



National Electric Power Regulatory Authority Islamic Republic of Pakistan

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Registrar

No. NEPRA/DG(Tariff)/TRF-362/K-Electric-2016/ 8448-52

June 06, 2024

Chief Executive Officer
K-Electric Limited (KEL)
KE House, Punjab Chowrangi,
39 – B, Sunset Boulevard, Phase-II
Defence Housing Authority, Karachi.

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF PROVISIONAL MONTHLY FUEL CHARGES ADJUSTMENTS REQUESTED BY K-ELECTRIC LIMITED FROM JULY 2023 TO MARCH 2024 AND NOTIFICATION (S.R.O. 1018 (I)/2023 DATED 06.06.2024) THEREOF**

Enclosed please find herewith a copy of decision of the Authority in the matter of provisional monthly fuel charges adjustments requested by K-Electric Limited from **July 2023 to March 2024** in respect of K-Electric Limited (total 07 Pages), and Notification (S.R.O. 811(I)/2024 dated 06.06.2024) thereof. This is for information and further necessary action.

2. While effecting the Fuel Adjustment Charges, K-Electric Ltd. shall keep in view and strictly comply with the orders of the court(s), if any, notwithstanding this order.

Enclosure: As above (Decision alongwith Notification is also available on NEPRA's website)

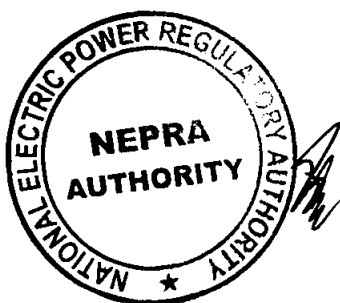
(Engr. Mazhar Iqbal Ranjha)

Copy to: (alongwith copy of subject Decision):

1. Secretary, Ministry of Energy, Power Division, 'A' Block, Pak Secretariat, Islamabad.
2. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
3. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.
4. Secretary, Privatization Commission, 4th Floor, Kohsar Block, Constitution Avenue, New Secretariat, Islamabad

**DECISION OF THE AUTHORITY IN THE MATTER OF PROVISIONAL MONTHLY FUEL CHARGES
ADJUSTMENTS REQUESTED BY K-ELECTRIC LIMITED FROM JULY 2023 TO MARCH 2024.**

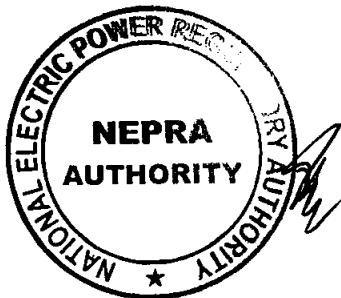
1. The Authority determined a Multi-Year Tariff ("MYT") for K-Electric Limited (herein referred to as "K-Electric" or "KE") for a period of seven (07) years, from July 2016 to June 2023, which expired on June 30, 2023. The MYT provided a mechanism wherein the Authority has to review and revise the approved tariff through monthly, quarterly and annual adjustments. As per the mechanism, impact of change in KE's own generation fuel cost component due to variation in fuel prices, generation mix & volume shall be passed on to the consumers directly in their monthly bills in the form of Fuel Charges Adjustment (FCA). Similarly, impact of change in the fuel component of Power Purchase Price (PPP) due to variation in fuel prices & energy mix shall also be passed on to consumers through monthly FCA.
2. Pursuant to the expiry of its MYT, KE filed petitions for determination of a new MYT for the period from July 2023 to June 2030 for its Generation, Transmission, Distribution and Supply business separately. The Authority while admitting these petitions, granted KE an interim tariff. The interim tariff was determined on the basis of allowed quarterly adjustments for the quarter ending in March 2023 and the same is, subject to adjustment once the final MYT of KE for the control period FY 2024-2030 is determined.
3. In view thereof, KE filed its provisional monthly FCA requests for the period from July 2023 to January 2024 vide its letter dated February 26, 2024 and subsequently through letters dated March 20, 2024 and April 17, 2024 for the months of February 2024 and March 2024 respectively. KE in its requests submitted that provisional FCAs are being filed for timely recovery of costs from consumers to avoid further accumulation of adjustments, till the time new MYT is determined. It also stated that provisionally allowed FCAs will be subject to adjustment, including related working capital impact, based on the final determination.
4. KE calculated the provisional FCAs under three scenarios as summarized below;
 - i. FCA –Reference Interim Tariff;
(difference between actual fuel cost vs reference fuel cost as per the Interim Tariff)
 - ii. FCA – Reference Monthly cost;
(difference between actual fuel cost vs reference fuel cost as per Tariff Petitions)
 - iii. FCA – Reference Yearly average cost;
(difference between Actual fuel cost vs annual weighted average fuel reference costs of tariff Petitions)
5. A summary of month wise per unit and total amount for the proposed adjustments as requested by KE under three scenarios is as under;



