



Registrar

**National Electric Power Regulatory Authority**  
**Islamic Republic of Pakistan**

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No. NEPRA/R/DG(Trf)/TRF-362/K-Electric-2016/12910-12912

May 22, 2023

**Subject: Decision of the Authority in the matter of Motion filed by the Federal Government under Section 7 & 31 of the NEPRA Act 1997 read with Rule 17 of the NEPRA (Tariff Standards and Procedure) Rules 1998 with respect to Recommendation of Consumer-end-Tariff for K-Electric [Case # NEPRA/TRF-362/K-Electric-2016]**

Dear Sir,

Please find enclosed herewith the subject decision of the Authority along with Additional notes of Member NEPRA, Mr. Mathar Niaz Rana & Chairman NEPRA, Mr. Tauseef H. Farooqi (total 07 Pages) for information and necessary action.

Enclosure: As above

  
( Engr. Mazhar Iqbal Ranjha )

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

CC:

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



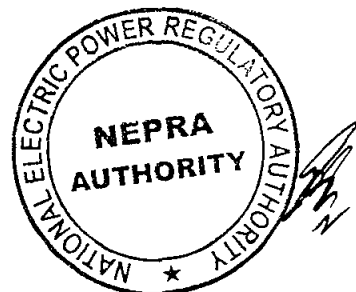
*Decision of the Authority regarding motion filed by the Federal Government through MoE under Section 7 & 31 of the NEPRA Act 1997 read with Rule 17 of the NEPRA (Tariff standards and procedure) Rules, 1998 with respect to recommendation of Consumer end tariff for K-Electric*

**DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FILED BY THE FEDERAL GOVERNMENT UNDER SECTION 7 & 31 OF THE NEPRA ACT 1997 READ WITH RULE 17 OF THE NEPRA (TARIFF STANDARDS AND PROCEDURE) RULES, 1998 WITH RESPECT TO RECOMMENDATION OF CONSUMER END TARIFF FOR K-ELECTRIC**

1. The Ministry of Energy (MoE) submitted a motion vide letters dated March 17 2023, with respect to recommendation of consumer end tariff for K-Electric (KE), under section 7 & 31 of NEPRA Act 1997 (as amended from time to time) (the "Act") read with Rule 17 of NEPRA (Tariff standards and procedure) Rules, 1998.
2. The MoE in the Motion submitted that National Electric Power Regulatory Authority (the "Authority") determined the Multi Year Tariff vide its decision dated July 05, 2018, for KE duly notified by the Federal Government on May 22, 2019. Subsequently, various quarterly tariff adjustments for KE were determined by the Authority. The last quarterly adjustment was notified by the Federal Government vide SRO 1037(I)/2020 as amended from time to time, to maintain uniform tariff in the country.
3. The MoE in the Motion, submitted that the Authority determined periodic adjustment in Tariff of XWDISCOs for the 1<sup>st</sup> Quarter of FY 2022-23, ranging from Rs.1.45/kWh to Rs.4.45/kWh for different consumers, which were recovered from the consumers of XWDISCOs in two months period i.e. Feb. & Mar. 2023, vide SRO No. 136(I)/2023 dated 07<sup>th</sup> February 2023. The MoE has requested to apply the same charges on the consumers of KE, based on the consumption of Feb. & Mar. 2023, to be recovered in Apr. & May 2023, respectively. The Ministry requested to issue separate SoT with prospective application of applicable uniform rates after incorporating the tariff rationalization.
4. To justify its request, the MoE submitted that in accordance with the National Electricity Policy, 2021, the Government may maintain a uniform consumer-end tariff for K-Electric and state-owned distribution companies (even after privatization) through incorporation of direct / indirect subsidies. Accordingly, KE applicable uniform variable charge is also required to be modified so as to recover the revenue requirements of KE, determined by the Authority consistent with the uniform national tariff of XWDISCOs. The same has been approved by the Federal Government and it was decided that the same be submitted to the Authority for consideration in terms of the provisions of the Act. In light of above, instant Motion has been filed by the Federal Government, through MoE, with respect to Consumer End Tariff Recommendations of KE, under section 7, 31 (4) and 31 (7) of the Act read with Rule 17 of the Rules so as to reconsider and issue for KE, modified uniform variable charge, to maintain uniform tariff across the country, to recover the revenue requirements of KE determined by the Authority keeping in view the proposed targeted subsidy and cross subsidies. The MoE also requested an opportunity of hearing in the matter for providing detailed submissions.

