3.4. It is clear from the above, that marginal cost is only applicable for the incremental sales over and above the benchmarked units, meaning thereby that sales up-to benchmarked units would be treated based on NEPRA determined tariff.

6.3.5. Here it is pertinent to mention that various writ petitions have been filed in different high courts whereby the Industrial Consumers have challenged the following clause of the decision;

"...For Zero Rated Industrial (ZRI) consumer categories, the incremental consumption package shall not be applicable from FY 22."

6.3.6. The industrial consumers have stated that non-applicability of incremental package on ZRI consumers is only to the extent of consumers of K-Electric & B-1 consumers of XWDISCOs, and is not applicable for other consumers i.e. B2, B3 and B4 consumers of XWDISCOs.

6.3.7. The Authority understands that the spirit of the Decision was to apply it across all the country i.e. consumers of all DISCOs including XWDISCOs and K-Electric otherwise this would result in distortion in application of uniform tariff policy across the Country. The Ministry of Energy also vide its letter dated 18.04.2022 has clarified that in terms of the decisions of the ECC dated 16.08.2021, Industrial Support Package for incremental consumption is not applicable for all the categories of ZRI consumers of XWDISCOs and K-Electric and the said decision is applicable for FY 22 i.e. w.e.f. 01.07.2021 to 30.06.2022. Thus, the intention of the Government was to disallow the Industrial Support Package for incremental consumption for all categories of ZRI consumers of both XWDISCOs and K-Electric.



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6.4. Adjustment in reference units

6.4.1. K-Electric on the issue submitted that in the Determination dated 11.01.22, at para 6.1.2, it has been stated that “*The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories)*”.

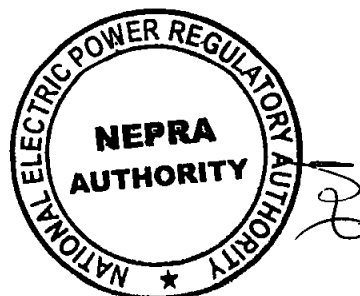
6.4.2. K-Electric accordingly requested that in case of adjustment in reference months units on premise that consumers have shifted to other categories in later months, units relating to consumers who were added in subsequent months including new connection units should also be excluded for the purpose of comparison with benchmark for a like to like comparison. Upon directions of the Authority during the hearing, K-Electric provided the following information in this regard;

		July-21	August-21	September-21	October-21	November-21	December-21	January-22	February-22				
B-1 (41 kW - 500 kW)	New connection	43,639	22,673	60,758	34,634	15,404	22,805	38,719	15,337				
	Tariff Change	523,120	492,548	185,140	67,470	55,001	47,136	43,113	40,782				
B-1 (41 kW - 500 kW) Total		566,759	515,221	245,898	102,105	70,404	70,941	81,832	56,119				
B-1 (41 kW - 500 kW) - TOD	New connection	1,470,063	1,063,778	1,091,474	1,304,734	1,250,932	1,259,480	1,262,278	1,226,982				
	Tariff Change	309,605	223,189	261,015	107,317	175,775	155,149	137,818	117,783				
B-1 (41 kW - 500 kW) - TOD Total		1,779,668	1,286,967	1,352,489	1,412,051	1,426,707	1,414,629	1,400,095	1,344,766				
B-2 (41 kW - 500 kW)	New connection	269	(3,542)	-	65	988	1,231	(9,137)	24,425				
	Tariff Change	-	-	-	-	-	-	-	12,468				
B-2 (41 kW - 500 kW) Total		269	(3,542)	-	65	988	1,231	(9,137)	36,894				
B-2 TOD (41 kW - 500 kW)	New connection	7,897,943	6,448,047	6,365,943	7,076,658	7,441,802	6,718,531	7,287,529	6,242,535				
	Tariff Change	2,099,978	1,429,605	1,504,733	1,612,051	1,345,986	1,066,793	1,121,583	908,767				
B-2 TOD (41 kW - 500 kW) Total		9,997,921	7,877,653	7,870,676	8,688,709	8,787,788	7,785,324	8,409,212	7,151,302				
B-3 TOD 11 kV (501 - 5000 kW)	New connection	17,865,570	5,943,388	13,258,806	14,248,140	16,773,932	17,395,119	20,023,574	23,499,247				
	Tariff Change	3,375,780	12,624,368	6,373,292	6,426,022	5,799,593	5,296,507	4,943,736	4,906,995				
B-3 TOD 11 kV (501 - 5000 kW) Total		21,241,349	18,567,756	19,632,097	20,674,162	22,573,525	22,691,625	24,967,310	28,406,242				
B-4 66/132 kV (over 5000 kW) Total		Tariff Change		-		-		28,197,312	3,022,272	2,853,312			
B-4 TOD 66/132 kV (over 5000 kW) Total		New connection		13,651,752		13,238,825		13,597,016	14,690,871	13,277,000	13,486,000	12,325,000	49,000
Grand Total		47,237,718	41,482,879	42,698,176	45,567,962	46,136,814	73,646,162	50,196,584	39,897,635				

Units of new / tariff change consumers as compared to reference months of March 2019 to Feb 2022

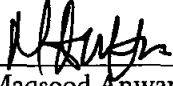
6.4.3. The Petitioner has raised two issues, i.e. addition of new connection and addition of existing connections to industry category. The Authority regarding new connections, observed that the growth rate allowed in the MYT was based on increase in consumption of the existing consumers and as well as new connections and the same rate has been used to work out the benchmarked sales, thus there no further adjustment is required. Regarding addition of existing consumers into the Industrial Category, the Authority noted that units used for working out the benchmarked sales were provided by K-Electric, therefore, no further adjustment is required.

7. In view of the above discussion, the Authority considers that the grounds raised by KE in the motion for leave for review were duly considered by the Authority while issuing impugned decision. In view thereof, the review motion does not merit consideration and accordingly subject to above, is disposed-off as the grounds are not sufficient enough justifying the modification of the earlier Determination, hence motion for leave for review is declined.

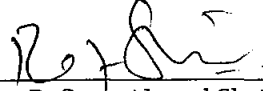


8. The decision of the Authority is intimated to the Federal Government for notification in the official gazette in terms of Section 31(7) of NEPRA Act, 1997.

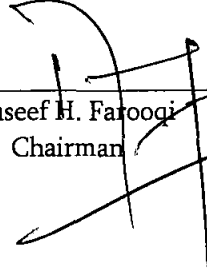
AUTHORITY



Engr. Maqsood Anwar Khan
Member

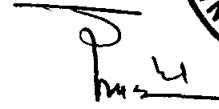


Rafique Ahmed Shaikh
Member



Tauseef H. Farooqi
Chairman




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