*Decision of the Authority in the matter of Provisional Monthly Fuel Charges Adjustments
of K-Electric Limited from July 2023 to March 2024.*

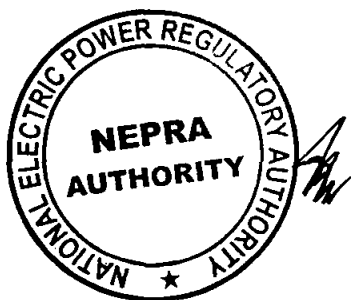
Month	FCA - Ref Interim Tariff - March 2023		FCA - Ref Monthly Cost		FCA - Ref Yearly Average Cost	
	Rs./kWh	Mln. Rs.	Rs./kWh	Mln. Rs.	Rs./kWh	Mln. Rs.
Jul-23	2.02	3,828	0.07	139	2.46	4,659
Aug-23	1.00	1,683	0.05	85	1.44	2,421
Sep-23	1.74	2,897	(0.03)	(55)	2.18	3,627
Oct-23	4.96	8,349	3.11	5,238	5.40	9,088
Nov-23	1.73	2,254	(0.26)	(335)	2.17	2,827
Dec-23	0.91	978	4.08	4,366	1.35	1,449
Jan-24	3.34	3,513	8.73	9,192	3.78	3,976
Feb-24	(1.28)	(1,315)	2.47	2,540	(0.84)	(863)
Mar-24	(1.48)	(1,909)	0.35	452	(1.04)	(1,343)
Total		20,279		21,622		25,843

6. In order to arrive at an informed decision, the Authority decided to conduct a public hearing in the matter. An advertisement in this regard was published in newspapers and also uploaded on NEPRA website. Further, individual notices were also served to the stakeholders for participation in the hearing. The following issues were framed for the hearing;
 - i. Whether the requested Fuel Price variation is justified?
 - ii. Whether KE has followed the merit order while giving dispatch to its power plants as well as power purchases from external sources?
7. The hearing was held as per the schedule on 09.05.2024 at NEPRA Tower and through ZOOM. The hearing was attended by CEO K-Electric with his financial and technical team, KE consumers, Industrial representatives, media and general public. KE presented its provisional request along-with details in terms of Generation Mix and price variances, under the three scenarios.
8. Upon inquiry from the Authority, KE submitted that it follows the Economic Merit Order (hereinafter referred to as "EMO") while giving despatch to its power plants. KE vide its letter dated 16.05.2024, also submitted that it dispatches as per EMO from its own generating units (with the available fuel resources) and import's from external sources. It also certified that cost of fuel and power purchase claim does not include any amount of late payment surcharge / markup / interest.
9. Various concerns were raised by different commentators both verbally during the hearing and in written submissions. The submissions pertaining to the FCAs from the commentators, along with the rejoinder from KE thereto, are summarized hereunder;
 - ✓ Engr. Abu Bakar Ismail from Amreli Steel, Surjani Association of Trade and Industry (SATI), and Korangi Association of Trade and Industry (KATI) submitted that if the Authority had the powers to allow FCAs on provisional basis, it should have been done on monthly basis in line with Section 31(7)(iv) of NEPRA Act, otherwise the Authority should wait for the notification of the next MYT of KE. It was also requested to balance the future adjustments of FCA or QTR with ISP subsidy.
 - ✓ Mr. Ismail also referred to the judgment of Honorable Supreme Court of Pakistan, by stating that as per the judgment FCA should be recovered in 4-month time period, therefore, only FCA's from January 2024 onwards should be permitted.