Math

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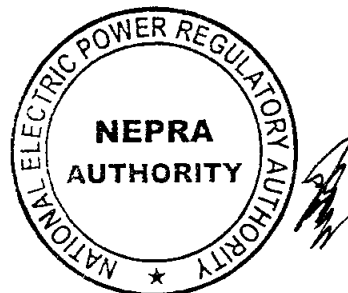


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5. The Authority in order to provide a fair opportunity to the MoE to present its case, and all the relevant stakeholders involved, decided to conduct a hearing in the matter, which was held on 03.04.2023 at NEPRA Tower Islamabad and through ZOOM. Notice of hearing was published in newspapers on 28.03.2023; Individual notices were also sent to the relevant stakeholders.
6. During the hearing, the MoE was represented by Joint Secretary (PF), Ministry of Energy (Power Division), along-with representative from CPPA-G. K-Electric, media and general public were also present during the hearing.
7. The MoE during the hearing reiterated that as per the National Electricity Policy 2021, the Government may continue to propose uniform tariff across the consumers and regions. In pursuance thereto, the Regulator shall, in public consumer interest, determine a uniform tariff (inclusive of quarterly adjustments) for all the state-owned distribution companies. Additionally, Government may maintain a uniform consumer-end tariff for K-Electric and state-owned distribution companies (even after privatization) through incorporation of direct / indirect subsidies. It was also explained that despite the proposed increases as mentioned in the Motion, the Government would still be picking-up subsidies. It was also explained that although the recent quarterly adjustments filed by K-Electric are negative, however, on overall basis for the year, the Federal Government is providing subsidies to K-Electric. The purpose of levying category wise rates as proposed in the Motion is to reduce the subsidy of the Federal Government towards K-Electric and to make the tariff uniform across the country. It was also sated by MoE that the Federal Government is providing a subsidy of around 150 billion to KE during the current year.
8. Upon inquiry from the Authority regarding delay in submissions of Motion by the MoE to apply the quarterly adjustments on the consumers of K-Electric, the MoE submitted that XWDISCOs quarterly adjustments are determined and notified by the Authority, so the same is applied automatically. However, in case of K-Electric, for the purpose of making the tariff uniform, approval is sought from the Federal Government. It was also mentioned that summary for approvals of ECC was submitted in time, but owing to high FCAs in the months of Jul., Aug. and Sep. 2022, the approval was not granted at that time. However, ECC of the Cabinet vide case no.ECC-62/08/2023 dated 1<sup>st</sup> March, 2023 has approved the summary, which has been duly ratified by the Federal Cabinet vide case no. 42/08/2023 dated: 09.03.2023.
9. Mr. Arif Bilwani vide email dated 01.04.2023, while referring to the decision of the Supreme Court of Pakistan in the matter of charging past FCAs on consumers, mentioned that the Honorable Court has already issued guidelines about the chargeability of the past FCAs, setting time frame for charging the same from the consumers. Since the intention of passing on/charging past Quarterly FCAs by the MoE on consumers of KE are not in line with the directives of the honorable Supreme Court, the Motion need to be turned down by the Authority.

Math 2

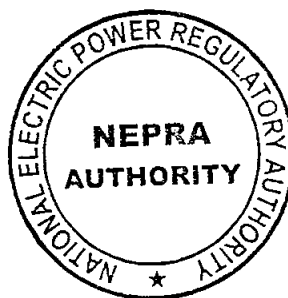
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10. Mr. Abubakar Ismail representing Amreli Steel, during hearing and also in writing vide letter dated 29.03.2023, submitted that quarterly adjustments should be prospective in nature and timelines as per KE MYT & in Act should be followed. Mr. Abubakar also referred to the decision of the honorable Supreme Court of Pakistan in this regard. He also stated that the Act under Section 31(3)(i) provides that tariff should seek predictability for consumers. Thus, the Motion for recovery of Rs.1.55/kWh to be applicable on consumption of July to Sep. 2022 to be recovered from March to May 2023 respectively is in violation of above mentioned rules, therefore, should be rejected by the Authority. It also mentioned that quarterly adjustments for the months of July to September 2022 have already been recovered in the months of September to November 2022 by KE as per the Authority's decision dated 10.08.2022 and dated 11.11.2022, but MoE again applied for these months recovery as mentioned above.
11. Korangi Association of Trade & Industry (KATI) also raised similar points as submitted by Amreli Steel vide letter dated 30.03.2023.
12. Mr. Tanvir Bari, representing KCCI, also did not support the Motion.
13. The MoE during the hearing while responding to the concerns raised by the commentators, submitted that Act under Section 31 (3) provides for recovery of the prudently incurred costs and Section 31 (7) (6) states that the Authority in performing its functions under the Act, shall protect interests of consumers and companies providing electric power services. Rule 17 of the Tariff Rules 1998 mentions that tariffs should allow licensees the recovery of any and all costs prudently incurred to meet the demonstrated needs of their customers. It further mentioned that instant Motion has been filed by the Federal Government through MoE to make the tariff uniform across the country, keeping in view the National Electricity Policy 2021 and to reduce the subsidy of the Federal Government towards K-Electric. Despite the proposed increase in tariff for all categories of the consumers except life line, the Federal Government would be picking up substantial amount of subsidy for K-Electric during the year.
14. Regarding point raised by Amreli Steel and KATI that quarterly adjustments for the months of July to September 2022 have already been recovered in the months of September to November 2022 by KE vide decisions dated 10.08.2022 and 11.11.2022, the Authority observed that vide decision dated 10.08.2022, an amount of Rs.0.5715/kWh was charged from the consumers of KE during the months of August to October 2022 based on the consumption of June to August 2022, in line with the amount of Rs.0.5715/kWh charged from the consumers of XWDISCOs during June to August 2022, pertaining to the 1<sup>st</sup> quarterly adjustment of XWDISCOs for the FY 2021-22 i.e. July to Sep. 2021. Similarly, an amount of Rs.0.5087/kWh was charged from the consumers of KE during the months of November 2022 to January 2023 based on the consumption of Sep. to Nov. 2022, vide decision dated 11.11.2022, in line with the amount of Rs.0.5087/kWh charged from the

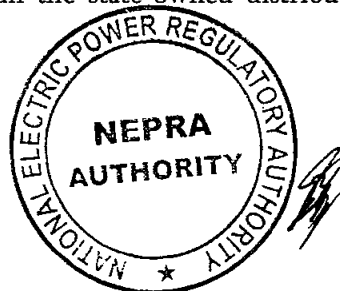




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consumers of XWDISCOs, during Sep. to Nov. 2022, pertaining to the 3<sup>rd</sup> quarterly adjustment of FY 2021-22 i.e. Jan. to Mar. 2022.

15. Subsequently, MoE vide letter dated 20.04.2023 (received on 26.04.2023), submitted that in accordance with the National Electricity Policy, 2021, Government has been maintaining a uniform consumer end tariff across the country and accordingly, any quarterly tariff adjustment determined for XWDISCOs is also notified for K-Electric consumers. Since the current mechanism of charging XWDISCOs QTAs for K-Electric consumers is a protracted process involving approvals from Federal Government and the Authority NEPRA for each quarterly determination, the proposal is under consideration by the Government to issue policy guidelines to the NEPRA that, in the quarterly tariff determinations of XWDISCOs, NEPRA shall determine and notify same QTA for K-Electric consumers as determined for XWDISCOs consumers with same applicability period. Up to now, the Authority has determined tariff of KE for the quarter ended June 2022, which is higher than that of the latest uniform tariff determined by the Authority for XWDISCOs. The difference is being picked as subsidy by the Government. In case the applicable uniform tariff exceeds, after the new determinations for quarterly adjustments of KE, there will remain need of tariff differential subsidy by the Government on annual basis, primarily due to higher cost of generation in KE. The subsidy requirement of KE has caused substantial financial burden on the Government. Keeping in view the above, the application of uniform rates in KE, after incorporating the requested tariff rationalization vide captioned Motion, may be considered by the Authority.
16. The Authority has carefully considered the submissions made the MoE in the Motion and comments of the stakeholders during the hearing and in writing. The Authority has noted that Motion has been filed by the MoE under section 7, 31 (4) and 31 (7) of the Act read with Rule 17 of the Tariff Rules.
17. Section 7 of the Act, deals with the powers and functions of the Authority and Section 31 (4) of the Act, states that the Authority shall, on the basis of uniform tariff application, determine a uniform tariff for public sector licensees, engaged in supply of electric power to consumers, in the consumer's interest, on the basis of their consolidated accounts. Section 31 (7) of the Act deals with notification of the Authority's approved tariff or uniform tariff, and the reconsideration request to be filed by the Federal Government. Rule 17 prescribes the Standards and guidelines for tariff determination. The sections referred to by the MoE in the Motion are not relevant in the instant matter as none of these sections allow or envision a situation in the absence of policy guidelines where the Authority processes such Motion on the Federal Government's request.
18. The MoE has however also referred to National Electricity Policy, 2021 which states that the Government may continue to propose uniform tariff across the consumers and regions and in pursuance thereto, the Regulator shall, in public consumer interest, determine a uniform tariff (inclusive of quarterly adjustments) for all the state-owned distribution companies.