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- ✓ It was also requested by various commentators to allow recovery of these pending FCA's over an extended period on a monthly basis, aiming to prevent consumers from being excessively overburdened.
- ✓ Mr. Arif Bilani submitted that since the Authority had already determined the FCA for June 2023, therefore, reference FCC should have been taken as of June 2023 instead of March 2023. Mr. Bilvani also raised the issue of inclusion of startup charges (Hot, Warm & Cold start) in the fuel cost.
- ✓ Mr. Tanveer Bari submitted that KE's own production is 39% and IPP is 13%, which cost around Rs.30/ kWh, whereas NTDC withdrawal is 48% which cost around Rs.9 to 10/ kWh, thus KE's own generation is inefficient.
- ✓ On the issue of allowing provisional FCAs, KE responded that NEPRA is the competent authority to allow provisional FCAs till the time next MYT is determined and there are precedents where the Authority has allowed interim/ provisional tariff, subject to adjustments once the final COD tariff determination is issued.
- ✓ On the point of timelines prescribed by the honorable Supreme Court of Pakistan, KE submitted that in line with the Supreme Court's Judgment dated 02.05.2018, the Authority may determine FCA within four (4) months with reference to the approved tariff of any particular month. Since the approved tariff in the instant case is the Interim Tariff as allowed by the Authority as of 02.02.2024, FCA Petitions are legitimately submitted within four (4) months of approved tariff / Interim Tariff.
- ✓ On the point of time period for recovery of FCAs, KE submitted that NEPRA will decide the mechanism / timeline for such recovery. KE has already requested a mechanism for working capital loss incurred due to timing lag in the supply tariff petition and the matter may be decided in supply petition.
- ✓ In response to Mr. Bilwani's contention to use FCA of June 2023 as reference, KE submitted that NEPRA determined the Tariff for quarter ending March 2023 as an Interim Tariff vide letter dated 02.02.2024, as the Authority issued its decision in the matter of Quarterly Adjustment for the quarter ending March 2023 on January 01, 2024. For June 2023, the Authority although has issued decision of monthly FCA, however, the decision for the quarterly adjustment for the quarter ending June 2023 is yet to be issued.
- ✓ On the issue of inclusion of startup charges, KE stated that it has requested NEPRA to allow the start-up costs as part of FCA, as these are genuine costs. The same is also allowed to IPPs as well. Additionally, KE operates as per the Economic Merit Order and the plants normally start or stop upon demand fluctuations.
- ✓ On the issue of higher cost of generation of KE's own plants, KE submitted that it despatches plants as per the Economic Merit Order, wherein KE generates electricity on low fuel cost plants (with the available fuel resources), before going to expensive fuel sources. The cost per unit sent out of KE own generation in March 2024 was PKR 23.85 / kWh. Moreover, KE emphasized that the capacity charges of KE own plants are lower than IPPs. The gap between



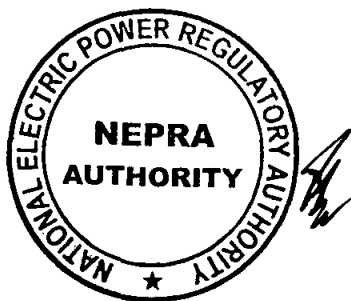
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total cost per unit of KE own generation and IPPs is further reduced when taken capacity cost is taken into the consideration.

- ✓ Regarding the issue of black start facility raised by Mr. Aneel Mumtaz, KE submitted that it does have a black start facility available at its own generation facility and IPPs as well. Similarly, on the point of generation from BQPS III and KCCP on HSD, KE explained that electricity generated from KE's power plants is according to the Economic Merit order. Generation from BQPS III was due to commissioning of plant on HSD.
 - ✓ While responding to the query from Mr. Rehan, regarding induction of renewables, KE submitted that it is making efforts to add more power from renewable sources in KE's network, which is expected to add around 640 MW within 2 years. The Authority directed KE to submit progress status of renewable energy projects during FCA hearings.
10. The submissions made by KE and various commentators during and after hearing have been thoroughly reviewed. The Authority has also perused and considered the information, data & record provided by K-Electric & submissions of commentators during the hearing and afterwards.
11. Regarding allowing provisional FCAs and the time frame provided in the Act, the Authority observed that pursuant to Section 31(7)(iv) of the NEPRA Act, fuel cost adjustments are to be made within the approved tariff. While the MYT FY 2023-2030 is not yet in effect and remains to be determined, the approved tariff applicable in the instant case is the Interim Tariff as determined by the Authority. The Authority also noted that period of seven (07) days for the determination of fuel cost adjustments was the subject of adjudication before the Honorable Supreme Court of Pakistan. The Supreme Court, vide its judgment dated 02.05.2018, held that the timelines prescribed for fuel cost adjustment determinations are directory rather than mandatory.
12. Furthermore, the Authority observed that the learned Appellate Tribunal NEPRA, in its judgment dated 13.02.2024, has also held that the provisions of Section 31(7)(ii) and (iv), which prescribe the time frame for deciding QTA and FPA, are directory rather than mandatory.
13. The Honorable High Court of Sindh in C.P. No.D-476 of 2020, while adjudicating on the NEPRA determination dated 27.12.2019, wherein the Authority passed on the fuel charges adjustments for the period from July 2016 to June 2019 vide order dated 23.08.2021, dismissed the petition filed by the petitioners and upheld that NEPRA's determination was in accordance with the law. The Honorable Court observed as under:

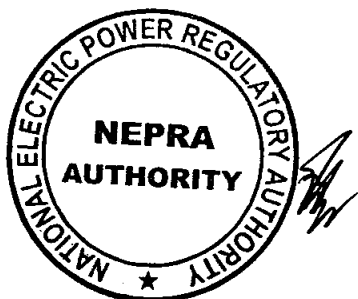
"To us between the period July-2016 to June2019 the Petitioners seem to have had a free ride at the cost of the licensee K-Electric. It's just like a tourist choosing to take a tour of a city in a rented car where the arrangement was that the tourist would provide for the fuel, and where in good faith, the rent-a-car company sent the car with full fuel tank in continuance of the business, and after having taken tour of the city when the fuel tank became empty the tourist leaves the car by only paying wages of the driver. Who will pay cost of the fuel? The driver, owner of the car, ministry of tourism or the tourist?"

40. ...there is no cavil that the petitioners owe FCA component to K-Electric and liable to satisfy this debt. These instant Petitions being devoid of merit are accordingly dismissed."



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14. On the point of Mr. Bilwani to use Fuel cost component of June 2023 as reference, the Authority observed that KE was allowed tariff determined for the quarter Jan. to Mar. 2023, as Interim Tariff, comprising not only of generation cost but also Transmission, Distribution and Supply costs, thus, a complete consumer end tariff was allowed on interim basis. The Authority although determined FCA for June 2023, however, the quarterly adjustment for the quarter Apr. to Jun. 2023 has not been determined. On the point of balancing adjustments of FCA/QTR with ISP subsidy, the Authority observed that issue of ISP is currently challenged by the stakeholders in NEPRA Appellate Tribunal (NAT), therefore, matter of ISP would be decided in light of decision of NAT.
15. KE although has requested FCAs under three different scenarios, however, it is pertinent to highlight that as per Section 31 (7) (iv) of the Act, 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. Since, the MYT Petition of KE for the period from FY 2023-24 to FY 2029-30 have not yet been determined by the Authority, therefore, for the purpose of determining the instant provisional FCAs, the reference Fuel Cost number as allowed in the Interim Tariff for the quarter Jan. to March 2023, has been considered.
16. For KE's own power plants, KE has claimed a total cost of Rs.137,529 million for the nine months period, based on the parameters of heat rates, startup charges, part load / heat rate degradation factors, fuel price mechanism etc., as requested in the new MYT Petitions for the period FY 2024-30. Since the new MYT of KE has not yet been decided by the Authority, therefore, for the purpose of provisional FCAs, cost of KE's own power plants has been considered based on the parameters allowed in the MYT of KE FY 2017-23. In case the Authority approves any revised parameters of KE's power plants under the new MYT i.e. FY 2024 to FY 2030, the difference in cost if any, may be allowed in future adjustments, as part of previous adjustments, once the new MYT is notified.
17. The Authority also noted that heat rate for operation of BQPS-III power plant at HSD was not determined during the last MYT of FY 2017-23. KE has used net HHV heat rate of 6,756.4 btus/kWh for HSD operation of BQPS-III in its request as per the guaranteed number of EPC contractor. KE's MYT decision of FY 2017- 2023 states that for the upcoming power plants or replacement of existing power plants/units, KE shall perform Capacity and Heat Rate tests in a transparent manner by a reputable Independent Engineer to be selected by broadly following the procedure specified in NEPRA (Selection of Engineering, Procurement and Construction Contractor by IPPs) Guidelines, 2017 in the presence of NEPRA professionals at the time of commissioning for the Authority's approval. Till approval of performance test results by the Authority, adjustment in the fuel cost component for the upcoming and replaced power plants shall be allowed based on the heat rates as guaranteed by the EPC contractor subject to adjustment. The adjustment in heat rate will be made only if the heat rate in the test is found lower than the heat rates guaranteed by the EPC contractor. Accordingly, for the purpose of working fuel cost of BQPS-III on HSD for instant FCAs, the heat rates used by KE for HSD operation of BQPS-III have been considered.
18. Regarding the data / information provided by K-Electric for the energy purchased from external sources, the Authority's observations are as under;