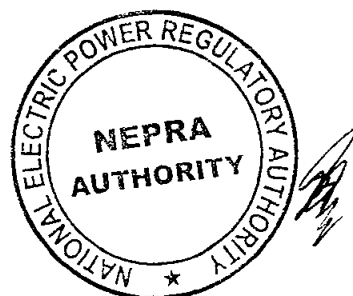
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Additionally, Government may maintain a uniform consumer-end tariff for K-Electric and state-owned distribution companies (even after privatization) through incorporation of direct / indirect subsidies.

19. In addition to the wording in the National Electricity Policy, 2021, the Authority determines a uniform tariff (inclusive of quarterly adjustments) for all the state-owned distribution companies pursuant to Section 31(4) of the Act. Unlike Section 31(4) of the Act, there is no provision in the Act (or any other rules, regulations etc.) for the Authority to determine a uniform consumer-end tariff for K-Electric in line with the state-owned distribution companies.
20. Section 31(1) of the Act states that the Authority shall, in the determination, modification or revision of rates, charges and terms and conditions for the provision of electric power services, be guided by the national electricity policy, the national electricity plan and such guidelines as may be issued by the Federal Government in order to give effect to the national electricity policy and national electricity plan.
21. The Federal Government has however issued no policy guidelines envisioned by Section 31 of the Act in relation to making quarterly adjustments in the approved tariff for maintaining a uniform consumer-end tariff for K-Electric and state-owned distribution companies through incorporation of direct / indirect subsidies.
22. This is in spite of the fact that the Authority has in its earlier decision dated 12.01.2023, directed the MoE to streamline the process of application of quarterly adjustments on K-Electric Consumers, in order to avoid the timing differences, so that tariff across the country is made uniform in true sense.
23. Whilst the National Electricity Policy, 2021 allows for the Government to maintain a uniform consumer-end tariff for K-Electric and state-owned distribution companies through incorporation of direct / indirect subsidies, that is not the case in the Motion. As per the quarterly adjustment request submitted by KE for the 2<sup>nd</sup> quarter of FY 2022-23, KE has requested a negative quarterly adjustment of Rs.7.366/ kWh, and once approved by the Authority, the determined tariff for K-Electric would be around Rs.28/kWh to be applicable from January to March 2023. Thus, with the application of average Rs.3.5/kWh, as proposed by the MoE in the Motion, to be charged from the consumers of KE on consumption of February & March 2023, KE's applicable Tariff would become higher than its determined tariff for the instant quarter. Therefore, the Motion would be processed once the Federal Government provides the policy guidelines, which as per the MoE letter dated 20.04.2023 are already under consideration of the Government, clearly detailing the Federal Government subsidy provision over a period of 12 months in order to maintain the uniform tariff.

*Motion* 

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24. In view of the above discussion, the Authority shall not allow any such Motion and any such further adjustments shall only be processed pursuant to policy guidelines envisioned under Section 31 of the Act, which issued guidelines:
- (a) streamline the process of application of quarterly adjustments on K-Electric Consumers, in order to avoid the timing differences, so that tariff across the country is made uniform in true sense (i.e. the Authority automatically applies and notifies any quarterly tariff adjustment determined for XWDISCOs for K-Electric consumers as well);
  - (b) clarify and substantiate that the subsidy requirements are assessed on a 12-month period (as opposed to monthly or quarterly) to cater for quarters such as the one referred to in the Motion (and any other future quarters where the uniform application would result in KE's applicable tariff becoming higher than its determined tariff).
  - (c) specifically cater for any quarters requiring adjustments prior to the implementation of such policy guidelines (such as the instant Motion and quarterly adjustment of XWDISCOs for the 2<sup>nd</sup> quarter of FY 2022-23, already determined by the Authority vide decision dated 12.04.2023, which are being recovered from XWDISCOs consumers in April, May and June 2023).

**AUTHORITY**

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Mathar Niaz Rana (nsc)  
Member

Rafique Ahmed Shaikh  
Member

Engr. Maqsood Anwar Khan  
Member

Amina Ahmed  
Member

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Tauseef H. Farooqi  
Chairman



22/05/23

\* My additional note is attached.  
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### Additional Note

I tend to allow the motion filed by the Federal Government especially keeping in view the approval of ECC and its ratification by the Federal Government. I believe that the Authority has taken a constricted interpretation of the Law and ignored the prevailing financial situation of the country. As submitted by the Federal Government during the hearing there are also reasons to consider the subsidy to maintain uniform tariffs in totality on an annual basis. Provision of subsidy is a discretionary measure of the Federal Government to support the power sector and the consumers and the Federal Government has a choice to review its quantum depending on the financial Situation.

*Mathar Niaz Rana*

Mathar Niaz Rana (nsc)

Member Tariff and Finance

*Chairman Additional  
Note*

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*I tend to agree with Member (T+F),  
however, we need clear guidelines from  
the GOP for considering such request.*

*19/5/2023*