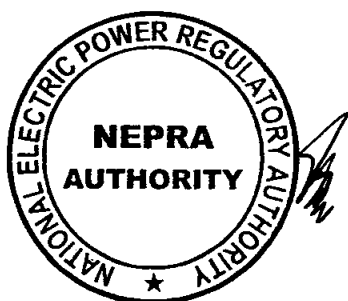
- ✓ For the energy purchased from CPPA-G, KE for the months of Jan., Feb., and Mar. 24, used the Fuel cost component as requested by CPPA-G in its monthly FCAs, instead of the final rate approved by the Authority for the relevant month. This has resulted in a negative adjustment of Rs.24.45 million.
 - ✓ Regarding energy purchased from FPCL, the Authority's approved rate w.e.f. August 31, 2023 is Rs.18.0805/kWh, whereas FPCL has used rate of Rs.21.6226/kWh for the entire month of August 2023. Similarly, for the month of October 2023, the Authority's approved rate w.e.f. October 05, 2023 is Rs.19.8983/kWh, whereas FPCL has used rate of Rs.18.0805/kWh for the entire month of October 2023. This has resulted in positive adjustment of Rs.62.73 million for the energy purchased from FPCL.
 - ✓ For the energy purchased from Lucky Cement, KE has used Gas price of Rs.2,750/mmbtu for Nov. 2023, whereas the approved rate for Captive power plants is Rs.2,500/mmbtu w.e.f. 01.11.2023. This has resulted in negative difference of Rs.0.54 million.
19. Based on above discussion, the provisional monthly FCAs and their total impact for nine months period from July 2023 to March 2024 has been worked out as under in line with the mechanism allowed in the MYT FY 2017-2023;

Generation	Mar. 23 (Reference)	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24
Cost of KE's Own Plants	13,748	23,413	18,955	18,421	20,922	13,810	9,704	8,478	7,932	10,106
Cost of Power Purchases	10,135	10,169	9,143	10,564	13,624	9,337	8,261	11,495	6,648	7,913
Total Fuel Cost	23,638	33,582	28,098	28,985	34,546	23,147	17,965	19,972	14,580	18,019
KE's own Sent outs	520	958	800	762	744	459	264	271	329	460
External Purchases	958	939	887	905	942	843	806	783	700	825
Total Purchases	1,478	1,897	1,687	1,667	1,686	1,303	1,070	1,053	1,028	1,285
Fuel Cost Component										
Own Generation		12.34	11.24	11.05	12.41	10.60	9.07	8.05	7.71	7.86
External Purchases		5.36	5.42	6.34	8.08	7.17	7.72	10.91	6.46	6.16
Deviation from EMO		-	-	-	-	-	-	-	-	-
Previous Adjustment		-	-	-	-	-	-	-	-	-
Avg. FCC	15.99	17.71	16.66	17.39	20.49	17.77	16.79	18.96	14.18	14.02
FCA		1.7111	0.6608	1.3946	4.4941	1.7704	0.7930	2.9696	(1.8180)	(1.9716)

20. Considering the fact that allowed FCAs pertain to a period of nine months, therefore, the Authority has decided to stagger the recovery of these FCAs over a period of four (04) months as detailed below, in order not to overburden the consumers.

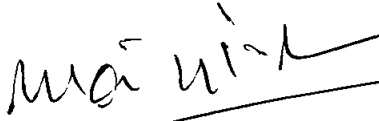
Recovery Month	FCAs pertaining to	Rate (Rs./kWh)
Jun-24	Oct. 23 and Feb. 24	$4.4941 - 1.8180 = 2.6761$
Jul-24	Jul. 23 and Sep. 23	$1.7111 + 1.3946 = 3.1057$
Aug. 24	Aug. 23, Nov. 23 & Dec. 23	$0.6608 + 1.7704 + 0.7930 = 3.2242$
Sep. 24	Jan. 24 and Mar. 24	$2.9696 - 1.9716 = 0.9980$

21. In the light of above, the Authority hereby directs K-Electric that in case of positive monthly FCAs, the same;

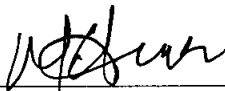


- a. Shall be applicable to all the consumer categories except Electric Vehicle Charging Stations (EVCS) and lifeline consumers.
 - b. Shall be shown separately in the consumers' bills on the basis of units billed to the consumers, in the respective month to which the adjustment pertains.
 - c. K-Electric shall reflect the fuel charges adjustment in respect of each month in the billing month as per the Schedule given above.
 - d. While effecting the Fuel Adjustment Charges, K-Electric shall keep in view and strictly comply with the orders of the courts notwithstanding this order.
22. Similarly, in case of negative FCAs, the same;
- a. Shall be applicable to all the consumer categories except lifeline consumers, domestic consumers consuming up-to 300 units, EV Charging Stations and Agriculture Consumers of K-Electric.
 - b. It is hereby clarified that negative adjustment on account of monthly FCA is also applicable to the domestic consumers having Time of Use (ToU) meters irrespective of their consumption level.
 - c. Shall be shown separately in the consumers' bills on the basis of units billed to the consumers in the respective month to which the adjustment pertains.
 - d. K-Electric shall reflect the fuel charges adjustment in respect of each month in the billing month as per the Schedule given above.
 - e. While effecting the Fuel Adjustment Charges, K-Electric shall keep in view and strictly comply with the orders of the courts notwithstanding this order.


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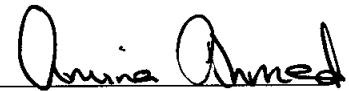


Mathar Niaz Rana (nsc)
Member



Engr. Maqsood Anwar Khan
Member


Rafique Ahmed Shaikh
Member



Amina Ahmed
Member



Waseem Mukhtar
Chairman



**To Be Published in
Official Gazette of Pakistan Part-II**

National Electric Power Regulatory Authority



NOTIFICATION

Islamabad, the 06th day of June, 2024


S.R.O. 811 (I)/2024.- Pursuant to Section 31(7) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 as amended through Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act 2011 and as per the mechanism for monthly, quarterly and annual adjustments provided in the Tariff Determination of K-Electric Ltd. dated July 05, 2018 duly notified in the official Gazette vide SRO No. 576(I)/2019 dated May 22, 2019, National Electric Power Regulatory Authority (NEPRA) makes and notifies the adjustment in the approved tariff on account of variation in fuel charges from July 2023 to March 2024 in respect of K-Electric Limited. Considering the fact that allowed FCAs pertain to a period of nine months, the Authority has decided to stagger the recovery of these FCAs over a period of four (04) months as detailed below, in order not to overburden the consumers:

Recovery Month	FCAs pertaining to	Rate (Rs./kWh)
Jun-24	Oct. 23 and Feb. 24	$4.4941 - 1.8180 = 2.6761$
Jul-24	Jul. 23 and Sep. 23	$1.7111 + 1.3946 = 3.1057$
Aug. 24	Aug. 23, Nov. 23 and Dec. 23	$0.6608 + 1.7704 + 0.7930 = 3.2242$
Sep. 24	Jan. 24 and Mar. 24	$2.9696 - 1.9716 = 0.9980$

2. In the light of above, the Authority hereby directs K-Electric that in case of positive monthly FCAs, the same;

- Shall be applicable to all the consumer categories except Electric Vehicle Charging Stations (EVCS) and lifeline consumers.
- Shall be shown separately in the consumers' bills on the basis of units billed to the consumers, in the respective month to which the adjustment pertains.
- K-Electric shall reflect the fuel charges adjustment in respect of each month in the billing month as per the Schedule given above.
- While effecting the Fuel Adjustment Charges, K-Electric shall keep in view and strictly comply with the orders of the courts notwithstanding this order.

3. Similarly, in case of negative FCAs, the same;
- Shall be applicable to all the consumer categories except lifeline consumers, domestic consumers consuming up-to 300 units, EV Charging Stations and Agriculture Consumers of K-Electric.
 - It is hereby clarified that negative adjustment on account of monthly FCA is also applicable to the domestic consumers having Time of Use (ToU) meters irrespective of their consumption level.
 - Shall be shown separately in the consumers' bills on the basis of units billed to the consumers in the respective month to which the adjustment pertains.
 - K-Electric shall reflect the fuel charges adjustment in respect of each month in the billing month as per the Schedule given above.
 - While effecting the Fuel Adjustment Charges, K-Electric shall keep in view and strictly comply with the orders of the courts notwithstanding this order.


(Engr. Mazhar Iqbal Ranjha)
Registrar

